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# SHIRE OF TOODYAY

## Local Planning Scheme No. 4

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Updated to include AMD 11 GG 10/02/2017

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Department of  
**Planning**

**PREPARED BY THE**  
Department of Planning

Original Town Planning Scheme Gazettal  
13 February 2008

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Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

Please advise the Department of Planning of any errors or omissions in this document.

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## SHIRE OF TOODYAY LPS 4 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
1	14/6/13	24/6/13	NM	Inserted 'Lot 5628 Julimar Road, West Toodyay' into Schedule 11.
3	14/6/13	24/6/13	NM	Inserted Additional use No. 5 into Schedule 2 – Additional Uses.
5	07/01/14	21/01/14	ML	<p>Clause 5.8.5 – delete Par 4.2 and replace with Part 7.2</p> <p>Delete Clause 5.11.1 and replace with amended text.</p> <p>Delete 'Health Department' replace with 'Department of Health'</p> <p>Delete 'development plan' replace with 'structure plan'</p> <p>Clause 5.11.4 delete 'require'</p> <p>Delete Clause 5.11.7 and renumber subsequent Clauses</p> <p>Clause 5.11.8 (b) Delete word 'set backs' with 'setbacks'</p> <p>Clause 5.11.9 (a) (iv) place 's' on the end of 'corridor'</p> <p>Additional 'Clause 5.12 Potable Water and renumber subsequent clauses.</p> <p>Insert to Clause 8.2 (b) (vi)</p> <p>Clause 5.14 delete 'one building' and replace with 'one dwelling'</p> <p>Delete Clause 5.15.4 (a) and replaced with other text</p> <p>Clause 5.20 amended</p> <p>Clause 5.21 heading amended</p> <p>Amend first sentence Clause 5.21.1</p> <p>Amend Clause 5.21.3</p> <p>Amend Clause 5.23</p> <p>Amend Clause 8.2 (b) add point (ii) and renumber</p> <p>Amend Clause 8.2 (b) (ii)</p> <p>Amend Clause 8.2 (b) point (v)</p> <p>Include additional point Clause 8.2 (b) (vi)</p> <p>Include additional point (vii) Clause 8.2 (b)</p> <p>Clause 8.2 add additional points (h), (i) and (j)</p> <p>Clause 11.1.2 removed word 'authorized' and replace with 'authorise'</p> <p>Clauses 11.2.1, 11.2.2, 11.2.3, 11.2.4, and 11.7 removed 'notice' and replaced with 'direction'</p> <p>Clause 11.7 replaced 28 wit 60</p> <p>Clause 11.7.2 replaced 214 with 215</p> <p>Schedule 2 Additional Use Site 2 replaced 'Beejording' with 'Bejoording'</p> <p>Schedule 4 Special Use site No 6 amended description</p> <p>Schedule 4 Special Use Site No 1 amended description</p> <p>Schedule 11 amended description of land details</p> <p>Schedule 4 Special Use – scheme amended site No 14 inserted</p> <p>Inserted new Schedule 12 – Rural Living</p> <p>Schedule 11 – deleted provisions regarding Lot 5628 Julimar Road, West Toodyay.</p>
4	07/01/14	22/01/14	ML	<p>Clause 4.2 (a) (i) inserted "and enhance"</p> <p>Clause 4.2 (c) deleted full stop and replaced with";"</p> <p>Clause 4.2 (g) (ii) added "and" (iii) included additional wording</p> <p>Clause 4.2 (d) (ii) inserted "and"</p> <p>Clause 4.2 (e) (vii) inserted "and enhancement"</p> <p>Clause 4.2 (h) deleted point (i) and replaced text</p> <p>Clause 4.2 (i) (iii) deleted "small rural land holdings"</p> <p>Clause 4.3 Table 1 Zoning Table amended</p> <p>Schedule 1 – General Definitions - Included definition of "commercial vehicle" and "prefabricated building"</p> <p>Schedule 1 – Land Use Definitions – Included definition of "animal husbandry" and added "or", "child care premises", "community purpose", "dam", "holiday accommodation", "industry – noxious", "park home park", "plantation", "Rural Pursuit", "small bar".</p> <p>Deleted definition of "stable-commercial" and "stables-private"</p> <p>Changing title "stock yard" to "stockyard"</p> <p>Included definition of "storage facility"</p> <p>Deleted "storage facility/depot/laydown area"</p> <p>Included definition of "transport depot"</p> <p>Included definition of "waste disposal and treatment"</p> <p>Included definition of "waste transfer station"</p> <p>Replaced words "relocated structure" "with relocated dwelling"</p>
6	13/05/14	13/05/14	MLD	Rezone Lots 3, 4, 5, 13 and 75 Anzac Terrace, 8 Rosedale Street, 9, 10 and 11 Folewood Road, 23 and 24 Fiennes Street, 2, 3, 4, 5, 6 and 325 Clinton Street, 50, 500 and 501 Duke Street

AMD NO	GAZETAL DATE	UPDATED		DETAILS
		WHEN	BY	
				and 176 and 177 Hamersley Street, Toodyay from 'R10' Residential zone coding to 'R30' Residential zone coding. Rezone Lot 200 Fiennes Street, Toodyay from Reserve-Public Purpose to 'R30' Residential zone coding. Insert new clause into Section 5 – 5.24 Lots affected by Road and rail transport. Amend maps accordingly.
2	04/07/14	23/07/14	ML	Rezoning Lot 397 and Lot 280 on P224795 and Lot 396 on P225043 from 'Rural' to 'Rural Residential' Schedule 11 – Rural Residential – Insert Lots 397 and 280 Horseshoe Road and Lot 396 on P225043 West Toodyay.
8	16/06/15	18/06/15	MLD	Insert # 6 into Schedule 2 - Additional Uses of Local Planning Scheme No. 4 - Lot 59 Beaufort Street. West Toodyay
7	28/07/15	30/07/15	NG	Delete the land use definition of "Ancillary Accommodation". Insert a new definition of "Ancillary Dwelling". Amend the use class "Ancillary Accommodation" in Table 1.
10	19/04/16	20/04/16	RO	Deleting the following clauses from the Scheme Text, as they have been superseded by the deemed provisions set out in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2: Clauses 2.1 to 2.5 (inclusive); Clause 5.7 (inclusive); Clause 5.11.5; Clause 5.24 (inclusive); and Clauses 7.1 to 11.7 (inclusive); Deleting Schedules 6 to 9 (inclusive) from the Scheme, as they have been superseded by the deemed provisions set out in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2; Removing the following clauses from the Scheme Text and inserting them into Schedule A - Supplemental Provisions: Clause 8.2(b), (v), (vii) and (ix); Clause 8.2(c); Clause 8.2(f) Clause 8.2(g) Clause 8.2(h); and Clause 8.2(i); Inserting provisions into Schedule A - Supplemental Provisions: Delete the following definitions from Schedule 1, as they have been superseded by the definitions in the deemed provisions set out in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2: Advertisement; Amenity; Cultural heritage significance; Local government; Local Planning Strategy; Owner; Place; Premises; Residential Design Codes; Substantially commenced; and Zone; Amend the following clauses by removing the cross reference to the clause deleted by the amendment and replace them with cross reference to deemed provisions set out in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2: Clause 3.4.1 Clause 3.4.2(a) Clause 4.3.2 Clause 4.3.3(note) Clause 4.4.2(b) Clause 4.8(c) Clause 4.9.2 Clause 5.4.2 Clause 5.5.2(a) Clause 5.5.3(a) Clause 5.9.4 Clause 5.13.2 Schedule 2 - Additional Uses, No. 6;

AMD NO	GAZETAL DATE	UPDATED		DETAILS
		WHEN	BY	
				<p>Delete reference to the following terms and replace them with the corresponding term throughout the Scheme:</p> <p>'planning application' / 'consent' to 'development application' / 'approval';  'Council' to 'local government'  'Town Planning Regulations 1967' to '<i>Planning and Development (Local Planning Scheme) Regulations 2015</i>';  'Scheme Text' to 'deemed provisions' (where relevant);  'Minister for the Environment' to '<i>Environmental Protection Act 1986</i>'; and  '<i>Planning and Development Act</i>' to '<i>Planning and Development Act 2005</i>';  Update clauses 1.4 and 5.11.1.  Modify the zoning table to make 'Ancillary Accommodation' a 'P' use in the Residential zone; (<i>this is to bring the permissibility in line with the exemption under 61(1)(d) of the deemed provisions</i>)  Modify the zoning table to make a 'Transportable Structure' a 'D' use in all zones; (<i>this is to ensure that a development application is still required for transportable structures and is not exempt development</i>)  Update the Clause 5.11.7(a) reference to approval authority from local government to the Western Australian Planning Commission to reflect provisions of new Regulations;  Insert Clause 6.1.1(c) 'Wetland/River Channel' under Part 6 - Special Control Areas:  Insert Clause 5.4 provisions relating to flood prone land now known as 'Wetlands/River Channel Special Control Area'.  Inserting reference to the deemed provisions in the preamble to the Scheme;  Renumber the remaining scheme provisions and schedules sequentially and update any cross referencing to the new clause numbers as required.</p>
9	30/08/16	20/09/16	AC	<p>Schedule 1 - dictionary of defined works and expressions – general definitions – included definitions for “cabin”, “chalet” and “short term accommodation”.</p> <p>Schedule 1 - dictionary of defined works and expressions – land use definitions – included definitions for “brewery”, “holiday accommodation”, “holiday house”, “rural home business” and “tourist development”.</p> <p>Replaced definition of “restaurant” with the definition for “restaurant / café”.</p> <p>Table 1 – Zoning table - Inserted the land use ‘Rural home business’, designating it as a ‘D’ use in the Rural, Rural Residential and Rural Living zones, and as an ‘X’ use in all other zones.</p> <p>Inserted the land use ‘Tourist Development’, designating it an ‘A’ use in the Mixed Business, Rural and Rural Living zones and an ‘X’ use in all other zones.</p> <p>Amended the use class ‘Restaurant’ to ‘Restaurant / Café’ and amended the permissibility to ‘A’ in the Rural and Rural Living zones.</p> <p>Clause 3.3.2 - Modified to insert definition for incidental use (I).</p> <p>Schedule 2 – Additional Uses – Inserted Lot 45 (381) Julimar Road, Toodyay, Lot 228 (439) Parkland Drive, Toodyay, Lot 66 (163) Howard Road, Toodyay, and Lots 57 (81) and 97 (65) Beaufort St West, Toodyay.</p> <p>Amended the Scheme maps accordingly.</p>
11	10/02/17	14/03/17	MLD	<p>Rezone Lot 9508 on Plan 77718 from Residential Development to Reserve - Public Open Space.</p> <p>Rezone Lot 9011 on Plan 62847 from Reserve - Recreation and Conservation: Parks and Recreation to Residential Development.</p> <p>Amend the Scheme maps accordingly.</p>

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## Preamble

AMD 10 GG 19/04/16

This Local Planning Scheme of the Shire of Toodyay consists of this Scheme Text, the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2) and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the Shire.

Part 2 of the deemed provisions 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 development approval, enforcement of the Scheme provisions and non-conforming uses.

## **Scheme details**

The Shire of Toodyay

Local Planning Scheme No. 4  
District Zoning Scheme

The Shire of Toodyay under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.



# PART 1 — PRELIMINARY

## 1.1 CITATION

1.1.1 The Shire of Toodyay Scheme No. 4 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following Schemes are revoked —

Town Planning Scheme No.1	Date of Gazettal 20 May 1983
Town Planning Scheme No.3	Date of Gazettal 8 February 1993

## 1.2 RESPONSIBLE AUTHORITY

The Shire of Toodyay is the responsible authority for implementing the Scheme.

## 1.3 SCHEME AREA

The Scheme applies to the Scheme area which covers the entire local government district of the Shire as shown on the Scheme Map.

## 1.4. CONTENTS OF SCHEME

The Scheme comprises —

- (a) the Scheme Text;
- (b) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2);
- (c) the supplemental provisions contained in Schedule A; and
- (d) the Scheme Map (sheets 1 – 4).

The Scheme is to be read in conjunction with the Local Planning Strategy.

## 1.5 PURPOSES OF SCHEME

The purposes of the Scheme are to —

- (a) set out the local government’s planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of development applications; *AMD 10 GG 19/04/16*
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in Schedule Seven to the Planning and Development Act 2005. *AMD 10 GG 19/04/16*

## 1.6 THE AIMS OF THE SCHEME

The aims of the Scheme are —

- a) to provide for the orderly and economic development and optimum use of its land and other resources in the Scheme Area, consistent with the conservation of important natural and man-made features;
- b) to provide comprehensive planning instrument for the Shire that is clear and explicit but provides flexibility in its application;
- c) to provide guidance to:
  - (i) the local government in the execution of its planning responsibilities;
  - (ii) public authorities in establishing the likely future needs of the Shire;
  - (iii) the private sector to indicate future development opportunities and planning requirements; and
  - (iv) the community in respect of the manner in which the effects of growth and change are proposed to be managed;
- d) to provide a rational framework for decisions with regard to land use and that the assessment and classification of land resources on the basis of capability and suitability are an essential facet of the planning process;
- e) to facilitate the provision of public amenities and community support services consistent with the development and growth of the Shire;
- f) to ensure that development occurs in a way which preserves existing environmental qualities and minimizes adverse environmental impacts;
- g) to ensure that existing and future residents enjoy a range of attractive living environments and have access to the widest possible range of services and amenities; and
- h) to protect and enhance areas within the Shire identified as being of significant environmental value.

## 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  
*AMD 10 GG 19/04/16*
- (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**

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

## **1.9 RELATIONSHIP WITH OTHER SCHEMES**

There are no other Schemes of the Shire of Toodyay which apply to the Scheme area.

## **PART 2 — RESERVES**

*AMD 10 GG 19/04/16*

### **2.1 RESERVES**

Certain lands within the Scheme area are classified as Local Reserves.

### **2.2 REGIONAL RESERVES**

There are no regional reserves in the Scheme area.

### **2.3 LOCAL RESERVES**

“Local Reserves” are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

### **2.4 USE AND DEVELOPMENT OF LOCAL RESERVES**

2.4.1 A person must not —

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve,

without first having obtained development approval under Part 7 of the Scheme.  
*AMD 10 GG 19/04/16*

2.4.2 In determining an application for development approval the local government is to have due regard to — *AMD 10 GG 19/04/16*

- (a) the matters set out in clause 67 of the deemed provisions; and  
*AMD 10 GG 19/04/16*
- (b) the ultimate purpose intended for the Reserve.

2.4.3 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 development approval. *AMD 10 GG 19/04/16*

## **PART 3 — ZONES AND THE USE OF LAND**

*AMD 10 GG 19/04/16*

### **3.1 ZONES**

3.1.1 The Scheme area is classified into the zones shown on the Scheme Map.

3.1.2 The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

### **3.2 OBJECTIVES OF THE ZONES**

The objectives of the zones are —

(a) Residential

The objectives of the residential zone are to:

- (i) maintain and enhance the predominantly single residential character and amenity of established residential areas; *AMD 4 GG 07/01/14*
- (ii) provide the opportunity for medium/high density dwellings in selected locations to ensure a variety of housing is available in the town;
- (iii) allow for closer subdivision in areas where sewer becomes available;
- (iv) provide the opportunity for aged persons housing; and
- (v) provide for the preservation of the historical character of Toodyay

(b) Residential Development

The objectives of the residential development zone are to:

- (i) designate land for future urban development;
- (ii) provide for orderly planning and development of larger areas of land for residential and associated purposes through the preparation of a structure plan; and *AMD 5 GG 7/01/14*
- (iii) ensure the adequate provision of physical and community infrastructure.

(c) Special Residential

The objectives of the Special Residential zone are to:

- (i) to protect the character of the Avon River environs by maintaining larger lot sizes adjacent to the Avon River;
- (ii) to provide for the choice of larger lots in proximity to the Town Centre zone;
- (iii) to ensure the provision of community services and facilities in the vicinity of Special Residential zone;
- (iv) to encourage innovative housing designs that complement the natural and cultural landscape of the Toodyay locality; and *AMD 4 GG 07/01/14*

(d) Mixed Business

The objectives of the Mixed Business zone are to:

- (i) provide for commercial, light and service industrial, wholesaling, showrooms and professional services which, by reason of their scale, character and operational land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within the Town Centre zone or Industrial zone;
- (ii) provide for development and land uses which will not result in a detrimental impact on the Town Centre zone; and
- (iii) promote buildings of a high standard of architectural design complemented by landscaped surrounds.

(e) Town Centre

The objectives of the Town Centre zone are to:

- (i) establish a strong town focus;
- (ii) develop the town centre as the principal place for retail shopping, office and commercial development in the district;
- (iii) provide for expansion of commercial activity to meet future demands;
- (iv) provide for a variety of housing types and tourism related accommodation;
- (v) provide for social, recreational and community facilities;
- (vi) provide for the efficient and safe movement of vehicles and pedestrians; and
- (vii) provide for the preservation and enhancement of the historical character of Toodyay.

(f) Light Industry

The objectives of the Light Industry zone are to:

- (i) provide for rural, service, light and general industrial activities;
- (ii) provide appropriate buffers between industrial and adjacent land uses to avoid land use conflicts; and
- (iii) avoid conflicting uses from establishing in the industrial area.

(g) Rural

The objectives of the Rural zone are to:

- (i) protect broad-scale agriculture from un-planned breakdown of rural land:
- (ii) subject to (i) above:
  - (a) provide for tourist related activities, including farm stay, bed and breakfast and holiday accommodation;

- (b) provide for a range of rural related uses such as intensive agriculture, aquaculture, rural pursuits; and
- (iii) ensure the protection of and conservation of native vegetation.
- (h) Rural Residential

The objectives for the rural residential zone are to:

- (i) provide for a range of lifestyle opportunities as permitted under the zoning table and other provisions of the scheme. *AMD 4 GG 07/01/14*
- (ii) maintain and enhance the rural character and amenity of the locality;
- (iii) enhance the district's social and economic structure without detrimentally affecting the landscape, environment and existing agricultural activity;
- (iv) ensure the protection and conservation of native vegetation;
- (v) ensure that lot sizes and shapes are rationally related to the topography and state of land development; and
- (vi) have regard for the visual aspect of the site in considering development applications.
- (i) Rural Living

The objectives of the Rural Living zone are to:

- (i) identify areas with convenient access to the Toodyay townsite to take advantage of services provided in the area;
- (ii) to provide for a range of lot sizes between 5 ha to 40 ha, with an average of 15 ha to 20 ha depending on topography and landscape;
- (iii) allow for range of lifestyle opportunities including rural pursuits; cottage industry and intensive agriculture; *AMD 4 GG 07/01/14*
- (iv) provide for tourism related accommodation; and
- (v) ensure the protection and conservation of native vegetation.

### 3.3 ZONING TABLE

3.3.1 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.

3.3.2 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;
- 'I' means that use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme. *AMD 9 GG 30/08/16*

- 'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval;  
*AMD 10 GG 19/04/16*
- 'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;  
*AMD 10 GG 19/04/16*
- 'X' means a use that is not permitted by the Scheme.



**TABLE 1: ZONING TABLE**

AMD 4 GG 07/01/14

	Residential	Residential Development	Special Residential	Town Centre	Mixed Business	Light Industry	Rural	Rural Residential	Rural Living
Abattoir	X	X	X	X	X	X	A	X	X
Accommodation for Temporary Workers	X	X	X	D	D	X	D	X	X
Aged/Dependent Persons Dwelling/s or Establishment	D	D	D	D	A	X	X	X	X
Agriculture - Extensive	X	X	X	X	X	X	P	X	D
Agriculture - Intensive	X	X	X	X	X	X	D	A	D
Agroforestry	X	X	X	X	X	X	D	X	D
Amusement Parlour	X	X	X	A	A	X	X	X	X
Ancillary Dwelling <i>AMD 7 GG 28/07/15</i> <i>AMD 10 GG 19/04/16</i>	P	D	D	A	A	X	D	D	D
Animal Establishment	X	X	X	X	X	A	D	X	A
Animal Husbandry - Intensive	X	X	X	X	X	X	D	X	X
Apiary	X	X	D	X	X	X	P	D	D
Arts and Crafts Centre	X	X	A	P	D	D	D	A	A
Bed & Breakfast	D	D	D	D	X	X	D	D	D
Betting Agency	X	X	X	D	D	X	X	X	X
Caravan Park	X	X	X	A	A	X	X	X	X
Caretaker's Dwelling	X	X	X	X	X	A	X	X	X
Carpark	X	X	X	D	D	D	X	X	X
Child Care Premises	A	A	A	D	D	X	X	X	X
Cinema/Theatre	X	X	X	P	D	X	X	A	A
Civic Use	A	A	A	P	D	A	A	A	A
Club Premises	X	X	X	P	D	A	X	X	X
Community Purpose	X	X	A	P	D	X	A	A	A
Consulting Rooms	X	X	X	P	D	X	X	X	X
Convenience Store	X	X	X	P	P	A	X	X	X
Corrective Institution	X	X	X	X	X	X	A	X	X
Dam	X	X	A	X	X	X	P	A	A
Detention Centre	X	X	X	X	X	X	A	X	X
Display Home Centre	D	D	D	D	D	X	D	D	D
Educational Establishment	A	A	A	D	A	A	A	A	A
Emergency Services	X	X	X	D	D	D	D	X	D
Equestrian Centre	X	X	X	X	X	X	A	X	A
Exhibition Centre	X	X	X	P	P	A	D	D	D
Factory Unit	X	X	X	X	A	P	X	X	X
Family Day Care	A	A	A	D	D	X	D	D	D
Farm Stay/Host Farm	X	X	X	X	X	X	D	X	A
Fast Food Outlet	X	X	X	D	A	X	X	X	X
Fuel Depot	X	X	X	X	D	D	D	X	X
Funeral Parlour	X	X	X	D	D	D	A	X	X
Grouped Dwelling	D	D	X	D	A	X	X	X	X
Holiday Accommodation	X	X	X	D	A	X	A	X	A
Home Business	D	D	D	D	D	X	P	D	D
Home Occupation	P	P	P	D	D	X	P	P	P
Home Office	P	P	P	P	P	X	P	P	P
Home Store	X	X	X	D	D	X	X	X	X
Hospital	X	X	X	A	A	X	X	X	X
Hotel	X	X	X	D	A	X	X	X	X
Industry - Cottage	X	X	D	D	D	D	D	D	D

	Residential	Residential Development	Special Residential	Town Centre	Mixed Business	Light Industry	Rural	Rural Residential	Rural Living
Industry – Extractive	X	X	X	X	X	X	D	X	A
Industry – General	X	X	X	X	X	D	X	X	X
Industry – Light	X	X	X	X	A	P	X	X	X
Industry – Noxious	X	X	X	X	X	X	X	X	X
Industry – Rural	X	X	X	X	D	D	A	X	A
Industry – Service	X	X	X	D	D	P	X	X	X
Lunch Bar	X	X	X	P	D	D	X	X	X
Market	X	X	X	A	A	X	X	X	X
Medical Centre	X	X	X	D	D	X	X	X	X
Motel	X	X	X	A	A	X	X	X	X
Motor Vehicle, Machinery and/or Marine Repair	X	X	X	X	D	D	X	X	X
Motor Vehicle, Machinery and/or Marine Sales & Hire	X	X	X	A	D	D	X	X	X
Motor Vehicle, Machinery and/or Marine Wrecking	X	X	X	X	X	D	X	X	X
Motor Vehicle Wash	X	X	X	D	D	D	X	X	X
Multiple Dwelling	A	A	X	D	X	X	X	X	X
Night Club	X	X	X	D	A	X	X	X	X
Nursing Home	A	A	A	A	A	X	X	X	X
Office	X	X	X	P	D	X	X	X	X
Park Home Park	X	X	X	A	A	X	X	X	X
Place of Worship	A	A	A	P	D	A	A	A	A
Plantation	X	X	X	X	X	X	D	X	D
Reception Centre	X	X	X	D	D	X	D	X	A
Recreation - Private	X	X	X	D	D	A	A	X	X
Recreation - Public	A	A	D	D	D	A	D	A	A
Research Centre	X	X	X	D	D	D	D	X	X
Residential Building	D	D	D	D	D	X	X	X	X
Restaurant / Café <i>AMD 9 GG 30/08/2016</i>	X	X	X	P	D	X	A	X	A
Roadside Stall	X	X	X	X	X	X	D	D	D
Rural Home Business <i>AMD 9 GG 30/08/2016</i>	X	X	X	X	X	X	D	D	D
Rural Pursuits	X	D	D	X	X	X	P	D	D
Service Station	X	X	X	A	D	D	X	X	X
Shop	X	X	X	P	D	X	X	X	X
Showroom	X	X	X	A	P	A	X	X	X
Single House	P	P	P	D	D	X	P	P	P
Small Bar	X	X	X	D	A	X	X	X	X
Stockyard	X	X	X	X	X	X	A	X	X
Storage facility	X	X	X	D	D	D	X	X	x
Tavern	X	X	X	A	A	X	X	X	X
Telecommunication Infrastructure	D	D	D	D	D	D	D	D	D
Tourist Development <i>AMD 9 GG 30/08/2016</i>	X	X	X	X	A	X	A	X	A
Trade Display	X	X	X	D	D	D	A	X	X
Transport Depot	X	X	X	X	A	D	A	X	X
Transportable Structure <i>AMD 10 GG 19/04/16</i>	D	D	D	D	D	D	D	D	D
Veterinary Centre	X	X	X	A	A	D	A	X	A
Warehouse	X	X	X	X	D	P	X	X	X
Waste Disposal and Treatment	X	X	X	X	X	X	X	X	X
Waste Transfer Station	X	X	X	X	X	A	X	X	X

	Residential	Residential Development	Special Residential	Town Centre	Mixed Business	Light Industry	Rural	Rural Residential	Rural Living
Winery	X	X	X	X	X	X	D	X	A

3.3.3 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 development approval; *AMD 10 GG 19/04/16*
- (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;
- (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.

- Note:*
- 1. *The development 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.*  
*AMD 10 GG 19/04/16*
  - 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 67 of the deemed provisions.* *AMD 10 GG 19/04/16*
  - 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.*

### 3.4 INTERPRETATION OF THE ZONING TABLE

3.4.1 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.

3.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table 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 is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or  
*AMD 10 GG 19/04/16*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

### 3.5 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 is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.*

### 3.6 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 is permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.*

### 3.7 SPECIAL USE ZONES

3.7.1 Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

3.7.2 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.*

### 3.8 NON-CONFORMING USES

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 authorize the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 80(1) of the deemed provisions, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date. *AMD 10 GG 19/04/16*

*Note: "Land" has the same meaning as in the Planning and Development Act 2005 and includes houses, buildings and other works and structures. AMD 10 GG 19/04/16*

### 3.9 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

3.9.1 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 development approval under the Scheme. *AMD 10 GG 19/04/16*

3.9.2 An application for development approval under this clause is to be advertised in accordance with clause 64 of the deemed provisions. *AMD 10 GG 19/04/16*

3.9.3 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 development 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. *AMD 10 GG 19/04/16*

### **3.10 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.

### **3.11 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: Sections 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, that section and the Scheme. AMD 10 GG 19/04/16*

### **3.12 DESTRUCTION OF NON-CONFORMING USE BUILDINGS**

If a building used for a non-conforming use is destroyed to 75% or more of its value, 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 development approval of the local government. *AMD 10 GG 19/04/16*

## **PART 4 — GENERAL DEVELOPMENT REQUIREMENTS**

*AMD 10 GG 19/04/16*

### **4.1 COMPLIANCE WITH DEVELOPMENT STANDARDS AND REQUIREMENTS**

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

### **4.2 RESIDENTIAL DESIGN CODES**

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

4.2.2 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.

4.2.3 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 Planning Code density, as being contained within the area defined by the centre-line of those borders.

### **4.3 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES**

There are no exclusions or variations to the Residential Design Codes which apply to the Scheme.

### **4.4 RESTRICTIVE COVENANTS**

4.4.1 Subject to clause 4.4.2, 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, 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.

*AMD 10 GG 19/04/16*

4.4.2 Where clause 4.4.1. operates to extinguish or vary a restrictive covenant the local government is not to grant development approval to the development of the land which would, but for the operation of clause 4.4.1, 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 64 of the deemed provisions.

*AMD 10 GG 19/04/16*

### **4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS**

4.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for development 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.

*AMD 10 GG 19/04/16*

4.5.2 In considering an application for development 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 —

*AMD 10 GG 19/04/16*

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the deemed provisions; and  
*AMD 10 GG 19/04/16*
  - (b) have regard to any expressed views prior to making its determination to grant the variation.
- 4.5.3 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 67 of the deemed provisions; and  
*AMD 10 GG 19/04/16*
  - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

#### **4.6 ENVIRONMENTAL CONDITIONS**

- 4.6.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are subject are incorporated into the Scheme by Schedule 6 of the Scheme.  
*AMD 10 GG 19/04/16*
- 4.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- 4.6.3 The local government is to —
- (a) maintain a register of all relevant statements published under sections 48F and 48G of the EP Act; and
  - (b) make the statements available for public inspection at the offices of the local government.

*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.*

There are no environmental conditions imposed under the Environmental Protection Act 1986 which apply to the Scheme. *AMD 10 GG 19/04/16*

#### **4.7 DEVELOPMENT IN THE TOWN CENTRE ZONE**

- 4.7.1 The local government may prepare a Local Planning Policy and/or Plan for all or part of the Town Centre Zone where development and uses will accord with the Policy and/or Plan provisions in addition to relevant scheme provisions.  
*AMD 10 GG 19/04/16*
- 4.7.2 In the absence of strategic or policy statements or a structure plan for land within the Town Centre zone, the local government, when considering a development application, shall take into account other matters it considers relevant to the proposal including floor space limitations, setbacks from boundaries, height of structures and preservation of areas or buildings of architectural or historical interest and the development of land abutting the same. *AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*
- 4.7.3 The density of residential development in the Town Centre zone shall be R10/R50. The local government will only permit development to occur at the R50 density coding if the land can be connected to reticulated sewer services. *AMD 10 GG 19/04/16*
- 4.7.4 All development within the Town Centre zone must make appropriate provisions for car parking, having regard to the requirements of the local government's car parking policy. *AMD 10 GG 19/04/16*



- 4.7.5 For mixed use development comprising of residential and non-residential uses, the provisions of the Residential Design Codes will apply to the residential components of the development, and the provisions of this Scheme to the non-residential component of the development. *AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*

#### **4.8 DEVELOPMENT IN THE LIGHT INDUSTRY ZONE**

- 4.8.1 In considering development applications within the Light Industry zone, the local government shall have regard for the: *AMD 10 GG 19/04/16*

- (a) compatibility of the proposed uses with other surrounding uses;
- (b) potential impact of the proposal on the efficient and effective operations of existing and planned industry, infrastructure or public purposes; and,
- (c) risks, hazards, health and amenity associated with the proposed use being located in proximity to existing and planned industry, infrastructure or public purpose or any other use.

- 4.8.2 When considering applications for development approval in the Light Industry zone the local government shall not permit development to be set back less than five metres from the front boundary or buildings to cover more than sixty per cent of the lot and shall have regard for any other minimum development standard contained in the Scheme. *AMD 10 GG 19/04/16*

- 4.8.3 Notwithstanding any provision of the Building Code of Australia the local government may, if it considers the proposal appropriate, approve buildings which abut one side boundary, provided vehicular access to the rear of the lot is maintained.

- 4.8.4 Where a use in the Light Industry zone is defined as a Prescribed Premises in the Regulations to the Environmental Protection Act 1987 (as amended) or an Offensive Trade under the Health Act 1911 (as amended), the local government shall advertise the proposal as set out in Clause 64 of the deemed provisions and may notify the Environmental Protection Authority and/or the Department of Health for comment or advice before considering the matter in the light of such comment or advice. *AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*

- 4.8.5 In the Light Industry zone:

- (a) provision shall be made for the off-street parking of motor vehicles during normal business hours in all developments in an industrial area or of an industrial nature; and
- (b) parking areas shall be designed to enable all vehicles to return to the street in forward gear.

- 4.8.6 In the Light Industry zone:

- (a) no land or buildings shall be developed unless provision is made for an area clear of the street for the purpose of loading and unloading goods or materials;
- (b) the local government will seek to ensure that the majority of servicing vehicles will be able to leave and enter the street in forward gear; and
- (c) access-ways shall not be less than 4.5 metres wide but in exceptional circumstances the local government may permit an access way of lesser width but not less than 3.0 metres and then only when one way system can be established.

#### 4.9 FACTORY UNIT DEVELOPMENT

Land in the Light Industry and Mixed Business zones may be used for a Factory Unit development, provided that:

- (a) there is no more than one occupancy for each factory unit;
- (b) no industrial unit is used for machinery or automotive wrecking or for the sale of motor vehicles or caravans;
- (c) factory units shall be separated from each other by an internal wall or walls constructed of brick, stone or concrete in accordance with the Building Code of Australia and shall not be altered, moved or removed without the approval of the local government; and *AMD 10 GG 19/04/16*
- (d) the factory unit complies with local governments' policy for factory units as amended from time to time.

#### 4.10 DEVELOPMENT IN THE RURAL RESIDENTIAL AND RURAL LIVING ZONES

4.10.1 The local government will only support subdivision for rural residential or rural living in the following circumstances:

- (a) Where the land has been appropriately identified in the Local Planning Strategy and zones in the Local Planning Scheme and has been approved by the local government and the Western Australian Planning Commission.

Where the land has a structure plan for subdivision endorsed by local government and the Western Australian Planning Commission.  
*AMD 10 GG 19/04/16*

- (b) Where the land has not been subdivided for rural residential or rural living purposes under the provisions of this Scheme or any repealed Scheme.  
*AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*

4.10.2 In addition to Scheme provisions affecting rural residential or rural living development, the provisions outlined in Schedule 7 apply to the rural residential and rural living areas so identified.  
*AMD 10 GG 19/04/16*

4.10.3 Restriction on the type and scale of any agriculture land uses or rural pursuits which vary from Scheme will be specified in Schedule 7. *AMD 10 GG 19/04/16*

4.10.4 While local government requires land management controls and environment requirements, where they vary from scheme provisions they will be specified in Schedule 7. *AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*

4.10.5 Sewerage

Where connection to reticulated sewer is not available to a lot in a rural residential and rural living zones, domestic sewerage shall be disposed of by means of alternative effluent disposal system to the satisfaction of the local government and the Department of Health of Western Australia. *AMD 5 GG 7/1/14*

4.10.6 Building Envelopes

- (a) Where building envelope are defined all buildings shall be confined to the area of the building envelope as set out on the structure plan approved by the Western Australian Planning Commission.  
*AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*

- (b) The local government may permit the location of a building to be within the setback area or outside a building envelope when compliance with the prescribed setbacks or building envelope will locate the building on a skyline or necessitate unnecessary and undesirable earthworks or clearance of vegetation. *AMD 5 GG 7/1/14*

#### 4.10.7 Tree preservation/remnant vegetation protection

- (a) The local government may require tree preservation areas to be identified on the plan of subdivision so as to:
  - (i) protect and preserve areas of landscape significance, ridge lines, and stream lines;
  - (ii) protect areas of land management importance including areas of actual or potential erosion or land degradation;
  - (iii) generally provide for visual screening of buildings and development; and
  - (iv) protect recognised vegetation corridors. *AMD 5 GG 7/1/14*
- (b) Within areas designated as a natural vegetation preservation and/or remnant vegetation areas, no indigenous trees or vegetation may be felled or removed except for:
  - (i) trees which are dead, diseased or dangerous;
  - (ii) establishment of a firebreak required under a regulation or bylaw;
  - (iii) access to a building site;
  - (iv) an area up to two metres in width for the purpose of a fence line;
  - (v) vegetation being removed or disturbed as part of a verge/native tree replanting programme carried out with local government's knowledge and approval. *AMD 10 GG 19/04/16*
- (c) Nothing in Clause 4.10.8 (b) (iv) shall be construed to mean that any person can clear a portion of a road reserve. *AMD 10 GG 19/04/16*
- (d) In considering granting development approval for a building, local government may where it considers an area to be deficient in tree cover, or additional tree cover to be desirable in the interests of landscape protection or enhancement, require tree planting located so as to provide adequate visual screening of the building. *AMD 10 GG 19/04/16*

#### 4.10.8 Livestock management

With the intention of preventing overstocking or other practices detrimental to the amenity of the zone and to prevent land degradation and nutrient export, any application for the keeping of livestock will have regard to advice from the relevant State Government departments including in relation to recommended stocking rates and protection of environmental attributes (such as native vegetation, watercourses, wetlands, ground and surface water quality and landform).

#### **4.11 POTABLE WATER**

In considering residential development and subdivision in all zones of the scheme, a demonstrated and sustainable water supply for habitable buildings is to be provided to the satisfaction of the local government. *AMD 5 GG 7/1/14; AMD 10 GG 19/04/16*

#### **4.12 HEIGHT AND APPEARANCE OF BUILDINGS**

4.12.1 Within the Scheme Area no building shall be constructed in excess of two storeys or 8 metres overall, whichever is the greater, above natural mean ground level.

4.12.2 Notwithstanding the provisions of Clause 4.12.1, after following the procedures set out in Clause 64 of the deemed provisions, the local government may grant approval for the construction of a building higher than the maximum specified. Before granting its approval the local government shall satisfy itself that the proposed building:

- (a) will be in harmony with buildings within the locality;
- (b) will not be detrimental to the amenity or character of the locality or to the town or district in general; and,
- (c) will not affect the development potential of adjoining lots by affecting design, aspect, outlook, views and privacy.

#### **4.13 LANDSCAPING**

4.13.1 In all zones except the Rural zone there will be a landscaping requirement for all developments.

4.13.2 The landscaping requirement referred to in sub-clause 4.13.1 means an open area designed, developed and maintained as a landscaped garden and pedestrian area. At the discretion of the local government it may include natural bushland, swimming pools, areas under covered ways or a children's playground. In Rural Residential and Rural Living zones it may include landscaped buffers along lot boundaries and road frontages.

4.13.3 All applications for development approval, except those for residential development involving two dwellings or less shall indicate the landscaping elements of the proposal and in particular a plan showing: *AMD 10 GG 19/04/16*

- (a) the percentage of the site devoted to landscaping;
- (b) the areas subject to landscaping works;
- (c) the percentage and condition of remnant vegetation to be retained;
- (d) location and species of plants, including shade trees planted within and adjacent to carparking areas at the rate of one tree per two car bays;
- (e) other materials imported, arranged and/or constructed on the site;
- (f) areas to be irrigated and the systems to be used; and
- (g) the proposed staging, if any, and timing of the works.

4.13.4 Local government may require modifications or additions to the landscaping work proposed by any development application. *AMD 10 GG 19/04/16*

#### 4.14 ADDITIONAL DWELLINGS

In all zones, only one dwelling house shall be permitted on each lot or location except in the Rural zone, the local government may, at its discretion, approve the erection of more than one dwelling provided that it is satisfied that:

- (a) the additional dwelling(s) are required to provide accommodation for an agricultural or horticultural worker;
- (b) the lot has an area of not less than 40 hectares;
- (c) the total number of dwelling houses on the lot will not exceed two;
- (d) where the second dwelling is to be used for a purpose other than a rural worker's dwelling, the local government must be satisfied that the second dwelling is to be used solely for the purpose of the principal place of residence of an owner or immediate past owner of the land who has been actively engaged for a significant period of time in the day to day management and operation of a substantial rural pursuit on the land and that the balance of the land is to be retained in rural production.

#### 4.15 SETBACK DISTANCES

4.15.1 Setbacks in the Residential, Special Residential and Town Centre zones will be in accordance with the Residential Design Codes.

4.15.2 In the Town Centre zone and the Light Industry zones, no person shall use the setback area between the building line and the street alignment for any purpose other than one or more of the following:

- (a) a means of access;
- (b) the daily parking of vehicles;
- (c) loading and unloading of vehicles;
- (d) trade display only with the approval of the local government; and,  
*AMD 10 GG 19/04/16*
- (e) landscaping.

4.15.3 Setback areas shall not be used for the storing of vehicles which are being repaired or wrecked, the storage of materials, products, by-products or wastes, or the storage of fuel, except in underground tanks.

4.15.4 In the Rural, Rural Residential and Rural-Living zones:

- (a) No building shall be located closer to the boundary than 30 metres, except-
  - (i) in the rural zone, where the setback distance shall be a minimum of 50 metres; or
  - (ii) the building fronts a state/regional or district road, as designated under the scheme, where the building setback to the boundary of the road shall be a minimum of 100 metres; or
  - (iii) where the building is located within a building envelope identified on an approved structure plan. *AMD 5 GG 7/1/14*

- (b) No person shall use the land between the building setback line and the road for any purpose other than a means of access, landscaping or a rural activity permitted in the zone;
- (c) Notwithstanding anything contained in the sub-clauses above, the local government may permit a building to be located within the setback area when:
  - (i) in the opinion of the local government, a physical obstruction precludes compliance with this clause;
  - (ii) the location of the building within the setback area will not adversely effect the amenity of an adjoining owner or the area generally;
  - (iii) for the reason of topography or lot configuration, the prescribed setback cannot be adhered to or would be unnecessarily disadvantageous.
- (d) Where it is necessary to locate a rain water tank within the setback area when seeking the highest point on the property, the local government will require that the side of the tank is made to blend with the environment by painting within six months of erection in an acceptable colour or by the use of a suitable material during construction.

4.15.5 The minimum front setback to any new development on a road proposed to be widened under this Scheme shall be the minimum setback as if the proposed widening had taken place.

4.15.6 Where lots have more than one street frontage the following setbacks shall apply:

- (a) In all zones, other than the Residential zone, where a lot has a frontage to more than one street, the local government may determine which street frontage shall be regarded as the front for the purpose of the setback prescribed in the Scheme.
- (b) With the exception of State/Regional and District roads, the local government may, at its discretion, permit the setback to the secondary street to be reduced to half the specified setback.
- (c) In the Residential zone the provisions of the Residential Design Codes prevail.

#### **4.16 PARKING OF COMMERCIAL VEHICLES IN THE RESIDENTIAL ZONE**

4.16.1 Unless prior development approval has been granted by the local government, no person shall, within a Residential zone — *AMD 10 GG 19/04/16*

- a) park or allow to remain stationary for more than four hours consecutively:
  - i) more than one commercial or industrial vehicle on a particular lot;
  - ii) a commercial or industrial vehicle, boat trailer, boat, caravan, or recreational vehicle unless it is parked in a domestic garage or outbuilding, or such vehicle is parked entirely on the lot in a position which is not unduly obtrusive;
  - iii) any vehicle which, due to size or load, is not capable of being completely parked within a domestic garage or outbuilding having a maximum floor area of 45 square metres in which no horizontal dimension is more than 15 metres;

- iv) a vehicle which, together with its load, exceeds three metres in height or longer or wider than permitted on roads without requiring special warning signs, unless the vehicle is being used in connection with building or construction works.
- b) build, repair, paint, service, or renovate any marine vessel, caravan, commercial or industrial vehicle in front of the building line.

#### **4.17 CAR PARKING REQUIREMENTS**

4.17.1 Unless otherwise provided in the Scheme, all development must make appropriate provisions for car parking, having regard to the requirements of the local government's Car Parking Policy. *AMD 10 GG 19/04/16*

4.17.2 Where a proposed use is not specifically defined and cannot be associated with a defined use, the local government will establish the requirement for the use dependent on the number of vehicles likely to be attracted to the development and the maintenance of desirable safety standards and the amenity of the area.

4.17.3 Premises with more than one use will have the parking requirements added in proportion to the uses occupying the site unless common usage of the parking occurs when the local government may agree to an adjustment to the total need.

4.17.4 In the Light Industry zone:

- (a) provision shall be made for the off-street parking of motor vehicles during normal business hours in all developments in an industrial area or of an industrial nature;
- (b) parking areas shall be designed to enable all vehicles to return to the street in forward gear;
- (c) parking areas located between the building setback and the street alignment shall be constructed, paved, kerbed, drained, marked out and landscaped and maintained to the satisfaction of the local government;

4.17.5 Where the parking or loading and unloading facility is provided on a lot or lots separate from the lot upon which the development or redevelopment is to occur, the local government will require to be satisfied that the land so allocated will be permanently retained for the purpose by either amalgamation of the lots set aside for parking with the lots being developed or by agreement with local government that the land used for parking or loading or unloading will not be sold separately.

4.17.6 In all zones parking areas located between the building setback and the street alignment shall be constructed, paved, kerbed, drained, marked out, landscaped and maintained to the satisfaction of the local government.

4.17.7 In all zones, the Scheme provisions for parking, loading and unloading, access and landscaped areas, complete with drainage, signs and markings shall be provided at the time of development or at such time as may be agreed in writing between the local government and the developer. All such areas and facilities shall be maintained to the satisfaction of the local government

#### **4.18 SEALED AREAS**

Outdoor displays, industrial hire services, storage facilities, depots, laydown areas and any other open area shall be sealed, paved or landscaped to the satisfaction of local government and maintained in good condition.

#### **4.19 TRAFFIC ENTRANCES AND MAJOR ROADS**

- 4.19.1 The local government may require separate vehicular entrances and exits to lots or may require such access to be placed in positions nominated by it, if it considers it to be necessary to avoid or reduce traffic hazards.
- 4.19.2 The local government may refuse to permit more than one vehicle entrance or exit to or from any lot.
- 4.19.3 Direct access for vehicles from a Main or Major Road to a lot will not be permitted where access is available from a street at the side or rear of the property or from a right of way.
- 4.19.4 Where vehicular access from a lot adjoining a Main or Major Road is available only from that road, parking, servicing, circulation within that lot and access to and from the Road shall be designed and constructed to allow unhindered movement within the lot to enable vehicles to enter and leave the site in forward gear.
- 4.19.5 The local government will require the forming, sealing and draining of any unpaved right of way or street servicing a development for which development approval is given at the cost of the developer in proportion to the extent of the use of the right way or street by the development in respect to other users as assessed by the local government.

*AMD 10 GG 19/04/16*

#### **4.20 LOTS WITHOUT FRONTAGE TO A CONSTRUCTED GAZETTED ROAD OR PERMANENT LEGAL ACCESS TO A CONSTRUCTED GAZETTED ROAD**

Notwithstanding anything else appearing in the Scheme planning approval is required for the development of land abutting an unconstructed road or a lot which does not have permanent legal vehicular access to a gazetted and constructed road. In considering an application for development approval in these circumstances the local government shall either:

*AMD 10 GG 19/04/16*

- (a) refuse the application until a road has been gazetted and constructed;
- (b) grant the application subject to a condition requiring the application to contribute to or construct a gazetted road; or
- (c) require that such other arrangements are made for the permanent access to the satisfaction of the local government. *AMD 5 GG 7/1/14*

#### **4.21 TRANSPORTABLE OR PREFABRICATED STRUCTURES**

*AMD 4 GG 07/01/14*

- 4.21.1 The local government may approve the erection or placement of a transportable or prefabricated building on a lot or location providing that the design of the building is to the satisfaction of the local government by reason of such matters as the roof pitch, window size, external cladding materials and other such factors that affect the appearance of the building and that the building will not, in the opinion of the local government, adversely affect the amenity of other properties in the vicinity.
- 4.21.2 The local government may approve a transportable or prefabricated dwelling to be placed on a lot and used as a dwelling provided that, in the opinion of the local government, such building is in a satisfactory condition or can be upgraded to a suitable standard and will not affect the amenity of the area. *AMD 5 GG 7/1/14*
- 4.21.3 Where any material containing asbestos fibres remains on or in the transportable or prefabricated dwelling, whether cement asbestos roofing or cladding or for insulation or for any other purpose, such material shall be removed prior to the building being transported within or into the Shire. *AMD 5 GG 7/1/14*



#### **4.22 MOTOR VEHICLE AND MACHINERY WRECKING AND/OR STORAGE**

- 4.22.1 For the purpose of this clause, the term “vehicle” shall include motor vehicle, machinery or anything that can reasonably be included under those terms.
- 4.22.2 No person shall occupy or use or permit to be occupied or used, land in any Light Industry zone or any other zone for the purpose of wrecking and/or storage of vehicles except in accordance with the provisions of this Scheme and the following standards:
- (a) the area of land actually used for the purpose of wrecking and/or storage of vehicles shall not exceed 2000 square metres; and,
  - (b) no more than 40 vehicles may be stored on the land in neat rows and not in any manner greater than two metres in height.
- 4.22.3 Should the local government grant development approval to the use and development of land for the purpose of vehicle wrecking, such approval shall be subject to the following conditions: *AMD 10 GG 19/04/16*
- (a) all vehicle bodies and excess scrap from the wrecking process shall be removed and disposed of in a manner and at intervals satisfactory to the local government;
  - (b) all parts or materials or components shall be stored in buildings and yard areas;
  - (c) all buildings and yard areas shall be kept in a good state of repair and shall be clean and tidy at all times to the satisfaction of the local government;
  - (d) all yard areas where vehicle wrecking occurs shall be enclosed by a fence to the design and satisfaction of the local government and shall be not less than 1.8 metres in height;
  - (e) no vehicle or portion of a vehicle shall be destroyed or otherwise disposed of by fire or any other means of combustion;
  - (f) all practicable means shall be used to minimise any smell from the operation of the business;
  - (g) where appropriate a landscape buffer or other appropriate visual screen be provided.

#### **4.23 LOTS AFFECTED BY ROAD AND RAIL TRANSPORT**

If in the opinion of the Western Australian Planning Commission (WAPC) and/or the Council, where residential development is contemplated, at subdivision or development stage a memorial may be placed on the Certificate of Title, advising of potential impacts from road and rail corridors. *AMD 6 GG 13/05/14*

## **PART 5 — SPECIAL CONTROL AREAS**

*AMD 10 GG 19/04/16*

### **5.1 OPERATION OF SPECIAL CONTROL AREAS**

5.1.1 The following special control areas are shown on the Scheme Maps:

- (a) Avon River Valley
- (b) Toodyay Bypass
- (c) Wetland/River Channel  
*AMD 10 GG 19/04/16*

5.1.2 In respect of a special control area shown on a Scheme Map, 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.

### **5.2 AVON RIVER VALLEY SPECIAL CONTROL AREA**

The Avon River Valley Special Control Area is delineated on the Scheme Map

#### **5.2.1 Purpose**

The purpose of the Avon River Valley Special Control Area is to promote the objectives of the Avon Arc Sub-Regional Strategy (January 2001) by identifying areas within the Avon Arc of high landscape value and by conserving and enhancing the significant values and features that exist within this landscape area.

#### **5.2.2 Application Requirements**

Development approval is required to construct or extend a dwelling or any other building within this special control area. *AMD 10 GG 19/04/16*

#### **5.2.3 Relevant Considerations**

5.2.3.1 To preserve and enhance the status of this area as a major scenic and recreation resource the local government will:

- (a) encourage the retention and enhancement of the vegetation cover;
- (b) encourage rural uses to continue in a manner consistent with good land management practice and the enhancement of the environment;
- (c) exercise controls over the subdivision and development of land so that the siting and design of buildings or works will enhance the visual character of the area;
- (d) acquire, where appropriate, foreshore land to protect critical areas of landscape or recreational value and to ensure public access; and,
- (e) permit appropriate uses of a recreational or tourist nature subject to adequate controls on the level of activity and siting of such uses.

5.2.3.2 The local government in considering development proposals on land identified on the Scheme Map as being within the special control area will consider the following before making a determination:

*AMD 10 GG 19/04/16*

- (a) the effects of the proposal on catchment management and the measures to be taken to mitigate such effects;
- (b) whether the proposed development will materially and seriously effect any wetland or native flora, native wildlife refuge or habitat, especially when such is rare, endangered or a priority species;
- (c) whether the proposed development will effect any identified site of known Aboriginal importance;
- (d) the effects of the development to the natural environment including:
  - i) effects of clearing for development, especially for roads and services; and,
  - ii) habitat disturbance;
- (e) the actions to be taken to ameliorate any adverse effects the development may have on the environment which shall include but not be limited to;
  - i) landscaping and tree planting on road verges and boundaries;
  - ii) provision of habitat corridors;
  - iii) fencing of areas of environmental value; and,
  - iv) the removal from the site of all waste materials resulting from land clearing and the levelling and planting of all earth works and spoil heaps; and,
- (f) whether the proposed development is compatible with the existing rural and scenic character of the Shire of Toodyay.

5.2.3.3 Where development within the special control area is likely to substantially detract from the visual amenity of the district, taking into account the cumulative visual effect of that development and other development that may be anticipated in the locality and in the area generally, local government may:

- (a) refuse to grant its approval to the development, or
- (b) grant development approval subject to conditions regarding size, siting or materials to be used. *AMD 10 GG 19/04/16*

5.2.3.4 A person shall not fill, clear, drain, excavate or otherwise alter by earthworks, any land within the special control area or on any such land, construct any dam, building or levee for any purpose or restrict or partially or totally divert the natural flow of water or natural stormwater run-off or cause any storm water or other water or any other liquid from any source to flow into any creek, watercourse, lake or wetland without the written approval of the local government.

5.2.3.5 A person shall not without the approval of local government, ringbark, cut down, lop, top, prune, injure or destroy by any other means a tree on any land to which this clause applies unless:

- the tree is less than one metre high and has a girth of less than 15 millimetres at a height of 400 millimetres from the ground;
- the tree is dying, dead or has become dangerous;
- the tree is not a protected native plant;
- the tree is not located within 20 metres of a watercourse, or
- it is for the purpose of agricultural activities such as the clearing of fence lines and firebreaks and the removal of re-growth under the age of two years.

5.2.3.6 In considering any application for approval to clear land pursuant to sub-clause 5.2.3.5, the local government will take into account the possible effects on the landscape of the area, the possibility of erosion or other ecological consequences and may, at its discretion, refer the application to the Department of Environment and Conservation, the Conservation Commission of Western Australia or any other Government Department or Authority with a request for advice or, where considered appropriate, with a recommendation that the area concerned, or any part thereof, be considered for acquisition as National Park or Public Use Reserve.

*AMD 10 GG 19/04/16*

5.2.3.7 The local government may require the preparation of a statement of environmental impacts, which shall accompany a development application for any land subject to this clause to enable the local government to fully consider the possible environmental effects of the proposal.

*AMD 10 GG 19/04/16*

5.2.3.8 Without limiting the power of the local government to grant approval, the local government may grant approval to develop land to which this clause applies where it is satisfied that;

(a) the characteristics of the land are different from the general characteristics on which the classification of the land was based; and,

(b) there are no other reasonable or practicable alternatives in the circumstances.

5.2.4 Referral of applications for development approval

*AMD 10 GG 19/04/16*

The local government may refer any rezoning request or development application to any relevant agency for comment.

### **5.3 TOODYAY BYPASS SPECIAL CONTROL AREA**

5.3.1 Purpose

The purpose of the Toodyay Bypass Special Control Area is to protect future residential development from traffic noise impacts associated with the Bypass.

5.3.2 Relevant considerations

In considering rezoning, development or subdivision applications, the local government will have regard to the potential impact of the Bypass on future residential amenity.

5.3.3 Application requirements

The local government will require an assessment of traffic noise levels from the Toodyay Bypass to be undertaken and suitable noise mitigation measures to be investigated and proposed as part of rezoning, development and subdivision applications.

## **5.4 WETLANDS/RIVER CHANNEL SPECIAL CONTROL AREA**

*AMD 10 GG 19/04/16*

### **5.4.1 Purpose**

The purpose of the Wetlands/River Channel Special Control Area is to manage development within the flood fringe or floodway of the Avon River as identified on the Scheme Maps as wetlands/river channel.

### **5.4.2 Application requirements**

Development approval is required for all development within this special control area.

### **5.4.3 Relevant considerations**

Any application for subdivision or development on land within a floodway or flood fringe as identified on the Scheme Maps as Wetland/River Channel is to be referred to the Department of Water and the local government shall pay due regard to any advice received on such applications..

# SCHEDULES

AMD 10 GG 19/04/16

Schedule 1 General definitions Land use definitions	Dictionary of defined words and expressions
Schedule 2	Additional uses
Schedule 3	Restricted uses
Schedule 4	Special use zones
Schedule 5	Exempted advertisements
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Schedule 7	Rural Residential Development Requirements
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## SCHEDULE 1 — DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

AMD 10 GG 19/04/16

### 1. General definitions

In the Scheme —“**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;

“**cabin**” means a dwelling forming part of a tourist development of caravan park that is –

- (a) an individual unit other than a chalet; and
- (b) designed to provide short-term accommodation for guests; AMD 9 GG 30/08/2016

“**chalet**” means a dwelling forming part of a tourist development or caravan park that is –

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to provide short-term accommodation for guests; AMD 9 GG 30/08/2016

“**commercial vehicle**” means a vehicle, whether licensed or not, which is used or designed or intended for use in conjunction with a profession, trade or business which has a tare weight of 4.5 tonnes or greater and without limiting the generality of the foregoing, shall include trucks, trailers, tractors and their attachments, buses and earthmoving machines, whether self-propelled or not.

“**conservation**” has the same meaning as in the *Heritage of Western Australia Act 1990*;

“**floor area**” has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;

“**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 *Gazette* under section 87 of the Planning and Development Act 2005;  
AMD 10 GG 19/04/16

“**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;

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

“**minerals**” has the same meaning as in the *Mining Act 1978*;

**“net lettable area (nla)”** means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas —

- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;

**“non-conforming use”** has the same meaning as it has in section 172 of the Planning and Development Act 2005; *AMD 10 GG 19/04/16*

**“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;

**“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;

**“prefabricated building”** means a building or section of a building which is manufactured in advance, either in whole or in sections, that can be easily transported and assembled. *AMD 4 GG 07/01/14*

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

**“short term accommodation”** means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period; *AMD 9 GG 30/08/2016*

**“wholesale”** means the sale of goods or materials to be sold by others;

## 2. Land use definitions

In the Scheme —

**“abattoir”** means a building or place used for the slaughter of animals, whether or not animal by-products are processed, manufactured or distributed, and includes a knackery;

**“accommodation for temporary workers”** means dwellings intended for the temporary accommodation of transient workers and may be designed to allow transition to another use or may be designed as a permanent facility for transient workers and includes a contractor’s camp and dongas;

**“aged or dependent persons dwelling or establishment”** means a dwelling designed for the accommodation of aged or dependent persons as defined in the Residential Design Codes;

**“agriculture - extensive”** means premises used for the raising of stock or crops but does not include agriculture – intensive or animal husbandry – intensive;



**“agriculture - intensive”** means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with 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 and agriculture where trees are planted in blocks of more than one hectare;

**“amusement parlour”** means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;

**“ancillary accommodation”**—*DELETED BY AMD 7 GG 28/07/15*

**“ancillary dwelling”** means a self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house;  
*AMD 7 GG 28/07/15*

**“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/or other livestock in feedlots; *AMD 4 GG 07/01/14*

**“apiary”** means land and buildings used for the keeping of the domestic honeybee;

**“aquaculture”** means the farming of aquatic organisms, including fish, molluscs, crustaceans and aquatic plants. It includes the breeding, hatching, rearing and cultivation for sale of all aquatic organisms;

**“arts and crafts centre”** means land or buildings used to create, display and/or sell works of art and craft;

**“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;

**“betting agency”** means an office or totalisator agency established under the *Totalisator Agency Board Betting Act 1960*;

**“brewery”** means premises the subject of a producer’s licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*; *AMD 9 GG 30/08/2016*

**“caravan park”** has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;

**“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;

**“carpark”** 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;

**“child care premises”** is a premises used for the daily or occasional care of children in accordance with the regulations for child care under the *Child Care Services Act 2007* but excludes family day care; *AMD 4 GG 07/01/14*

**“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 the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit; *AMD 4 GG 07/01/14*

**“consulting rooms”** 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, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 300 square metres net lettable area;

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

**“dam”** is a man-made structure built either through creating an obstruction across a watercourse or through alteration of the earth to create an area for the purposes of controlling the movement of water (whether in a watercourse, sheet surface flow or subsurface flows) and to create a water supply. This excludes a contour bank;  
*AMD 4 GG 07/01/14*

**“detention centre”** means land or buildings used for the confinement or detention in custody of young offenders against the law with a view to their rehabilitation;

**“display home centre”** means dwelling/s intended to be open for public inspection as an example of the dwelling design;

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

**“emergency services”** means land or buildings used to store and maintain emergency vehicles and equipment, co-ordinate response to emergency events and may include training facilities and caretaker's dwellings;

**“equestrian centre”** means any land or buildings used for the showing, competition or training of horses and includes a riding school;

**“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;

**“factory unit”** means a building or structure, or a group of buildings or structures on one lot, in which are carried on two or more separate industries or storage areas not owned or managed by the same person, or in which provision is made for the carrying on of two or more separate industries or storage areas not owned or managed by the same person;

**“family day care”** means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*;

**“farm stay/host farm”** means the use of an existing farm building for the temporary or short stay accommodation for up to 16 persons;

**“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 lunch bar;

**“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 and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;

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

**“grouped dwelling”** means a dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata lot with common property;

**“holiday accommodation”** means 2 or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot ; *AMD 9 GG 30/08/2016*

**“holiday house”** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast; *AMD 9 GG 30/08/2016*

**“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 cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; 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 cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;

- (d) does not display a sign exceeding 0.2 square metres;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, 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 volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and 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;

**“home office”** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not —

- (a) entail clients or customers travelling to and from the dwelling;
- (b) involve any advertising signs on the premises; or
- (c) require any external change to the appearance of the dwelling;

**“home store”** means any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling;

**“hospital”** means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;

**“hotel”** means premises providing accommodation the subject of a hotel licence under the *Liquor Licensing Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;

**“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; *AMD 4 GG 07/01/14*

**“industry - cottage”** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which —

- (a) does not cause injury to or 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 out-building 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 in excess of 50 square metres; and
- (e) does not display a sign exceeding 0.2 square metres 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 and storage of those materials, or the 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 other than a cottage, extractive, light, mining, rural or service industry;

**“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 cause any injury to or adversely affect the amenity of the locality;
- (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 minerals from the land;

**“industry – noxious”** means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act, 1911 (as amended), but does not include a fish shop, dry cleaning premises, marine collectors yard, Laundromat, abattoir, piggery or poultry farm; *AMD 4 GG 07/01/14*

**“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 may have 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;

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

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

**“medical centre”** means premises, other than a hospital, used by one or more health consultant(s) 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 and may comprise premises licensed under the *Liquor Licensing Act 1988*;

**“motor vehicle, machinery and/or marine repair”** means land or buildings used for the mechanical or body repair and overhaul of motor vehicles, motor cycles, caravans, marine vessels and machinery, including tyre repair, retreading, panel beating, spray painting, chassis reshaping or hull scouring;

**“motor vehicle, machinery and/or marine sales and hire”** means land and buildings used for the display, sale and/or hire of motor vehicles, motorcycles, caravans, marine vessels and machinery including storage, cleaning and minor repairs;

**“motor vehicle, machinery and/or marine wrecking”** means land or buildings used for the storage, breaking up or dismantling of motor vehicles, motor cycles, caravans and marine vessels and includes the sale of second hand motor vehicle and marine accessories and spare parts;

**“motor vehicle wash”** means premises where the primary use is the washing of motor vehicles;

**“movable dwelling”** means a caravan defined under the Caravan Parks and Camping Grounds Act 1995, park home or other dwelling constructed and maintained on its own chassis and wheels and capable of mobility at all times, although it may be stabilised by jacks, provided with skirtings or designed and constructed to permit independent occupancy for dwelling purposes;

**“multiple dwelling”** means a dwelling in a group of more than one where any part of a dwelling is vertically above part of any other but does not include a Grouped Dwelling;

**“night club”** means premises —

- (a) used for entertainment with or without eating facilities; and
- (b) licensed under the *Liquor Licensing Act 1988*;

**“Nursing Home”** means premises in which persons who do not require constant medical attention are received as patients and lodged for the purposes of medical supervision and nursing care;

**“office”** means premises used for administration, clerical, technical, professional or other like business activities;

**“park home park”** has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

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

**“plantation”** means a stand of trees of ten hectares, or larger, that has been established by sowing or planting of either native or exotic tree species selected and managed intensively for their commercial and/or environmental value. A plantation includes roads, tracks, firebreaks and small areas of native vegetation surrounded by plantations. Implicit in this definition is the recognition that plantation will be harvested; *AMD 4 GG 07/01/14*

**“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 or sport which are not usually open to the public without charge;

**“recreation - public”** means the use of land for parks, gardens, playgrounds, sports arena or for recreation which are normally open to the public without charge but does not include a racecourse, a showground or golf course;

**“relocated dwelling”** means a residential dwelling which has previously been constructed and occupied (whether in the district or elsewhere) which is capable of being transferred and reconstructed for use as a residential dwelling;

**“research centre”** means a laboratory or other place where scientific or technological development or research is undertaken;

**“residential building”** has the same meaning as in the Residential Design Codes;

**“restaurant / café”** means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*;  
*AMD 9 GG 30/08/2016*

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

- (a) publications that are classified as restricted under the *Censorship Act 1996*;
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;

**“roadside stall”** means a place or temporary structure used for the retail sale of produce grown or manufactured on the land on which the roadside stall is sited;

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

- (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m<sup>2</sup>; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight; *AMD 9 GG 30/08/2016*

**“rural pursuit”** means any 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 – extensive or agriculture – intensive;  
*AMD 4 GG 07/01/14*

**“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
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

**“shop”** means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

**“showroom”** means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;

**“single house”** means a dwelling standing wholly on its own green title or survey-strata lot together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property;

**“small bar”** means premises licensed as a small bar under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises but not including the sale of packaged liquor; and the number of persons who may be on the licensed premises limited to a maximum of 120. *AMD 4 GG 07/01/14*

**“stockyard”** means any premises primarily used for holding, sale, movement or treatment of stock animals; *AMD 4 GG 07/01/14*

**“storage facility”** means a premises which is predominantly used or provided for the use of the storage of goods, equipment, plant or materials and can include a contractors yard and salvage yards but not including on farm produce or on farm goods. *AMD 4 GG 07/01/14*

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

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development; *AMD 9 GG 30/08/2016*

**“transport depot”** means premises, or a portion of a premises, use for the parking or garaging of two or more commercial vehicles for financial reward, and

- (i) may include the maintenance and refuelling of those vehicles and the storage of goods brought to the premises by those vehicles, provided that those activities are ancillary to the parking or garaging of the commercial vehicles; and
- (ii) may include the transfer of goods or persons from one motor vehicle to another.- *AMD 4 GG 07/01/14*

**“transportable structure”** means a building or structure which has been prefabricated at another location and transported either whole or in parts to the intended location;

**“tavern”** means premises licensed as a tavern under the *Liquor Licensing Act 1988* and used to sell liquor for consumption on the premises;



**“telecommunications infrastructure”** means land used to accommodate 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;

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

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

**“warehouse”** means premises used to store or display goods and may include sale by wholesale;

**“waste disposal and treatment”** means any class of landfill site as defined under the Landfill Waste Classification and Waste Definitions **1996** (as amended) and includes areas for the physical, chemical biological processing of waste for disposal or reuse.  
*AMD 4 GG 07/01/14*

**“waste transfer station”** means land or buildings used for the collection and transferral or recycled and/or waste materials. *AMD 4 GG 07/01/14*

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

## SCHEDULE 2 — ADDITIONAL USES

AMD 10 GG 19/04/16

No.	Description of land	Additional use	Conditions
1	14 Morangup Road,	Garden Centre Plant Nursery Shop	<p>(a) Development shall be in accordance with site plans approved by local government and will require the issue of development approval. <i>AMD 10 GG 19/04/16</i></p> <p>(b) Car Parking requirement will be determined by local government as a condition of development approval, taking into account the number of spaces estimated to be necessary. <i>AMD 10 GG 19/04/16</i></p> <p>(c) The additional use of shop shall not exceed a maximum gross leasable are of 100m<sup>2</sup>.</p>
2	Lot 36 Toodyay Bindi-Bindi Road, Bejoording  <i>AMD 5 GG 7/1/14</i>	Dog kennels	
3	Lot 7 Avon Loc 1953 Morangup Road Toodyay	Dumping of tyres	<p>(a) Tyre dumping only permitted in an area approved and defined on a plan adopted by local government.</p> <p>(b) Subject to environmental clearance and monitoring.</p> <p>(c) A memorial shall be placed on the Certificate of Title advising successors in title to the land that part of the land has been used for tyre disposal.</p>
4	Lot 47 Clarkson St West Toodyay	Theme Park (Private Recreation Shop)	<p>(a) Development to be in accordance with plans approved by local government.</p> <p>(b) Use of a shop will be restricted to the sale of craft goods and souvenirs.</p> <p>(c) The size of the shop to be no larger than 100m<sup>2</sup>; and</p> <p>(d) Landscaping and a vegetation buffer to be established in accordance with plans approved by local government.</p>
5	Lot 18 Racecourse Road, Toodyay <i>AMD 3 GG 14/6/13</i>	Caravan park including Backpacker's Accommodation, Men's shed, shop, office and manager's residence	<p>1. Permanent accommodation within the caravan park shall be limited to a maximum of 9 caravans or park homes.</p> <p>2. Development of the land shall be subject to a development application, and shall generally comply with a Structure Plan for the site that has been approved by the local government. <i>AMD 5 GG 7/1/14</i></p> <p>3. A Structure Plan shall be prepared and implemented for the site and shall include— <i>AMD 5 GG 7/1/14</i></p> <ol style="list-style-type: none"> <li>Bushfire Management Plan;</li> <li>Landscaping plan, including details of any vegetation to be protected in accordance with the requirements of the Department of Environment and Conservation and the provision of landscape screen adjacent to the development in the vicinity of Hatfield Place (excluding firebreaks);</li> <li>Site plan, including any upgraded facilities, site access and staging details;</li> </ol>

No.	Description of land	Additional use	Conditions
	Lot 18 Racecourse Road, Toodyay (Cont'd)		<p>d. effluent treatment and water supply details.</p> <p>4. Any access to Hatfield Place and Broadgrounds Place is to be for emergency access only and shall be appropriately restricted to the satisfaction of the local government.</p> <p>5. Vegetation is only to be removed from the site in accordance with the Bushfire Management and Landscaping plans.</p> <p>6. Development shall comply in all respects with the provisions of the <i>Caravan and Camping Act</i> and associated regulations.</p> <p>7. The development is to be serviced by an appropriate water supply and effluent disposal systems, as determined by the Local Government.</p> <p>8. Use of on-site communal facilities shall be restricted to occupiers of the caravan park and their guests.</p> <p>9. The use of reflective roofing and external materials on new buildings is not permitted.</p> <p>10. The additional use shall apply to the entirety of Lot 18 Racecourse Road. Should the lot be subdivided, appropriate consideration should be given to whether it is appropriate to apply additional uses to the proposed lots.</p>
6	Lot 59 Beaufort Street, West Toodyay <i>AMD 8 GG 16/6/15</i>	Restaurant  Reception Centre	<p>1. Notwithstanding anything else in the Scheme, development on the site shall be subject to application to the local government for approval to commence development.</p> <p>2. The local government may require development applications to be advertised in accordance with Clause 64 of the deemed provisions. <i>AMD 10 GG 19/04/16</i></p> <p>3. In considering a development application, the local government may require the preparation of a site management plan to ensure the design, character and scale of the development is in keeping with the objectives of the Special Residential Zone.</p>
7	Lot 45 (381) Julimar Road, Toodyay <i>AMD 9 GG 30/08/2016</i>	Motel (D) Reception Centre (I) Restaurant/Café (I)	<p>1. Development approval is required for the additional uses.</p> <p>2. Accommodation is to be short-term accommodation.</p>
8	Lot 228 (439) Parkland Drive, Toodyay <i>AMD 9 GG 30/08/2016</i>	Restaurant/Cafe (I)	<p>1. Development approval is required for the additional uses.</p> <p>2. Restaurant is to be an incidental use to the rural pursuit undertaken on the site.</p> <p>3. When considering an application for development approval the local government may impose conditions in regard to:</p> <ul style="list-style-type: none"> <li>• Hours of operation</li> <li>• Number of seats</li> </ul>

No.	Description of land	Additional use	Conditions
9	Lot 66 (163) Howard Road, Toodyay <i>AMD 9 GG 30/08/2016</i>	Private Recreation Restaurant/Café (I)	<ol style="list-style-type: none"> <li>1. The private recreation shall only consist of gardens.</li> <li>2. Development approval is required for the additional uses.</li> <li>2. Restaurant is to be an incidental use to the private recreation undertaken on the site.</li> <li>3. When considering an application for development approval the local government may impose conditions in regard to: <ul style="list-style-type: none"> <li>• Hours of operation</li> <li>• Number of seats</li> </ul> </li> </ol>
10	Lots 57 (81) and 97 (65) Beaufort St West, Toodyay <i>AMD 9 GG 30/08/2016</i>	Tourist Development (D) Shop (I)	<ol style="list-style-type: none"> <li>1. Development approval is required for the additional uses.</li> <li>2. Shop is to be an incidental use to the rural pursuit undertaken on the site, and only produce grown and produced on the site maybe sold from the shop.</li> </ol>

**SCHEDULE 3 — RESTRICTED USES**  
AMD 10 GG 19/04/16

<b>No.</b>	<b>Description of land</b>	<b>Restricted use</b>	<b>Conditions</b>

## SCHEDULE 4 — SPECIAL USE ZONES

AMD 10 GG 19/04/16

No.	Description of land	Special use	Conditions
1	Lot 104 Sandplain Road, Toodyay <i>AMD 5 GG 7/1/14</i>	Health care resort, including residential buildings, conference facilities, dwelling and other buildings and uses approved by local government as being consistent with the primary intent of the zone.	Site development subject to local government development approval in accordance with approved site plans and any conditions imposed under development approval, including controls on building design and construction and landscaping. <i>AMD 10 GG 19/04/16</i>
2	Pt. Avon Loc 27620	Private Recreation and Caravan Park	Development for a Caravan Park shall comply in all respects with the provisions of the Caravan and Camping Act.
3	Lot 89 Church Gully Road	Abattoir	
4	Avon Location 27443 Toodyay Road	Trout farm/fish out and associated facilities, restaurant, picnic area and holiday resort.	In accordance with a concept plan approved by local government with all required septic tanks, leach drains or other such installations for on-site disposal of sewerage effluent or wastes not being constructed closer than thirty (30) metres from a watercourse or stream and not within land subject to flooding.
5	Lots 111-115, 117 & 118 Clackline Toodyay Road	1 Emu farm, tannery and workshop showroom. Art & Craft Gallery, eating facility, and accommodation units.  2 Rural Use.	Tannery use subject to approval of the EPA.
6	Lots 340, 641, Avon Loc 1677 Julimar Road Tannahil Tourism and Holiday Complex. <i>AMD 5 GG 7/1/14</i>	Uses permitted subject to local government approval:  1. Rural Pursuit 2. Equestrian Centre 3. Holiday Accommodation 4. Restaurant 5. Private recreation 6. Seminary facilities 7. Wildlife Park	Uses subject to conformity with an approved site structure plan, and prior to determination of development applications for the abovementioned uses, local government shall consider the following issues: <i>AMD 5 GG 7/1/14</i>  (a) Provision of a suitable water supply for fire fighting purposes;  (b) Provision of a low fuel area in the vicinity of buildings or areas requiring protection from fire;  (c) Provision of a strategic firebreak on the subject land;  (d) Provision of a Foreshore Management Deed of Agreement covering an area of approximately 15 metres in width from the top of the bank either side of the Phillips Brook;

## SCHEDULE 4 — SPECIAL USE ZONES (Cont'd)

No.	Description of land	Special use	Conditions
6	Lots 340, 341, Avon Loc 1677 Tannahill Tourism and Holiday Complex. (Cont'd)		(e) The disposal of domestic sewerage and any related requirements of the Department of Health of WA.  <i>AMD 5 GG 7/1/14</i>
7	Pt Avon Loc V, Northam Toodyay Road	Toodyay Baptist Church for Religious Purposes, Church Dwelling and ancillary uses.	In accordance with the Concept Plan approved by local government.
8	Avon Locations 71, 217, 1069 and 399 Wattening Springs Road, Toodyay	Uses permitted subject to local government approval:  1. 24 Hour tourist getaway  2. Caretaker's Dwelling	Uses subject to conformity with an approved site structure plan, and prior to determination of development applications for the abovementioned uses, local government shall consider the following issues: <i>AMD 5 GG 7/1/14</i>  (a) The construction of two large pergola structures only;  (b) The use of compost toilets in accordance with relevant Health Regulations;  (c) Any swimming pool/spa being constructed in accordance with relevant Health Regulations;  (d) Shower and washing facilities being constructed in accordance with relevant Health requirements with wastewater being relocated to a suitable disposal area away from water surfaces to address potential environmental impacts;  (e) A maximum of forty (40) people being accommodated on site at any one time excluding staff;  (f) Accommodation facilities to be relocatable to minimise impact to the environment;  (g) Any dwelling to be constructed on site to be located on the higher ground in order to prevent adverse environmental impacts on the existing water courses;  (h) A singular vehicle entry only from Wattening Springs Road;  (i) No private client vehicles to be allowed on site with the exception of authorised bus transportation of clients;  (j) Walkways to be constructed to minimise potential adverse impacts to the environment;

## SCHEDULE 4 — SPECIAL USE ZONES (Cont'd)

No.	Description of land	Special use	Conditions
8	Avon Locations 71, 217, 1069 and 399 Wattening Springs Road, Toodyay (Cont'd)	<p>Uses permitted subject to local government approval:</p> <p>24 Hour tourist getaway</p> <p>Caretaker's Dwelling</p>	<p>(k) No motor cycles to be allowed on site with the exception of agricultural or maintenance vehicles;</p> <p>(l) Agricultural stock to be located so as to minimise potential impacts on the environment and existing water courses;</p> <p>(m) Perennial water courses to be fenced off and strategically grazed for fire hazard reduction;</p> <p>(n) On site fire places and barbeque facilities to be constructed to the satisfaction of the local government.</p>
9	Reserve 46058, Lot 298 Folwood Road, Toodyay.	Religious Purposes and Ancillary Purposes (Toodyay Congregation of Jehovah's Witnesses)	Development shall be generally compatible with the objectives of the adjoining zones.
10	Avon Loc 463 Julimar Road	Boutique micro-brewery and chalets	<p>Site development subject to local government's development approval in accordance with approved site plans and any conditions imposed under development approval, including controls on building design and construction, and landscaping.</p> <p><i>AMD 10 GG 19/04/16</i></p>
11	Lot 525 Nerramine Drive, Julimar	Restaurant, winery, chalets, single dwelling and rural use	<p>Uses may be approved at discretion of the local government, following, if deemed necessary by the local government, an advertising period of not less than 21 days.</p> <p><i>AMD 10 GG 19/04/16</i></p> <p>Consideration will be given to the following when determining a development application for the site, to ensure the proposal is in keeping with the rural nature of the area:</p> <p>(a) Building design and location</p> <p>(b) Construction materials</p> <p>(c) Landscaping</p> <p>(d) Floor area, opening hours and capacity of the restaurant</p> <p>(e) Number of chalets</p> <p>(f) Traffic movements</p> <p>(g) Offsite impacts.</p>



## SCHEDULE 4 — SPECIAL USE ZONES (Cont'd)

No.	Description of land	Special use	Conditions
12	Lot 1 Salt Valley Road, Hoddy Well	Landfill – Class 1 Waste Only	<p>(i) Operation of landfill on Lot 1 is to be in accordance with the management plans contained in <i>Rehabilitation of Clay Pit Lot 1 Salt Valley Road, Toodyay</i> prepared by Landform Research, July 2004</p> <p>(ii) The landfill is to be confined to that part of Lot 1 that has been used for an extractive industry and such adjacent land as is required for operation of landfill as identified in the management plans referred to in paragraph (i).</p> <p>(iii) Unless otherwise in accordance with the management plan referred to in paragraph (i), existing vegetation is not to be removed from the operation of landfill.</p> <p>(iv) Tyres, asbestos and putrescible waste may not be disposed of at the landfill facility.</p>
13	Lot 5 Dumbarton Road	Chalet Development, shop, restaurant and seminar facilities.	<p>Uses are permitted subject to the following conditions:</p> <p>a) Subject to a structure plan being adopted by the local government prior to consideration of development approval, The design, character and scale of development shall be in keeping with the objectives of the Rural 5 – Resource Conservation zone. In considering an application for development approval, the local government will have particular regard to landscaping, servicing and amenity. <i>AMD 5 GG 7/1/14</i> <i>AMD 10 GG 19/04/16</i></p> <p>b) Each additional use requires development approval of the local government. <i>AMD 10 GG 19/04/16</i></p> <p>c) No more than six (6) chalets being developed on site.</p> <p>d) The additional use of 'shop' shall not exceed a maximum gross leasable area of 100m<sup>2</sup>, and will be restricted to the sale of craft goods, souvenirs and other tourism related products.</p>

## SCHEDULE 4 — SPECIAL USE ZONES (Cont'd)

No.	Description of land	Special use	Conditions
	Lot 5 Dumbarton Road (Cont'd)		e) The seminar facility is to be developed for no more than 50 persons. Licensing of this development would ensure this could be regulated.
14	Lot 11 Chitty Road, Toodyay	<ol style="list-style-type: none"> <li>1. Waste Disposal and treatment</li> <li>2. Rural Uses</li> </ol>	<ol style="list-style-type: none"> <li>1. Development of the site is to be in accordance with SAT Decision [2013] WASAT88 in regard to Matter Number DR292 2012.</li> <li>2. As per the requirements for the "Rural" zone.</li> </ol> <p><i>AMD 5 GG 7/1/14</i></p>

## SCHEDULE 5 — EXEMPTED

AMD 10 GG 19/04/16

Land use and/or development	Exempted sign	Maximum size
Dwellings	One professional name-plate as appropriate.	0.2m <sup>2</sup>
Home Business	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
Places of Public Meeting, assembly or Worship.	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Entertainment Venue	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m <sup>2</sup> .
Shops, Showrooms and other uses appropriate to commercial development.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to compliance with any local government Local Law or Planning Policy in place from time to time. <i>AMD 10 GG 19/04/16</i>	A maximum of one free-standing advertisement signs not exceeding 5m in height above ground level.
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building.	Total area of any such advertisements, shall not exceed 15m.
Industrial and Warehouse Premises continued..	A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup> .

## SCHEDULE 5 — EXEMPTED (CONT'D)

Land use and/or development	Exempted sign	Maximum size
Public Places and Reserves	<p>(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government a public authority or local government of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body.</p> <p>(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government of a local government.</p> <p>(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m <sup>2</sup> in area.
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A

## SCHEDULE 5 — EXEMPTED (CONT'D)

Land use and/or development	Exempted sign	Maximum size
All classes of buildings other than single houses.	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows: a) Dwellings.  b) Multiple Dwellings, Shops, Commercial and Industrial projects.  c) Large Development or redevelopment projects involving commercial centres, office or other buildings exceeding 3 storeys in height.	One sign as for (i) above  One Advertisement per street frontage containing details of the project and the contractors undertaking the construction work.  One sign as for (i) above  One additional sign showing the name of the project builder.	2m <sup>2</sup>  5m <sup>2</sup>  10m <sup>2</sup>  5m <sup>2</sup>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
Property Transactions.  Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows: a) Dwellings  b) Multiple Dwellings, Shops, Commercial and Industrial Properties.	One sign per street frontage for each property relating to the sale, leading or impending auction of the property at or upon which the sign is or the signs are displayed.  One sign as for (a) above	Each sign shall not exceed an area of 2m <sup>2</sup> .  Each sign shall not exceed an area of 5m <sup>2</sup> .

## SCHEDULE 5 — EXEMPTED (CONT'D)

Land use and/or development	Exempted sign	Maximum size
c) Large properties comprised of commercial centres, buildings in excess of four storeys and rural properties in excess of 5ha.	One sign as for (a) above	Each sign shall not exceed an area of 10m <sup>2</sup> .
Display Home Centres: Advertisement signs displayed for the period over which homes are on display for public inspection.	<p>(a) One sign for each dwelling on display</p> <p>(b) In addition to (a) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.</p>	<p>2m<sup>2</sup>.</p> <p>5m<sup>2</sup></p>

## SCHEDULE 6 — ENVIRONMENTAL CONDITIONS

[cl. 4.6.1]

AMD 10 GG 19/04/16

<b>Scheme or Amendment No.</b>	<b>Gazettal Date</b>	<b>Environmental Conditions</b>

**SCHEDULE 7 —**

**RURAL RESIDENTIAL DEVELOPMENT  
REQUIREMENTS**

AMD 10 GG 19/04/16

Description of Land	Development Requirements
<p>“Rugged Hills” subdivisional area (being Lots 205, 206, 222 and 233 Flexuosa Place; 207-216 and 224-232 Ridley Circle; and 201-204, 220-223, 217-219 Wilkerson Road).</p> <p>AMD 5 GG 7/1/14</p>	<p>(a) Notwithstanding Clause 3.3, rural pursuits and the keeping of livestock are not permitted.</p> <p>AMD 10 GG 19/04/16</p>
<p>“Sanctuary Park” subdivisional area (being Lots 21–28, 39, 47 and 48 Scaevola Road; 37, 38, 9002, 405 and 58–62 White Gum Ridge; 36, 44–46 and 49–57 Darwinia Crescent; and 29–35 and 40–43 Laterite Way).</p> <p>AMD 5 GG 7/1/14</p>	<p>(a) Notwithstanding Clause 3.3, rural pursuits are not permitted.</p> <p>AMD 10 GG 19/04/16</p> <p>(b) Livestock may be held on lots west of White Gum Ridge in areas already cleared of natural vegetation at the time of subdivision and wherein slopes are 10% or less. The holding of livestock is permitted for domestic purposes only. That is, stock may be held for the use and enjoyment of landowners, or for the purposes of keeping of growth of grassland (and therefore fire hazard) in check. Commercial stockholding based activities constitute a rural pursuit and there not permitted.</p>
<p>“Majestic Heights and Majestic Waters” subdivisional areas (being Lots 1, 2, 11, 43, 46, 55, 56, 59–68, 70 200 and 201 Stirlingia Drive; Lots 3 Drummond Drive; Lots 9–22 Adenanthus Road; Lots 26 and 28-38 Hibbertia; Lots 14 and 48–54 Hemiandra Place; Lots 1–10 and 71–73 Sesselis Road; Lots 11–13 Hatfield Road, Lots 14–17 Broadgrounds Place and Lot 18 Racecourse Road).</p> <p>AMD 5 GG 7/1/14</p>	<p>(a) Notwithstanding Clause 3.3, the keeping of any animal stock within the subdivisions of Magestic Heights and Majestic Waters is subject to approval of local government on the merits of the proposal.</p> <p>AMD 10 GG 19/04/16</p> <p>(b) Notwithstanding the provisions of the Scheme, the Western Australia Planning Commission may, after consultation with local government, approve a plan of subdivision within Policy Area No.3, in which the minimum lot size is less than 2 hectares provided that:</p> <p>(i) In any event no less than 0.8 ha in area.</p> <p>(ii) The number of lots permitted does not exceed the number which, in the opinion of the Western Australia Planning Commission and the local government, could otherwise be achieved under the provisions of the Scheme.</p>



Description of Land	Development Requirements
Part Lot 18 Broadgrounds Place  "Majestic Heights and Waters" (Cont'd)	(iii) The surplus area is allocated to public ownership as open space or reserves for the protection of some features of natural, historic and scientific value.  (iv) The variation in standards is, in the opinion of the Western Australia Planning Commission and the local government, desirable in the interests of enhancing or protecting the natural environment.
Lots 63 & 64 and Pt Avon Loc 0 Balgalling Road	Residential use on a lot is not permitted within the 100 metres stream setback area.
Lot 5628 Julimar Road, West Toodyay <i>AMD 1 GG 14/6/13</i>  <i>DELETED AMD 5 GG 7/1/14</i>	
Lots 397 and 280 Horseshoe Road and Lot 396 on P225043 West Toodyay  <i>AMD 2 GG 04/07/14</i>	1. Subdivision shall generally be in accordance with the endorsed Structure Plan adopted by the local government and endorsed by the Western Australian Planning Commission and any approved modification thereto. The structure plan shall be based on the Plan dated November 2013 13/041/006A and respond to the fire management plan, local water management strategy and the environmental management plans required to be prepared.  2. Building envelopes are to be shown on the structure plan and be- <ul style="list-style-type: none"> <li>• Located to avoid, as far as practicable, the removal of any native vegetation;</li> <li>• Located in areas of moderate bushfire risk only. No building envelopes are to be located in areas identified as extreme bushfire risk;</li> <li>• Located to allow for on-site effluent disposal and grey water recycling systems, taking into account soil conditions, slope, drainage and vegetation; and</li> <li>• no larger than 2000m<sup>2</sup>.</li> </ul> 3. All buildings, including water tanks, on-site effluent disposal and grey water reuse systems, are to be confined to within the identified building envelopes for each lot unless a more appropriate location can be found and development approval is obtained from the local government. <i>AMD 10 GG 19/04/16</i>

Description of Land	Development Requirements
<p>Lots 397 and 280 Horseshoe Road and Lot 396 on P225043 West Toodyay (Cont'd)</p>	<ol style="list-style-type: none"> <li data-bbox="778 297 1348 629">4. The subdivider shall prepare a Fire Management Plan in accordance with Planning for Bushfire Protection Guidelines that identifies the need for any construction requirements relative to strategic firebreaks, water supplies and equipment and any other fire management requirements that may be deemed necessary, to the satisfaction of the local government and the Department of Fire and Emergency Services.</li> <li data-bbox="778 663 1348 842">5. Roads and emergency access ways are to be constructed at the first stage of subdivision to provide two access options to the external road system, in accordance with Planning for Bushfire Protection Guidelines.</li> <li data-bbox="778 875 1348 1025">6. Upgrading of the existing fire tank/fire fighting equipment on Horseshoe Road to allow it to service additional lots created through subdivision is to be undertaken at the first stage of subdivision.</li> <li data-bbox="778 1059 1348 1272">7. The lots are bushfire prone and all dwellings must be constructed to Australian Standard 3959-2009 (as updated). A bushfire attack level assessment satisfactorily addressing the level of bushfire hazard applying to the land is required to be submitted.</li> <li data-bbox="778 1305 1348 1518">8. Clearing of vegetation is only to be undertaken in accordance with the approved structure plan. Clearing of areas not identified in the structure plan for this purpose is not permitted without the development approval of the local government. <i>AMD 10 GG 19/04/16</i></li> <li data-bbox="778 1552 1348 1671">9. The subdivider shall prepare a local water management plan to the satisfaction of the local government and the Department of Water.</li> <li data-bbox="778 1704 1348 1973">10. At development stage, a minimum combined roof area of 405m<sup>2</sup> is required in order to harvest rainwater for potable use. Each dwelling shall have a water tank with a minimum size of 120,000 litres, with 10,000 litres in the tank to be kept in reserve for fire fighting purposes and fitted with standard fire fighting fitting and valves.</li> </ol>

Description of Land	Development Requirements
<p>Lots 397 and 280 Horseshoe Road and Lot 396 on P225043 West Toodyay (Cont'd)</p>	<p>11. Each dwelling is to be fitted with a Department of Health approved greywater recycling system, installed to the satisfaction of the local government. Bore water, dams or additional roof catchment may be used as supplementary non-potable water sources, to the satisfaction of the local government.</p> <p>12. Prior to subdivision, the subdivider shall prepare an Environmental Management Plan, to the satisfaction of the local government, in consultation with the Department of Parks and Wildlife, which shall include;</p> <ul style="list-style-type: none"> <li>• A cockatoo and chuditch management plan;</li> <li>• Identification of key cockatoo habitat locations;</li> <li>• Identify fencing types and locations, to allow for the movement of fauna between vegetated areas;</li> <li>• Areas of native vegetation to be retained and preserved;</li> <li>• The location and means of protection of declared rare flora (if any).</li> </ul> <p>13. The approved Fire Management Plan, Environmental Management Plan and Local Water Management Plan shall be implemented prior to the subdivision of the land.</p> <p>14. At subdivision stage, notification pursuant to Section 70A of the <i>Transfer of Land Act</i> to be included on titles to ensure that the purchasers are aware that:</p> <ul style="list-style-type: none"> <li>• No reticulated water supply is available and the landowner will be responsible for the provision of a potable water supply in accordance with the Scheme requirements;</li> <li>• 405m<sup>2</sup> of roof catchment is to be constructed at development stage;</li> <li>• each dwelling is required to be fitted with a Department of Health approved greywater recycling system, installed to the satisfaction of the local government;</li> <li>• The lot is surrounded by an area of extreme bushfire risk;</li> </ul>

Description of Land	Development Requirements
<p>Lots 397 and 280 Horseshoe Road and Lot 396 on P225043 West Toodyay (Cont'd)</p>	<ul style="list-style-type: none"> <li>• A Fire Management Plan has been prepared for the site and the ongoing implementation of the plan will be the responsibility of the landowner; and</li> <li>• An Environmental Management Plan has been prepared for the site and the ongoing implementation of the plan will be the responsibility of the landowner.</li> </ul> <p>15. The keeping of livestock is not permitted.</p> <p><i>AMD 2 GG 04/07/14</i></p>

Description of Land	Development Requirements
<p>Lot 5628 Julimar Road, West Toodyay</p>	<ol style="list-style-type: none"> <li>1. Subdivision shall generally be in accordance with the endorsed Structure Plan a adopted by the Local government and the Western Australian Planning Commission and any approved modifications thereto.</li> <li>2. All buildings including water tanks and on-site effluent disposal systems, are to be confined to within the identified building envelopes for each lot unless detailed site specific investigations identify a more appropriate location within the respective lot and outside any tree preservation areas, and development approval is obtained from the local government. All building envelopes shall be- <i>AMD 10 GG19/04/16</i> <ul style="list-style-type: none"> <li>• Shown on the Structure Plan;</li> <li>• Located to avoid, as far as practicable, the removal of any native vegetation or any area recognised for tree or landscape preservation on the Structure Plan;</li> <li>• Located to exclude areas identified as low capability for residential purposes;</li> <li>• A maximum of 2,000m<sup>2</sup> in size unless otherwise approved by local government.</li> </ul> </li> <li>3. Each dwelling shall have a minimum water supply of 120,000 litres of which 10,000 litres is to be kept in reserve for fire fighting purposes and fitted with standard fire fighting fittings and values.</li> <li>4. The subdivider shall prepare and implement a Fire Management Plan prepared in accordance with Planning for Bushfire Protection Guidelines that identifies the need for any construction requirements relative to strategy firebreaks, water supplies and equipment and any other fire management requirements that may be deemed necessary, to the specifications and satisfaction of the government and the Department of Fire and Emergency Service.</li> <li>5. The keeping of livestock on any lot is to be restricted to outside of fenced tree preservation areas, or inside of fenced building envelopes.  <i>AMD 5 GG 7/1/14</i></li> </ol>

# **SCHEDULE A — PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 DEEMED PROVISIONS FOR LOCAL PLANNING SCHEMES**

AMD 10 GG 19/04/16

## **Supplemental provisions to the deemed provisions**

These provisions are to be read in conjunction with the deemed provisions set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2.

### **Clause 61(1)**

- (k)** the erection or installation of a sign or advertisement of a class specified in Schedule 5 of this Scheme that applies in respect of the sign unless the sign is to be erected or installed -
- (i) on a place included on a heritage list prepared in accordance with this Scheme; or
  - (ii) on land located within an area designated under this Scheme as a heritage area.
- (l)** the erection or extension of a single house on a lot if a single house is a permitted (“P”) use in the zone (where the R Codes do not apply) in which that lot is located, where the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:
- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29; or
  - (vi) in the Rural Residential and Rural Living Zone, where the proposed development is not in accordance with the designated building envelope contained in an endorsed structure plan; or
  - (vii) in the Rural Residential zone where a reticulated water supply is not available (for habitable buildings only); or
  - (viii) on a lot which does not have permanent legal vehicular access to a constructed and gazetted road.
- (m)** the erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house if a single house is a permitted (“P”) in the zone (where the R Codes do not apply) where the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:
- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29; or
  - (vi) in the Rural Residential and Rural Living Zone, where the proposed development is not in accordance with the designated building envelope contained in an endorsed structure plan; or

- (vii) in the Rural Residential zone where a reticulated water supply is not available (for habitable buildings only); or
  - (viii) on a lot which does not have permanent legal vehicular access to a constructed and gazetted road.
- (n)** the painting or application of render on external surfaces on any building or structure, except where the building or structure is -
- (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage Act of Western Australia 1990*; or
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - (iii) included on the heritage list prepared in accordance with this Scheme; or
  - (iv) located within an area designated under the Scheme as a heritage area.
- (o)** 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 Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ix) the subject of an order under Part 6 the *Heritage of Western Australia Act 1990*; or
  - (ii) included on the heritage list prepared in accordance with this Scheme; or
  - (iii) located within an area designated under the Scheme as a heritage area.
- (p)** the carrying out of any works on, in, over or under any street or road by a Public Authority acting pursuant to any Act.

**Clause 61(2)**

- (g)** the carrying out of a Rural Pursuit in the Rural Residential and Rural Living zones that:
- (i) is not used for trade or commercial purposes; and
  - (ii) complies with the recommended stocking rates and environmental protection requirements of the relevant State Government departments.

## **ADOPTION**

Adopted by resolution of the Council of the Shire of Toodyay at the Ordinary Meeting of Council held on 26<sup>th</sup> day of June 2003.

\_\_\_\_\_  
**PRESIDENT**

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**

Adopted for final approval by resolution of the Shire of Toodyay at the Ordinary Meeting of Council held on the 22<sup>nd</sup> day of July 2004, and the seal of the municipality was pursuant to that resolution hereunto affixed in the presence of:

\_\_\_\_\_  
**PRESIDENT**

\_\_\_\_\_  
**CHIEF EXECUTIVE OFFICER**

Recommended/Submitted for Final Approval

\_\_\_\_\_  
**DELEGATED UNDER S.16 OF THE  
PLANNING AND DEVELOPMENT ACT 2005**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**MINISTER FOR PLANNING AND  
INFRASTRUCTURE**

\_\_\_\_\_  
**DATE: 17/2/07**





# Western Australian Current Regulations

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## PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 - SCHEDULE 2

[r. 10(4)]

### Part 1 — Preliminary

#### 1. Terms used

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

*Act* means the [Planning and Development Act 2005](#);

*activity centre* means —

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

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

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

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

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

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

*building height*, in relation to a building —

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

*built heritage conservation* means conservation as defined in the [Heritage Act 2018 section 4](#);

*class A use*, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64;

**class D use** , in relation to a zone —

- (a) means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval; but
- (b) does not include a class A use;

**class P use** , in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is permitted in the zone if it complies with any relevant development standards and requirements of this Scheme;

**class X use** , in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone;

**commercial, centre or mixed use zone** means —

- (a) if this Scheme includes the model provision set out in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 1 clause 16 — a Commercial zone, Centre zone or Mixed Use zone; or
- (b) otherwise — a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for —
  - (i) a range of shops, offices, restaurants and other commercial outlets (whether or not in a town centre or activity centre); or
  - (ii) a wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels;

**complex application** means —

- (a) an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; or
- (b) an application of a kind identified elsewhere in this Scheme, or in a local planning policy, as a complex application for development approval;

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

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

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

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

**cultural heritage significance** has the meaning given in the [Heritage Act 2018](#) section 5(1);

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

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

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

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

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

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

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

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

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

**heritage-protected place** has the meaning given in clause 1A;

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

**light industry zone** means —

- (a) if this Scheme includes the model provision set out in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 1 clause 16 — a Light Industry zone; or
- (b) otherwise — a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for a range of light industrial uses and service industries generally compatible with urban areas that cannot be located in commercial zones;

**local government** means the local government responsible for this Scheme;

**local government CEO** means the chief executive officer of the local government;

**local planning strategy** means the local planning strategy for this Scheme prepared under the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Part 3, as amended from time to time;

**maintenance and repair works** means works that —

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

**Minister for Heritage** means the Minister who administers the [Heritage Act 2018](#) ;

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

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

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

(ii) a previous development approval for site works on the land that specifies a ground level;

or

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

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

(a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;

(b) lobbies between lifts facing other lifts serving the same floor;

(c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;

(d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;

**non-conforming use** has the meaning given in section 172 of the Act;

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

(a) if the land is freehold land —

(i) a person whose name is registered as a proprietor of the land; and

(ii) the State, if registered as a proprietor of the land; and

(iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and

(iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the [Administration Act 1903 section 8](#);

and

(b) if the land is Crown land —

(i) the State; and

(ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

**Peel Region Scheme area** means the area to which the Peel Region Scheme applies;

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

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

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

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

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

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

**residential zone** —

(a) if this Scheme includes the model provision set out in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 1 clause 16 — means a Residential zone, Special Residential zone or Rural Residential zone; or

(b) otherwise —

(i) means a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for residential use (regardless of residential lot sizes in the zone and whether or not a limited range of rural and related ancillary pursuits are permitted); but

(ii) does not include a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for a wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels;

**reverse vending machine** means a permanently-located unattended device that accepts empty containers from members of the public in exchange for the payment of the refund amount;

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

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

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

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

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

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

**wall height**, in relation to a wall of a building —

(a) if the building is used for residential purposes — has the meaning given in the R-Codes; or

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

**WARR Act** means the [Waste Avoidance and Resource Recovery Act 2007](#);

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

(a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and

(b) the carrying out on the land of any excavation or other works; and

(c) in the case of a place to which a protection order made under the [Heritage Act 2018](#) Part 4 Division 1 applies, any act or thing that —

(i) is likely to damage the character of that place or the external appearance of any building;

or

(ii) would constitute an irreversible alteration to the fabric of any building;

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

*[Clause 1 amended: SL 2020/252 r. 44.]*

#### 1A . Heritage-protected places

(1) A **heritage-protected place** is a place —

(a) that is entered in the State Register of Heritage Places under the [Heritage Act 2018 section 42](#);  
or

(b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or

(c) that is the subject of an order under the [Heritage Act 2018](#) Part 4; or

(d) that is the subject of a heritage agreement that has been certified under the [Heritage Act 2018](#) section 90; or

(e) that is included on a heritage list as defined in clause 7; or

(f) that is within a heritage area as defined in clause 7.

(2) For the purposes of subclause (1)(b), a place is under consideration for entry into the State Register of Heritage Places if —

(a) the Heritage Council has made a preliminary determination under the [Heritage Act 2018 section 39\(2\)](#) that the place warrants review under [section 40\(1\)](#) but the review has not commenced; or

(b) the Heritage Council has commenced but has not completed a review of the place under the [Heritage Act 2018 section 40\(1\)](#); or

(c) the Heritage Council has made a recommendation under the [Heritage Act 2018 section 40\(2\)](#) that the place be entered in the State Register of Heritage Places but the Minister for Heritage has not yet given a direction under [section 41\(1\)](#) of that Act in relation to that recommendation.

*[Clause 1A inserted: SL 2020/252 r. 45.]*

#### 1B . Development taken to comply with deemed-to-comply provision of R-Codes

For the purposes of this Scheme, development is taken to comply with a deemed-to-comply provision of the R-Codes if the development complies with —

(a) a provision of a local development plan, precinct structure plan or local planning policy if —

(i) the provision amends or replaces the deemed-to-comply provision; and

(ii) for a provision of a local development plan or local planning policy where the plan or policy is required to be approved by the Commission under the R-Codes — the plan or policy is approved by the Commission;

or

(b) a provision that —

(i) is in a structure plan that was approved before 19 October 2015; and

(ii) amends or replaces the deemed-to-comply provision.

*[Clause 1B inserted: SL 2020/252 r. 45.]*

## **1C . Excluded holiday period days not counted in time periods**

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

*[Clause 1C inserted: SL 2020/252 r. 45.]*

### **Part 2 — Local planning framework**

#### **Division 1 — Local planning strategy**

## **2 . Local planning strategy**

Where a local planning strategy for the Scheme area has been prepared by the local government in accordance with the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Part 3 the local planning strategy sets out the long-term planning directions for the Scheme area.

#### **Division 2 — Local planning policies**

## **3 . Local planning policies**

(1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

(2) A local planning policy —

(a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and

(b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.

(3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.

(4) The local government may amend or repeal a local planning policy.

(5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

## **4 . Procedure for making local planning policy**

(1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —

(a) publish in accordance with clause 87 the proposed policy and a notice giving details of —

(i) the subject and nature of the proposed policy; and

(ii) the objectives of the proposed policy; and

(iii) how the proposed policy is made available to the public in accordance with clause 87;

and

(iv) the manner and form in which submissions may be made; and

(v) the period for making submissions and the last day of that period;



(b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;

(c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.

(2) The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).

(3) After the expiry of the period within which submissions may be made, the local government must —

(a) review the proposed policy in the light of any submissions made; and

(b) resolve to —

(i) proceed with the policy without modification; or

(ii) proceed with the policy with modification; or

(iii) not to proceed with the policy.

(3A) The local government must not resolve under subclause (3) to proceed with the policy if —

(a) the proposed policy amends or replaces a deemed-to-comply provision of the R-Codes; and

(b) under the R-Codes, the Commission's approval is required for the policy; and

(c) the Commission has not approved the policy.

(4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87.

(5) A policy has effect on publication of a notice under subclause (4).

(6) The local government must ensure that an up-to-date copy of each local planning policy made under this Scheme that is in effect is published in accordance with clause 87.

(7) Subclause (6) is an ongoing publication requirement for the purposes of clause 87(5)(a).

*[Clause 4 amended: SL 2020/252 r. 46.]*

## **5. Procedure for amending local planning policy**

(1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.

(2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

## **6. Revocation of local planning policy**

A local planning policy may be revoked —

(a) by a subsequent local planning policy that —

(i) is prepared in accordance with this Part; and

(ii) expressly revokes the local planning policy;

or



- (b) by a notice of revocation —
  - (i) prepared by the local government; and
  - (ii) published by the local government in accordance with clause 87.

[Clause 6 amended: SL 2020/252 r. 47.]

### Part 3 — Heritage protection

#### 7. Terms used

In this Part —

**heritage area** means an area designated as a heritage area under clause 9;

**heritage list** means a heritage list established under clause 8(1);

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

Note:

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

[Clause 7 amended: SL 2020/252 r. 48.]

#### 8. Heritage list

(1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.

(2) A heritage list established under subclause (1) must set out a description of each place and the reason for its entry on the heritage list.

(2A) The local government must ensure that an up-to-date copy of the heritage list is published in accordance with clause 87.

(2B) Subclause (2A) is an ongoing publication requirement for the purposes of clause 87(5)(a).

(3) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —

(a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and

(b) invites each owner and occupier to make submissions on the proposal within a period specified in the notice; and

(c) carries out any other consultation the local government considers appropriate; and

(d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.

(3A) The period for making submissions specified in a notice under subclause (3)(b) must not be less than the period of 21 days after the day on which the notice is given under subclause (3)(a).

(4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —

(a) the Heritage Council of Western Australia; and

- (b) each owner and occupier of the place.

*[Clause 8 amended: SL 2020/252 r. 49.]*

## **9. Designation of heritage areas**

(1) If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.

(2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —

- (a) a map showing the boundaries of the heritage area;
- (b) a statement about the heritage significance of the area;
- (c) a record of places of heritage significance in the heritage area.

(3) Before designating an area as a heritage area the local government must —

- (a) give each owner of land affected by the proposed designation —

(i) notice of the proposed designation; and

(ii) a copy of the proposed local planning policy for the heritage area or details of how the proposed local planning policy is made available to the public under clause 4(1)(a);

and

- (b) advertise the proposed designation by —

(i) publishing in accordance with clause 87 a notice of the proposed designation; and

(ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation;

and

- (c) carry out any other consultation the local government considers appropriate.

(4) Notice of a proposed designation under subclause (3)(b) must specify —

- (a) the area that is the subject of the proposed designation; and

(b) details of how the proposed local planning policy for the heritage area is made available to the public under clause 4(1)(a); and

- (c) the manner and form in which submissions may be made; and

- (d) the period for making submissions and the last day of that period.

(5) The period for making submissions specified in the notice under subclause (4)(d) must not be less than the period of 21 days after the day on which the notice is first published under subclause (3)(b)(i).

(6) After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed designation in the light of any submissions made; and

- (b) resolve —

- (i) to adopt the designation without modification; or
- (ii) to adopt the designation with modification; or
- (iii) not to proceed with the designation.

(7) If the local government designates an area as a heritage area the local government must give notice of the designation to —

- (a) the Heritage Council of Western Australia; and
- (b) each owner of land affected by the designation.

(8) The local government may modify or revoke a designation of a heritage area.

(9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.

*[Clause 9 amended: SL 2020/252 r. 50.]*

## **10 . Heritage agreements**

(1) The local government may, in accordance with the [Heritage Act 2018](#) Part 7, 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.

(2) The local government may not enter into an agreement with the owner or occupier of land or a building that relates to heritage matters other than in accordance with subclause (1).

*[Clause 10 amended: SL 2020/252 r. 51.]*

## **11 . Heritage assessment**

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

(2) A heritage assessment must be in a form approved by the Heritage Council of Western Australia.

## **12 . Variations to local planning scheme provisions for heritage purposes**

(1) The local government may vary any site or development requirement specified in this Scheme to —

- (a) facilitate the built heritage conservation of a place entered in the State Register of Heritage Places under the [Heritage Act 2018 section 42](#) or included on the heritage list; or
- (b) enhance or preserve heritage values in a heritage area.

(2) A variation under subclause (1) may be unconditional or subject to any conditions the local government considers appropriate.

(3) If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must —

- (a) consult the affected parties by following one or more of the provisions for advertising under clause 64(4); and
- (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

[Clause 12 amended: SL 2020/252 r. 52.]

### 13. Heritage conservation notice

(1) In this clause —

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

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

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

(a) the structural integrity of the heritage place; or

(b) an element of the heritage place that is integral to —

(i) the reason set out in the heritage list for the entry of the place in the heritage list; or

(ii) the heritage significance of the area in which it is located, as set out in a statement in the local planning policy for the area adopted in accordance with clause 9(2).

(2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.

(3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.

(4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.

(5) The local government may —

(a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or

(b) revoke a heritage conservation notice.

(6) A person who is given a heritage conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision —

(a) to give the notice; or

(b) to require repairs specified in the notice to be carried out; or

(c) to require repairs specified in the notice to be carried out by the time specified in the notice.

### 13A. Heritage list and heritage areas under former Scheme

(1) This clause applies if —

(a) this Scheme comes into operation on or after the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation; and

(b) immediately before this Scheme came into operation, another local planning scheme (the *former Scheme*) applied to the Scheme area.

(2) On and after the day on which this Scheme comes into operation —

- (a) the heritage list established under the former Scheme continues under this Scheme and is taken to be the heritage list established under clause 8; and
- (b) any heritage area that was designated under the former Scheme immediately before this Scheme comes into operation continues under this Scheme and is taken to be a heritage area designated under clause 9; and
- (c) any local planning policy of a kind referred to in clause 9(2) in effect under the former Scheme immediately before this Scheme comes into operation continues under this Scheme and is taken to be a local planning policy in effect under Part 2 Division 2.
- (3) This clause does not prevent the amendment, modification or revocation under this Scheme of the heritage list or any designation of a heritage area or local planning policy.

*[Clause 13A inserted: SL 2020/252 r. 53.]*

#### **Part 4 — Structure plans**

##### **14 . Terms used**

In this Part —

***precinct structure plan*** means a plan for the coordination of future subdivision, zoning and development of an area of land;

***standard structure plan*** means a plan for the coordination of future subdivision and zoning of an area of land;

***structure plan*** means a standard structure plan or a precinct structure plan.

*[Clause 14 inserted: SL 2020/252 r. 54.]*

##### **15 . When structure plan may be prepared**

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

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

##### **16 . Preparation of structure plan**

- (1) A structure plan must —
- (a) be prepared in a manner and form approved by the Commission; and
- (b) include any maps, information or other material required by the Commission; and
- (c) unless the Commission otherwise agrees, set out the information required under subclause (1A).

(1A) For the purposes of subclause (1)(c) —

(a) a standard structure plan or precinct structure plan must include the following information —

- (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
- (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
- (iii) any major land uses, zoning or reserves proposed by the plan;
- (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
- (v) the population impacts that are expected to result from the implementation of the plan;
- (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
- (vii) the proposed staging of the subdivision covered by the plan;

and

(b) a precinct structure plan must also include the following information —

- (i) the standards to be applied for the buildings, other structures and works that form part of the subdivision and development covered by the plan;
- (ii) arrangements for the management of services for the subdivision and development covered by the plan;
- (iii) arrangements to be made for vehicles to access the area covered by the plan;
- (iv) the proposed staging of the development covered by the plan.

(2) The local government may prepare a structure plan in the circumstances set out in clause 15.

(3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 15 to be assessed and advertised if the person is —

- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
- (b) an agent of a person referred to in paragraph (a).

*[Clause 16 amended: SL 2020/252 r. 55.]*

## **17. Action by local government on receipt of application**

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

(a) must consider the material provided by the applicant and advise the applicant in writing —

- (i) if the structure plan complies with clause 16(1); or
- (ii) if further information from the applicant is required before the structure plan can be accepted for assessment and advertising;

and

(b) must give the applicant an estimate of the fee for dealing with the application in accordance with the [Planning and Development Regulations 2009 regulation 48](#).

(2) The structure plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice to the applicant of its decision by the latest of the following days —

(a) 28 days after receipt of an application;

(b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);

(c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day the applicant pays the fee.

## 18. Advertising structure plan

(1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised —

(a) advertise the proposed structure plan in accordance with subclause (2); and

(b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and

(c) provide to the Commission —

(i) a copy of the proposed structure plan and all accompanying material; and

(ii) details of the advertising and consultation arrangements for the plan.

(2) The local government —

(a) must advertise the proposed structure plan by publishing in accordance with clause 87 —

(i) the proposed structure plan; and

(ii) a notice of the proposed structure plan; and

(iii) any accompanying material in relation to the proposed structure plan that the local government considers should be published;

and

(b) may also advertise the proposed structure plan by doing either or both of the following —

(i) giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the proposed structure plan;

(ii) erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed structure plan.

(3) A notice published or given, or on a sign erected, under subclause (2) in relation to a proposed structure plan must specify —

(a) the manner and form in which submissions may be made; and

(b) the period under subclause (3A) for making submissions and the last day of that period.

(3A) The period for making submissions on a proposed structure plan is —

(a) the period of 42 days after the day on which the notice is first published under subclause (2)(a)(ii); or

(b) a longer period approved by the Commission.

(4) If a local government fails to advertise a structure plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.

(5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

*[Clause 18 amended: SL 2020/252 r. 56.]*

## **19 . Consideration of submissions**

(1) The local government —

(a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and

(b) may consider submissions made to the local government after that time; and

(c) may request further information from a person who prepared the structure plan; and

(d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.

(2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the structure plan.

(3) Modifications to a structure plan may not be advertised on more than one occasion without the approval of the Commission.

## **20 . Local government report to Commission**

(1) The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of —

(a) the last day of the period for making submissions on the proposed structure plan that applies under clause 18(3A); or

(b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or

(c) a day agreed by the Commission.

(2) The report on the proposed structure plan must include the following —

(a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);

(b) any comments by the local government in respect of those submissions;

(c) a schedule of any proposed modifications to address issues raised in the submissions;

(d) the local government's assessment of the proposal based on appropriate planning principles;

(e) a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.



[Clause 20 amended: SL 2020/252 r. 57.]

## 21 . Cost and expenses incurred by local government

The costs and expenses incurred by the local government in giving a report under clause 20(1), are, to the extent that they are not payable by a person who prepared a structure plan under the [Planning and Development Regulations 2009 regulation 49](#), to be borne by the local government.

## 22 . Decision of Commission

(1) On receipt of a report on a proposed structure plan, the Commission must consider the plan and the report and may —

- (a) approve the structure plan; or
- (b) require the local government or the person who prepared the structure plan to —
  - (i) modify the plan in the manner specified by the Commission; and
  - (ii) resubmit the modified plan to the Commission for approval;

or

- (c) refuse to approve the structure plan.

(2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, direct the local government to readvertise the structure plan in the manner specified by the Commission.

(3) The Commission may not direct the local government to readvertise the structure plan on more than one occasion.

(4) If the Commission is not given a report on a proposed structure plan in accordance with clause 20(1), the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.

(5) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within —

(a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the structure plan and the resubmission of the modified plan; or

(b) a longer period agreed in writing between the Commission and the person who prepared the proposed structure plan.

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

(7) The Commission must give the local government and any person who prepared the proposed structure plan written notice of its decision to approve or to refuse to approve a structure plan.

## 23 . Further services or information from local government

(1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —

(a) the local government does not provide a report on a structure plan within the timeframe referred to in clause 20(1); or

(b) the local government provides a report on a structure plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the structure plan.

(2) The direction must be in writing and must specify —

(a) the services or information required; and

(b) the time within which the local government must comply with the direction.

(3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.

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

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

(1) The Commission may approve a structure plan that provides for further details of a proposed subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act.

(1A) The Commission may approve a precinct structure plan that provides for further details of development included in the plan to be submitted to, and approved by, the local government for the purposes of the plan before development approval is granted (or, if development approval is not required, before development commences).

(2) The Commission may only approve a structure plan referred to in subclause (1) or (1A) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

*[Clause 24 amended: SL 2020/252 r. 58.]*

#### **25 . Review**

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

#### **26 . Publication of structure plan approved by Commission**

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

(2) The local government may publish a structure plan approved by the Commission on the website of the local government.

#### **27 . Effect of structure plan**

(1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.

(2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —

(a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and

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

## **28 . Duration of approval**

(1) Subject to this clause and clause 29A, the approval of a structure plan has effect for —

(a) the period of 10 years commencing on the day on which the Commission approves the plan; or

(b) another period determined by the Commission when approving the plan.

(2) The Commission may extend the period for which the approval of a structure plan has effect under subclause (1) if there are no changes to the terms of the plan.

(3) The Commission may revoke its approval of a structure plan if —

(a) a new structure plan is approved in relation to the area to which the structure plan to be revoked relates; or

(b) the Commission considers that the plan has been implemented or is otherwise no longer required; or

(c) the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy; or

(d) for a structure plan that was the subject of an application under clause 16(3), the revocation is agreed to by —

(i) the owner of the land to which the structure plan relates (or, if the land is owned by 2 or more owners, each of them); and

(ii) the local government.

(4) For the purposes of subclause (1), a structure plan that was approved before 19 October 2015 is taken to have been approved on that day.

*[Clause 28 inserted: SL 2020/252 r. 59.]*

## **29 . Amendment of structure plan**

(1) A structure plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.

(2) The procedures for making a structure plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a structure plan under this clause.

(3) Despite subclause (2), the local government may decide not to advertise an amendment to a structure plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.

(4) An amendment to a structure plan under this clause or clause 29A(2) does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

*[Clause 29 amended: SL 2020/252 r. 60.]*

## **29A . Revocation or amendment of structure plan resulting from scheme amendment**

(1) The Commission must, as soon as is reasonably practicable, revoke the approval of a structure plan if —

(a) an amendment to this Scheme that affects the area to which the structure plan relates takes effect; and

(b) the amendment includes a statement in relation to the structure plan under the [Planning and Development \(Local Planning Schemes\) Regulations 2015 regulation 35A\(a\)](#).

(2) If an amendment to this Scheme that affects the area to which a structure plan relates takes effect, and that amendment includes a statement in relation to the structure plan under the [Planning and Development \(Local Planning Schemes\) Regulations 2015 regulation 35A\(b\)](#), the Commission must as soon as is reasonably practicable amend the structure plan in accordance with the statement.

(3) The procedures referred to in clause 29(2) do not apply in relation to the amendment of a structure plan under subclause (2).

*[Clause 29A inserted: SL 2020/252 r. 61.]*

*[Part 5 (cl. 30-45) deleted: SL 2020/252 r. 62.]*

## Part 6 — Local development plans

### 46 . Term used: local development plan

In this Part —

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

(a) site and development standards that are to apply to the development;

(b) specifying exemptions from the requirement to obtain development approval for development in the area to which the plan relates.

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

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

(a) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or

(b) a local planning policy or structure plan requires a local development plan to be prepared for the area; or

(c) another provision of this Scheme requires a local development plan to be prepared for the area; or

(d) the Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning.

*[Clause 47 amended: SL 2020/252 r. 63.]*

### 48 . Preparation of local development plan

(1) A local development plan must —

(a) be prepared in a manner and form approved by the Commission; and

(b) include any maps or other material considered by the local government to be necessary; and

(c) set out the following information —

- (i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies;
- (ii) details of the arrangements to be made for vehicles to access the area covered by the plan.

(2) The local government may prepare a local development plan in the circumstances set out in clause 47.

(3) A person may make an application to the local government for a local development plan prepared by the person in the circumstances set out in clause 47 to be assessed and advertised if the person is —

- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
- (b) an agent of a person referred to in paragraph (a).

#### **49 . Action by local government on receipt of application**

(1) On receipt of an application for a local development plan to be assessed and advertised, the local government —

- (a) must consider the material provided by the applicant and advise the applicant in writing —
  - (i) if the local development plan complies with clause 48(1); or

(ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising;

and

(b) must give the applicant an estimate of the fee for dealing with the application in accordance with the [Planning and Development Regulations 2009 regulation 48](#).

(2) The local development plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —

- (a) 14 days after receipt of an application;
- (b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);

(c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

#### **50 . Advertising of local development plan**

(1) The local government must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —

- (a) advertise the proposed local development plan in accordance with subclause (2); and
- (b) seek comments in relation to the proposed local development plan from any public authority or utility service that the local government considers appropriate.

(2) The local government —

(a) must advertise the proposed local development plan by publishing in accordance with clause 87 —

- (i) the proposed local development plan; and
- (ii) a notice of the proposed local development plan; and
- (iii) any accompanying material in relation to the proposed local development plan that the local government considers should be published;

and

(b) may also advertise the proposed local development plan by doing either or both of the following —

(i) giving notice of the proposed local development plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan;

(ii) erecting a sign or signs in a conspicuous place on the land the subject of the proposed local development plan giving notice of the proposed local development plan.

(3) Despite subclause (1) the local government may decide not to advertise a local development plan if the local government is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.

(4) A notice published or given, or on a sign erected, under subclause (2) in relation to a proposed local development plan must specify —

(a) the manner and form in which submissions may be made; and

(b) the period for making submissions and the last day of that period.

(5) The period for making submissions specified in a notice under subclause (4)(b) must not be less than the period of 14 days after the day on which the notice of the proposed local development plan is first published under subclause (2)(a)(ii).

*[Clause 50 amended: SL 2020/252 r. 64.]*

## **51 . Consideration of submissions**

The local government —

(a) must consider all submissions in relation to a local development plan made to the local government within the period specified in a notice advertising a proposed local development plan; and

(b) may consider submissions in relation to a local development plan made to the local government after that time; and

(c) is to have due regard to the matters set out in clause 67(2) to the extent that, in the opinion of the local government those matters are relevant to the development to which the plan relates.

*[Clause 51 amended: SL 2020/252 r. 65.]*

## **52 . Decision of local government**

(1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the local government must —

(a) approve the local development plan; or

(b) require the person who prepared the local development plan to —

(i) modify the plan in the manner specified by the local government; and

- (ii) resubmit the modified plan to the local government for approval;

or

- (c) refuse to approve the plan.

(1A) The local government must not approve a local development plan under subclause (1) if —

- (a) the local development plan amends or replaces a deemed-to-comply provision of the R-Codes; and
- (b) under the R-Codes, the Commission's approval is required for the local development plan; and
- (c) the Commission has not approved the local development plan.

(2) The local government is to be taken to have refused to approve a local development plan if the local government has not made a decision under subclause (1) —

(a) if the plan was advertised — within the period of 60 days after the last day for making submissions specified in accordance with clause 50(5) or a longer period agreed between the local government and a person other than the local government who prepared the plan; or

(b) if the plan was not advertised — within the period of 60 days after the resolution not to advertise the plan was made by the local government or a longer period agreed between the local government and a person other than the local government who prepared the plan.

(3) For the purposes of calculating the periods referred to in subclause (2)(a) and (b), the period between the local government requiring modifications to the local development plan and the resubmission of the modified plan is to be excluded.

(4) Despite subclause (2), the local government may decide whether or not to approve a local development plan after the period applicable under subclause (2) has expired, and the validity of the decision is not affected by the expiry.

(5) The local government must give any person who prepared the local development plan written notice of its decision to approve or to refuse to approve a local development plan.

*[Clause 52 amended: SL 2020/252 r. 66.]*

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

(1) The local government may approve a local development plan that provides for further details of any development included in the plan to be submitted to, and approved by, the local government before the development commences.

(2) The local government may only approve a local development plan referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

### **54 . Review**

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

### **55 . Publication of local development plan approved by local government**

(1) If the local government approves a local development plan the local government must publish the local development plan in accordance with clause 87.

(2) Subclause (1) is an ongoing publication requirement for the purposes of clause 87(5)(a).

*[Clause 55 inserted: SL 2020/252 r. 67.]*

## **56 . Effect of local development plan**

(1) A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.

(2) A decision-maker for an application for development approval in an area referred to in clause 47 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the local government, may approve the application if the decision-maker is satisfied that —

(a) the proposed development does not conflict with the principles of orderly and proper planning; and

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

## **57 . Duration of approval**

(1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the local government approves the plan, or another period determined by the local government, unless the local government earlier revokes its approval.

(2) For the purposes of subclause (1), a local development plan that was approved before 19 October 2015 is taken to have been approved on that day.

(3) A local government may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

*[Clause 57 amended: SL 2020/252 r. 68.]*

## **58 . Revocation of local development plan**

The local government must not revoke approval of a local development plan unless this Scheme is amended so that the development to which the plan relates is a non-conforming use.

## **59 . Amendment of local development plan**

(1) A local development plan may be amended by the local government.

(2) A person who owns land in the area covered by a local development plan may request the local government to amend the plan.

(3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.

(4) Despite subclause (3), the local government may decide not to advertise an amendment to a local development plan if, in the opinion of the local government, the amendment is of a minor nature.

(5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the local government agrees to extend the period.

## **Part 7 — Requirement for development approval**

### **60 . Requirement for development approval**

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

(a) the person has obtained the development approval of the local government under Part 8; or



- (b) development approval is not required for the development under clause 61.

Note:

1. Development includes the erection, placement and display of advertisements.
2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

*[Clause 60 amended: SL 2020/252 r. 69.]*

## 61 . Development for which development approval not required

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

**Table**

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
1.	The demolition or removal of any of the following —  (a) a single house;  (b) an ancillary dwelling;  (c) an outbuilding;  (d) an external fixture;  (e) a boundary wall or fence;  (f) a patio;  (g) a pergola;  (h) a verandah;  (i) a deck;  (j) a garage;  (k) a carport;  (l) a swimming pool;  (m) shade sails.	The works are not located in a heritage-protected place.
2.	The demolition of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling.	(a) The building does not share a common wall with another building.  (b) The works are not located in a heritage-protected place.
3.	The demolition or removal	The works are not located in a

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

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

	installed on land.	<p>was the subject of development approval or was exempt from the requirement for development approval.</p> <p>(b) The changes do not alter the size or location of the existing sign or result in the sign containing any illumination, animation, movement or reflective, retro-reflective or fluorescent materials.</p> <p>(c) The sign is not used for advertising (other than the advertising of a business operated on the land).</p> <p>(d) The works are not located in a heritage-protected place.</p>
12.	The installation of a water tank.	<p>(a) The water tank is not installed in the street setback area of a building.</p> <p>(b) The volume of the water tank is no more than 5 000 L.</p> <p>(c) The height of the water tank is no more than —</p> <p>(i) for a tank fixed to a building — the height of the eaves of the building; or</p> <p>(ii) for a tank that is not fixed to a building and is more than 1 m from each boundary of the lot — 2.4 m; or</p> <p>(iii) for a tank that is not fixed to a building and is 1 m or less from a boundary of the lot — 1.8 m.</p> <p>(d) The works are not located in a heritage-protected place.</p>
13.	The erection or installation of a cubbyhouse.	<p>(a) The cubbyhouse is not erected or installed in the street setback area of a building.</p> <p>(b) The floor of the cubbyhouse is no more than 1 m above the natural ground level.</p> <p>(c) The wall height of the cubbyhouse is no more than 2.4 m above the natural ground level.</p>

		<p>(d) The building height of the cubbyhouse is no more than 3 m above the natural ground level.</p> <p>(e) The area of the floor of the cubbyhouse is no more than 10 m<sup>2</sup>.</p> <p>(f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.</p>
14.	The erection or installation of a flagpole.	<p>(a) The height of the flagpole is no more than 6 m above the natural ground level.</p> <p>(b) The flagpole is no more than 200 mm in diameter.</p> <p>(c) The flagpole is not used for advertising.</p> <p>(d) There is no more than 1 flagpole on the lot.</p> <p>(e) The works are not located in a heritage-protected place.</p>
15.	The installation of solar panels on the roof of a building.	<p>(a) The solar panels are parallel to the angle of the roof.</p> <p>(b) The works are not located in a heritage-protected place.</p>
16.	Maintenance and repair works.	<p>Either —</p> <p>(a) the works are not located in a heritage-protected place; or</p> <p>(b) the maintenance and repair works are of a kind referred to in the <a href="#">Heritage Regulations 2019 regulation 41(1)(b)</a> to (i).</p>
17.	Temporary works.	The works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period.
18.	<p>Works that are urgently necessary for any of the following —</p> <p>(a) public safety;</p> <p>(b) the safety or security of plant or equipment;</p> <p>(c) the maintenance of essential services;</p>	The works are not located in a heritage-protected place of a kind referred to in clause 1A(1)(a), (b) or (d).

	(d) the protection of the environment.	
19.	Works that are wholly located on an area identified as a regional reserve under a region planning scheme.	
20.	Works specified in a local planning policy or local development plan that applies to the works as works that do not require development approval (other than works referred to in item 10).	The works comply with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval.
21.	Works of a type identified elsewhere in this Scheme as works that do not require development approval.	The works comply with any requirements specified in this Scheme in relation to the exemption from the requirement for development approval.

Notes for this subclause:

1. Approval may be required from the Commission for development on a regional reserve under a region planning scheme.
2. Section 157 of the Act applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.
3. [Section 6](#) of the Act applies in respect of the carrying out of public works.
4. Clause 1B sets out circumstances in which development is taken to comply with a deemed-to-comply provision of the R-Codes.

(2) Development approval of the local government is not required for the following uses —

(a) a use that is wholly located on an area identified as a regional reserve under a region planning scheme;

Note for this paragraph:

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

(b) development that is a class P use in relation to the zone in which the development is located, if —

(i) the development has no works component; or

(ii) development approval is not required for the works component of the development;

(c) development that is an exempt class D use under subclause (3) in relation to the zone in which the development is located, if —

(i) the development has no works component; or

(ii) development approval is not required for the works component of the development;

(d) the use of premises as a home office;

(e) the use of premises as a drop-off refund point if —

- (i) the premises are otherwise used as a shop (as defined in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 1 clause 38); or
- (ii) the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises;
- (f) temporary use that is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period;
- (g) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;
- (h) use of a type identified elsewhere in this Scheme as use that does not require development approval.
- (3) For the purposes of subclause (2)(c), a use of land is an exempt class D use in relation to the zone in which the land is located if —
- (a) the use is a class D use in relation to the zone; and
- (b) the use is of a class set out in Column 1 of an item in the Table; and
- (c) the zone is of a class set out in Column 2 of the Table opposite that item; and
- (d) if conditions are set out in Column 3 of the Table opposite that item — all of those conditions are satisfied in relation to the use.

**Table**

	<b>Column 1 Use</b>	<b>Column 2 Zones</b>	<b>Column 3 Conditions</b>
1.	Shop	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m <sup>2</sup> .
2.	Restaurant/cafe	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m <sup>2</sup> .
3.	Convenience store	Commercial, centre or mixed use zone	Store is not used for the sale of petroleum products.
4.	Consulting rooms	Commercial, centre or mixed use zone	No more than 60% of the glass surface of any window on the ground floor of the consulting rooms is obscured glass.
5.	Office	Commercial, centre or mixed use zone	Office is not located on the ground floor of a building.
6.	Liquor store — small	Commercial, centre or mixed use zone	Store is in the metropolitan region or Peel Region Scheme area.
7.	Small bar	Commercial, centre or mixed use zone	(a) Small bar is in the metropolitan region or Peel Region Scheme area.  (b) The lot on which the small bar is located

			does not directly adjoin a residential zone.
8.	Recreation — private	Commercial, centre or mixed use zone  Light industry zone	(a) Premises are in the metropolitan region.  (b) Net lettable area of any indoor area of the premises is no more than 300 m <sup>2</sup> .  (c) No more than 60% of the glass surface of any window on the ground floor of a building on the premises is obscured glass.
9.	Home occupation	All zones	

(4) A reference in Column 1 of the Table to subclause (3) to a class of land use is a reference to that use as defined in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 1 clause 38, whether or not —

- (a) the relevant definition is included in this Scheme; or
- (b) this Scheme includes a different definition for that use; or
- (c) this Scheme refers to that class of land use by a different name.

(5) Subclause (2) has effect despite the zoning table for this Scheme.

(6) Despite subclauses (1) and (2), an exemption under those subclauses does not apply to development if —

(a) the development is undertaken in a special control area and the special provisions that apply to that area under this Scheme provide that development approval is required for the development; or

(b) the development is undertaken on land designated by an order made under the [Fire and Emergency Services Act 1998](#) section 18P as a bush fire prone area and development approval is required under clause 78D(3) for the development.

(7) An exemption from the requirement for development approval that applies under this clause (other than an exemption under item 10 or 20 in the Table to subclause (1)) is not affected by any provision of a local planning policy or local development plan.

(8) If development consists of both works and use of land —

(a) subject to subclause (2)(b)(ii) and (c)(ii), any exemption under subclause (1) that applies to the works does not affect whether development approval is required for the use; and

(b) any exemption under subclause (2) that applies to the use does not affect whether development approval is required for the works.

*[Clause 61 inserted: SL 2020/252 r. 70.]*

#### **61A . Advice by local government that development approval not required for erection of, or alterations or additions to, single house**

(1) This clause applies only if —



- (a) the Scheme area is wholly or partly in the metropolitan region or the Peel Region Scheme area; or
- (b) the local government has made an election under subclause (5)(a) and has not revoked that election under subclause (5)(b).
- (2) An owner of a lot in the Scheme area who proposes to carry out works consisting of the erection of, or alterations or additions to, a single house on the lot may apply to the local government for written advice that the local government is satisfied that development approval of the local government is not required for the works because of an exemption under item 6 in the Table to clause 61(1).
- (3) An application under subclause (2) must be —
- (a) made in a manner and form approved by the Commission; and
- (b) accompanied by any documents or other information required by the approved form; and
- (c) accompanied by any fee for determining the application imposed by the local government under the *Planning and Development Regulations 2009*.
- (4) Within 14 days after an application under subclause (2) is made, the local government must —
- (a) provide advice to the applicant, in the manner and form approved by the Commission, that the local government is satisfied that development approval of the local government is not required for the works because of an exemption under item 6 in the Table to clause 61(1); or
- (b) notify the applicant, in the manner and form approved by the Commission, that the local government is not satisfied as referred to in paragraph (a).
- (5) The local government may, by written notice given to the Commission and published in accordance with clause 87 —
- (a) elect to provide advice under this clause; or
- (b) revoke an election under paragraph (a).

[Clause 61A inserted: SL 2020/252 r. 70.]

## Part 8 — Applications for development approval

### 62 . Form of application

- (1) An application for development approval must be —
- (a) made in the form of the “Application for development approval” set out in clause 86(1); and
- (b) signed by the owner of the land on which the proposed development is to be located; and
- (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
- (d) accompanied by the plans and information specified in clause 63.
- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following —
- (a) a person who is referred to in the definition of *owner* in respect of freehold land in clause 1;
- (b) a strata company that —

(i) is authorised to make an application for development approval in respect of the land under scheme by-laws registered under the [Strata Titles Act 1985](#); and

(ii) if the land is held under a leasehold scheme, has the written consent of the owner of the leasehold scheme to make the application;

(c) a person who is authorised under another written law to make an application for development approval in respect of the land;

(d) an agent of a person referred to in paragraph (a).

Note:

The [Planning and Development Act 2005](#) section 267A makes provision for the signing of documents by the owner of Crown land.

(2A) A term has the same meaning in subclause (2)(b) as is given in the [Strata Titles Act 1985](#) section 3(1).

(3) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the “Additional information for development approval for advertisements” set out in clause 86(2).

Note:

The [Interpretation Act 1984](#) section 74 provides for circumstances in which deviations from a prescribed form do not invalidate the form used.

*[Clause 62 amended: Gazette 31 Dec 2019 p. 4655-6.]*

## 63 . Accompanying material

(1) An application for development approval must be accompanied by —

(a) a plan or plans in a form approved by the local government showing the following —

(i) the location of the site including street names, lot numbers, north point and the dimensions of the site;

(ii) the existing and proposed ground levels over the whole of the land the subject of the application;

(iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;

(iv) the structures and environmental features that are proposed to be removed;

(v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;

(vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;

(vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;

(viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;

(ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;

(x) the nature and extent of any open space and landscaping proposed for the site;

and

(b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and

(c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and

(d) any other plan or information that the local government reasonably requires.

(2) The local government may waive or vary a requirement set out in subclause (1).

(3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme or within an area designated under this Scheme as a heritage area, the local government may require the application to be accompanied by one or more of the following —

(a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application;

(b) a detailed schedule of all finishes, including materials and colours of the proposed development;

(c) a description of the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

### **63A . Action by local government on receipt of application**

(1) On receipt of an application for development approval, the local government must —

(a) consider whether the application and accompanying material comply with clauses 62 and 63; and

(b) within 7 days after the day on which the application is received, advise the applicant by written notice —

(i) if the local government is satisfied that the application and accompanying material comply with clauses 62 and 63 — that the application has been accepted for assessment; or

(ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.

(2) If the local government does not give advice under subclause (1)(b) within the 7-day period referred to in that subclause, the application is taken to be accepted for assessment on the day after the end of that period.

(3) If the local government gives advice under subclause (1)(b)(ii) and the applicant amends the application or provides further accompanying material as required, this clause applies again in respect of the application as amended or as accompanied by the further material as if references to the receipt of the application were to the receipt of the amendment or the further material.

*[Clause 63A inserted: SL 2020/252 r. 71.]*

### **64 . Advertising applications**

(1) The local government —

- (a) must advertise a complex application for development approval in accordance with subclause (3); and
- (b) must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application and —
- (i) relates to development that is a class A use in relation to the zone in which the development is located; or
  - (ii) relates to the extension of a non-conforming use; or
  - (iii) relates to development that does not comply with the requirements of this Scheme; or
  - (iv) relates to development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
  - (v) is of a kind identified elsewhere in this Scheme as an application that is required to be advertised;
- and
- (c) may advertise any other application for development approval in accordance with subclause (4).

(2) Subclause (1)(b)(iii) does not apply if the local government is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.

(3) For the purposes of subclause (1)(a), a complex application is advertised by doing all of the following —

- (a) publishing in accordance with clause 87 —
  - (i) a notice of the proposed development in the form set out in clause 86(3); and
  - (ii) the application for development approval; and
  - (iii) any accompanying material in relation to the application that the local government considers should be published;
- (b) giving notice of the proposed development —
  - (i) to the owners and occupiers of every property that is within 200 m of the proposed development; and
  - (ii) to any other owners and occupiers of properties in the vicinity of the proposed development who, in the opinion of the local government, are likely to be affected by the granting of development approval;
- (c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).

Note for this subclause:

Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to comply with subclause (3)(b) or (c).

(4) For the purposes of subclause (1)(b) or (c), an application that is not a complex application is advertised by doing any or all of the following, as determined by the local government —

- (a) publishing in accordance with clause 87 —

- (i) a notice of the proposed development in the form set out in clause 86(3); and
  - (ii) the application for development approval; and
  - (iii) any accompanying material in relation to the application that the local government considers should be published;
- (b) giving notice of the proposed development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval;
- (c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).
- (5) A notice published or given, or on a sign erected, in accordance with subclause (3) or (4) in relation to an application for development approval must specify —
- (a) the manner and form in which submissions may be made; and
  - (b) the applicable period under subclause (6) or (7) for making submissions and the last day of that period.
- (6) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (3) in relation to a complex application is —
- (a) the period of 28 days after the day on which the notice of the application is first published under subclause (3)(a); or
  - (b) a longer period agreed in writing between the applicant and the local government.
- (7) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (4) in relation to an application that is not a complex application is —
- (a) the period of 14 days after the day on which the notice of the application is first published or given, or the sign is first erected, as the case requires; or
  - (b) a longer period agreed in writing between the applicant and the local government.

*[Clause 64 inserted: SL 2020/252 r. 71.]*

**64A . Applicant for development approval may be required to pay costs of advertising or erect signs**

- (1) The local government may require an applicant for development approval to pay the costs of the local government advertising the application for development approval under clause 64.
- (2) The local government may, instead of erecting signs under clause 64(3)(c) or (4)(c), require the applicant for development approval to erect those signs.

*[Clause 64A inserted: SL 2020/252 r. 71.]*

**65 . Subsequent approval of development**

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note:

The [Planning and Development Act 2005](#) section 164 sets out the effect of approval for development already commenced or carried out.

## **Part 9 — Procedure for dealing with applications for development approval**

### **65A . Local government may request additional information or material**

(1) If an application for development approval has been accepted for assessment, the local government may, by written notice given to the applicant, request the applicant to provide any further information or material that the local government reasonably requires to determine the application.

(2) A request under subclause (1) may be made whether or not the local government gave the applicant advice under clause 63A(1)(b)(ii) in relation to the application before it was accepted for assessment.

(3) A request under subclause (1) must state the period within which the further information or material must be provided, which must be a period of at least 21 days after the day on which the request is made.

(4) Only 1 request under subclause (1) can be made in relation to an application for development approval unless —

(a) the application is a complex application; or

(b) the application is required to be advertised under clause 64(1)(b); or

(c) a copy of the application is required to be provided to a statutory, public or planning authority under clause 66; or

(d) after the application was accepted for assessment, the applicant, on their own initiative, submitted further information or material relevant to the application to the local government and the request relates to that further information or material.

*[Clause 65A inserted: SL 2020/252 r. 72.]*

### **65B . Applicant may agree to or refuse request for additional information or material**

(1) If a request under clause 65A(1) is made to an applicant for development approval, the applicant may, by written notice given to the local government within 7 days after the day on which the request is made, agree to or refuse the request.

(2) If the applicant does not agree to or refuse the request within the 7-day period referred to in subclause (1), the applicant is taken to have refused the request.

(3) If an applicant agrees to a request under clause 65A(1), the period set out in subclause (4) is not to be counted for the purposes of determining when the application for development approval must be determined under clause 75(1).

(4) For the purposes of subclause (3), the period —

(a) begins on the day on which the applicant agrees to the request; and

(b) ends on the earlier of the following —

(i) the day on which the applicant gives the information or material specified in the request to the local government;

(ii) the last day of the period stated in the notice of request under clause 65A(3).

(5) If an applicant refuses a request under clause 65A(1) —

(a) the local government must not refuse to determine the application for development approval merely because the applicant has refused the request; and

(b) the making of the request does not affect when the application for development approval must be determined under clause 75(1).

*[Clause 65B inserted: SL 2020/252 r. 72.]*

## **66 . Consultation with other authorities**

(1) When, in the opinion of the local government, an application for development approval may affect any other statutory, public or planning authority, the local government is to provide a copy of the application to the authority for objections and recommendations.

(2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the local government must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.

(3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the local government allows in accordance with subclause (3A), provide to the local government a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.

(3A) The local government may extend the 42-day period referred to in subclause (3) once only by a period of not more than 14 days.

(4) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the local government may determine that the authority is to be taken to have no objections or recommendations to make.

*[Clause 66 amended: SL 2020/252 r. 73.]*

## **67 . Consideration of application by local government**

(1) Development approval cannot be granted on an application for approval of —

(a) development that is a class X use in relation to the zone in which the development is located, unless —

(i) the development relates to land that is being used for a non-conforming use; and

(ii) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use;

or

(b) development that otherwise does not comply with a requirement of this Scheme, unless —

(i) this Scheme gives the local government discretion to waive or vary the requirement or to grant development approval despite non-compliance with the requirement; or

(ii) the development is permitted under a provision of this Scheme in relation to non-conforming uses.

(2) In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the [Environmental Protection Act 1986 section 31\(d\)](#);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (fa) any local planning strategy for this Scheme endorsed by the Commission;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#);
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting, including —
  - (i) the compatibility of the development with the desired future character of its setting; and
  - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
  - (i) environmental impacts of the development;
  - (ii) the character of the locality;
  - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) 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;
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;



- (s) the adequacy of —
  - (i) the proposed means of access to and egress from the site; and
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following —
  - (i) public transport services;
  - (ii) public utility services;
  - (iii) storage, management and collection of waste;
  - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
  - (v) access by older people and people with disability;
  - (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

(3) Subclause (1) has effect despite the zoning table for this Scheme.

*[Clause 67 amended: SL 2020/252 r. 74.]*

## **68 . Determination of applications**

(1) If an application for approval of development is advertised under clause 64, the local government must not determine the application until after the end of —

(a) for a complex application advertised in accordance with clause 64(3) — the period for making submissions that applies under clause 64(6); or

(b) for an application advertised in accordance with clause 64(4) — each period for making submissions specified in a notice published or given, or on a sign erected, in accordance with that clause.

(1A) If a copy of an application for approval of development has been provided to a statutory, public or planning authority under clause 66, the local government must not determine the application until after the end of each period for providing a memorandum to the local government that applies under clause 66(3).

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

(a) granting development approval without conditions; or

(b) granting development approval with conditions; or

- (c) refusing to grant development approval.

*[Clause 68 amended: SL 2020/252 r. 75.]*

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

(1) The local government must not refuse an application for development approval only because there is not a development contribution plan in place in relation to the development.

(2) The local government must not grant development approval subject to a condition that future contributions to the provision of infrastructure related to the development may be required under a development contribution plan that is not in place at the time the application is determined.

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

(1) As soon as practicable after determining an application for development approval, the local government must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 86(4).

(2) The determination has effect on the day on which the notice of determination is given to the applicant.

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

If development approval is granted under clause 68 —

- (a) the development must be substantially commenced —

(i) if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or

(ii) if a period is specified in the approval — within that period; or

(iii) in either case — within a longer period approved by the local government on an application made under clause 77(1)(a);

and

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

Note for this clause:

Under the [Planning and Development \(Development Assessment Panels\) Regulations 2011](#) regulation 16A(2), for an application determined by a Development Assessment Panel the period within which development must be substantially commenced is 4 years.

*[Clause 71 amended: SL 2020/252 r. 76.]*

## **72 . Temporary development approval**

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

Note:

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

## **73 . Scope of development approval**

Development approval may be granted —

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

#### 74 . **Approval subject to later approval of details**

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

#### 75 . **Time for deciding application for development approval**

- (1) The local government must determine an application for development approval —
  - (a) if the application is advertised in compliance with a requirement under clause 64(1)(a) or (b) or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days after the day on which the application is accepted for assessment; or
  - (b) otherwise — within 60 days after the day on which the application is accepted for assessment; or
  - (c) in either case — within a longer time agreed in writing between the applicant and the local government.
- (2) If the local government has not made a determination in the time referred to in subclause (1) the local government is to be taken to have refused to grant the development approval.
- (3) Despite subclause (2), the local government may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
- (4) The local government must give the applicant written notice of its decision to grant or refuse to grant development approval.

*[Clause 75 amended: SL 2020/252 r. 77.]*

#### 76 . **Review of decisions**

- (1) In this clause —
- affected person*** , in relation to a reviewable determination, means —

- (a) the applicant for development approval; or
- (b) the owner of land in respect of which an application for development approval is made;

***reviewable determination*** means a determination by the local government to —

- (a) refuse an application for development approval; or
- (b) to grant development approval subject to conditions; or
- (c) to refuse to amend or cancel a development approval on an application made under clause 77.

(2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

## 77. Amending or cancelling development approval

(1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —

- (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
- (b) to amend or delete any condition to which the approval is subject;
- (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
- (d) to cancel the approval.

(2) An application under subclause (1) —

- (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and
- (b) may be made during or after the period within which the development approved must be substantially commenced.

(3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.

(4) The local government may determine an application made under subclause (1) by —

- (a) approving the application without conditions; or
- (b) approving the application with conditions; or
- (c) refusing the application.

## Part 10A — Bushfire risk management

*[Heading inserted: Gazette 7 Dec 2015 p. 4884.]*

### 78A. Terms used

In this Part, unless the contrary intention appears —

**AS 3959** means Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas, as adopted from time to time as a referenced document for the purposes of the Building Code;

**BAL contour map**, in relation to a development site, means a scale map of an area that includes the development site —

- (a) prepared in accordance with State planning policy 3.7: Planning in Bushfire Prone Areas as part of a plan of subdivision that has been approved under Part 10 of the Act for the area; and
- (b) that shows the indicative bushfire attack levels (BAL) for the area;

**bushfire attack level assessment** means an assessment prepared in a manner and form set out in AS 3959 to determine a bushfire attack level (BAL) as set out in AS 3959;

**construction** of a building includes the erection, assembly or placement of a building but does not include the renovation, alteration, extension, improvement or repair of a building;

**development approval** means development approval of the local government obtained under Part 8;

**development site** means that part of a lot on which a building that is the subject of development stands or is to be constructed;

**habitable building** means a permanent or temporary structure on land that —

- (a) is fully or partially enclosed; and
- (b) has at least one wall of solid material and a roof of solid material; and
- (c) is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained;

**specified building** means a structure of a kind specified in this Scheme as a kind of structure to which this Part applies in addition to its application to habitable buildings.

[Clause 78A inserted: Gazette 7 Dec 2015 p. 4884-5.]

#### **78B . Application of Part to development**

- (1) This Part does not apply to development unless the development is —
  - (a) the construction or use, or construction and use, of a single house or ancillary dwelling on a lot or lots with a total area of 1 100 m<sup>2</sup> or more; or
  - (b) the construction or use, or construction and use, of —
    - (i) a habitable building other than a single house or ancillary dwelling; or
    - (ii) a specified building.
- (2) The requirements in this Part are in addition to any provisions relating to development in a bushfire prone area that apply in a special control area.

[Clause 78B inserted: Gazette 7 Dec 2015 p. 4886.]

#### **78C . Determining whether development site is in a bushfire prone area**

For the purposes of this Part, a development site is subject, or likely to be subject, to bushfires and is referred to as being **in a bushfire prone area** if the development site is on land designated by an order made under the [Fire and Emergency Services Act 1998](#) section 18P as a bush fire prone area.

[Clause 78C inserted: Gazette 7 Dec 2015 p. 4886.]

#### **78D . Proposed development in a bushfire prone area**

- (1) Unless subclause (2) applies, before commencing any development on a development site a person (the **developer**) must cause to be prepared a bushfire attack level assessment for the development site if the development site —
  - (a) is in a bushfire prone area; and
  - (b) has been in a bushfire prone area for a period of at least 4 months.
- (2) A developer is not required under subclause (1) to cause to be prepared a bushfire attack level assessment for a development site if —

- (a) a BAL contour map has been prepared in relation to the development site; or
- (b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (3) The developer must have development approval to commence any development on the development site if —
- (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or
- (b) a bushfire attack level assessment has not been prepared under subclause (1) but a BAL contour map prepared in relation to the development site indicates that the bushfire attack level of the development site is BAL - 40 or BAL - Flame Zone; or
- (c) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (4) Subclause (3) applies —
- (a) in addition to any requirement in this Scheme for development approval to be obtained; and
- (b) despite any exemption in this Scheme from the requirement to obtain development approval.

*[Clause 78D inserted: Gazette 7 Dec 2015 p. 4886-7.]*

#### **78E . Matters to be considered for development approval**

- (1) In considering an application for development approval for development to which this Part applies, the local government is to have regard to the bushfire resistant construction requirements of the Building Code.
- (2) The matters referred to in subclause (1) are in addition to any other matters that the local government is to have regard to in considering the application in accordance with this Scheme.

*[Clause 78E inserted: Gazette 7 Dec 2015 p. 4887-8.]*

#### **78F . Transitional provisions for sites in new bushfire prone areas**

- (1) In this clause, each of these terms has the meaning given in the [Building Act 2011 section 3](#) —

***building permit***

***building work***

- (2) In this clause —

***application*** means an application under the [Building Act 2011](#) for a building permit;

***transitional permit*** means a building permit granted in respect of an application to do building work on a development site if —

- (a) the site was not in a bushfire prone area when the application was made; or
- (b) the site had been in a bushfire prone area for a period of less than 4 months when the application was made.

- (3) Clause 78D does not apply to the commencement of development to which a transitional permit applies.

*[Clause 78F inserted: Gazette 7 Dec 2015 p. 4888.]*

**78G . Transitional provisions relating to *Planning and Development (Local Planning Schemes) Amendment Regulations 2015***

(1) In this clause —

***commencement day*** means the day on which the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015* clause 5 comes into operation;

***previous bushfire provisions*** means any provisions in this Scheme that, immediately before commencement day, required a developer in an area that was identified under this Scheme as being an area that is subject, or likely to be subject to bushfires to —

(a) cause to be prepared a bushfire attack level assessment for a development site; or

(b) to have development approval to commence development on a development site because —

(i) a bushfire attack level assessment prepared for the development site calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or

(ii) it is not possible to calculate the bushfire attack level of the development site because of the terrain of the development site;

***transitional development site*** means a development site that is located in an area that —

(a) is a bushfire prone area; and

(b) immediately before commencement day was an area identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires;

***transition period*** means the period of 4 months beginning on commencement day.

(2) Clause 78D(1) applies in respect of development on a transitional development site if —

(a) the development is commenced within the transition period; and

(b) a developer would have been required under the previous bushfire provisions to prepare a bushfire attack level assessment for the development site.

(3) Clause 78D(3) applies in respect of development on a transitional development site if —

(a) the development is commenced within the transition period; and

(b) a developer would have been required under the previous bushfire provisions to have development approval to commence the development.

(4) For the purposes of paragraph (b) of the definition of ***transitional permit*** in clause 78F(2), an area that immediately before commencement day was identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires is to be taken on and from commencement day to have been in a bushfire prone area for a period of at least 4 months.

[Clause 78G inserted: Gazette 7 Dec 2015 p. 4888-90.]

**Part 10B — Exemptions from planning requirements for state of emergency**

[Heading inserted: SL 2020/30 r. 5.]

**78H . Minister may issue notice of exemption from planning requirements in state of emergency**

(1) If a state of emergency declaration is in force under the [Emergency Management Act 2005](#) Part 5 in relation to the whole or any area or areas of the State, the Minister may, by notice in writing, issue 1 or more exemptions from planning requirements under this Scheme.

(2) A notice under subclause (1) can be issued only if the Minister considers that it is necessary to do so for the purpose of facilitating response to, or recovery from, the emergency to which the state of emergency declaration relates.

(3) A reference in subclause (1) to a planning requirement —

(a) includes, without limiting that subclause —

(i) a requirement to obtain development approval; and

(ii) a requirement under a condition of development approval; and

(iii) a requirement relating to the permissibility of uses of land; and

(iv) a requirement relating to works; and

(v) a provision having the effect that a non-conforming use of land is no longer permitted because of a discontinuance of that non-conforming use; and

(vi) a requirement in relation to consultation, advertisement, applications, time limits or forms;

but

(b) does not include an environmental condition that applies to this Scheme as a result of an assessment carried out under the [Environmental Protection Act 1986](#).

(4) A notice under subclause (1) may be issued whether or not the state of emergency declaration applies in relation to any part of the Scheme area, but only if it is necessary for the purpose referred to in subclause (2).

(5) An exemption in a notice under subclause (1) may —

(a) apply generally or to land, or classes of land, specified in the notice; and

(b) be unconditional or subject to any conditions specified in the notice.

(6) The Minister —

(a) may, by notice in writing, amend a notice under subclause (1) for the purpose referred to in subclause (2); and

(b) may, by notice in writing, revoke a notice under subclause (1); and

(c) must under paragraph (b) revoke a notice under subclause (1) if the Minister considers that the notice is no longer necessary for the purpose referred to in subclause (2).

*[Clause 78H inserted: SL 2020/30 r. 5.]*

#### **78I . Process for issuing notice under cl. 78H**

(1) A notice under clause 78H(1) or (6) must be signed by the Minister and published in the *Gazette*.

(2) A notice under clause 78H(1) or (6) of this Scheme may be combined in a single instrument with 1 or more other notices of that kind issued under 1 or more other local planning schemes or all other local planning schemes.

(3) Before issuing a notice under clause 78H(1) or (6), the Minister must, unless the Minister considers that it is impracticable to do so because of the urgency of the circumstances, make reasonable endeavours to consult in relation to the notice —



- (a) the Commission; and
  - (b) WALGA.
- (4) The Minister must ensure that a copy of the notice is sent to the local government or WALGA.
- (5) A failure to comply with subclause (3) or (4) in relation to a notice does not invalidate the notice.

*[Clause 78I inserted: SL 2020/30 r. 5.]*

#### **78J. Coming into effect and cessation of notices and exemptions under cl. 78H**

- (1) A notice under clause 78H(1) or (6) must state the date and time at which it is signed.
- (2) A notice under clause 78H(1) must also state, for each exemption under the notice, that the exemption is to expire —
  - (a) when the state of emergency declaration ceases to be in force; or
  - (b) at a date and time stated in the notice, which must not be later than the end of the period of 5 years beginning on the day on which the notice is signed.
- (3) A notice under clause 78H(1) or (6) takes effect when it is signed.
- (4) An exemption under a notice under clause 78H(1) remains in effect, subject to any amendment or revocation of the notice under clause 78H(6), until the time of expiry stated under subclause (2) for that exemption.
- (5) When an exemption under a notice under clause 78H(1) is amended or ceases to be in effect, the provisions of this Scheme in relation to non-conforming uses of land do not apply in relation to any use or development of land that was permitted only because of the effect of the exemption prior to the amendment or cessation.

*[Clause 78J inserted: SL 2020/30 r. 5.]*

### **Part 10 — Enforcement and administration**

#### **Division 1 — Powers of local government**

#### **78. Powers of local government**

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

#### **79. Entry and inspection powers**

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

- (a) enter any building or land in the Scheme area; and
- (b) inspect the building or land and any thing in or on the building or land.

## 80 . Repair of existing advertisements

(1) The local government may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the local government, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.

(2) A requirement referred to in subclause (1) must —

- (a) be in the form of a written notice given to the person; and
- (b) specify the advertisement the subject of the requirement; and
- (c) set out clear reasons for the requirement; and
- (d) set out full details of the action or alternative courses of action to be taken by the person; and
- (e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.

(3) If the local government does not know who the owner of an advertisement is, the local government may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the local government.

(4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.

(5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the [Planning and Development Act 2005](#) Part 14.

## Division 2 — Delegations

### 81 . Terms used

In this Division —

*absolute majority* has the meaning given in the [Local Government Act 1995 section 1.4](#);

*committee* means a committee established under the [Local Government Act 1995 section 5.8](#).

### 82 . Delegations by local government

(1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.

(2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.

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

### 83 . Local government CEO may delegate powers

(1) The local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this

power of delegation.

(2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.

(3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

**84 . Other matters relevant to delegations under this Division**

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

**Division 3 — Miscellaneous**

**85 . Agreement to use of material provided for Scheme purposes**

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

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

**Part 11 — Forms referred to in this Scheme**

**86 . Forms referred to in this Scheme**

(1) The form of an application for development approval referred to in clause 62(1)(a) is as follows —

**Application for development approval**

<b>Owner details</b>		
Name:		
ABN (if applicable):		
Address:		
.....		
.....		Postcode: .....
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
<p><i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the <a href="#">Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2)</a>.</i></p>		

**Applicant details (if different from owner)**

Name:

Address:

.....

..... Postcode: .....

Phone:

Fax:

Email:

Work: .....

Home: .....

Mobile: .....

Contact person for correspondence:

The information and plans provided with this application may be made available by the local government for public viewing in connection with the application.  Yes  No

Signature:

Date:

**Property details**

Lot No:

House/Street No:

Location No:

Diagram or Plan No:

Certificate of Title  
Vol. No:

Folio:

Title encumbrances (e.g. easements, restrictive covenants):

.....

Street name:

Suburb:

Nearest street intersection:

**Proposed development**Nature of development:  Works Use Works and useIs an exemption from development claimed for part of the development?  Yes  NoIf yes, is the exemption for:  Works Use

Description of proposed works and/or land use:

.....

Description of exemption claimed (if relevant):

Nature of any existing buildings and/or land use:

Approximate cost of proposed development:

Estimated time of completion:

*OFFICE USE ONLY*

Acceptance Officer's initials:

Date received:

Local government reference No:

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

(2) The form for providing additional information for development approval for advertisements referred to in clause 62(3) is as follows —

**Additional information for development approval for advertisements**

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

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

(if different from land owners) .....
Date: .....

(3) The form of a notice of public advertisement of a planning proposal referred to in clause 64(3)(a) (i) or (c) or (4)(a)(i) or (c) is as follows —

Planning and Development Act 2005

City/Town/Shire of .....

**Notice of public advertisement of planning proposal**

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No:	Street:	Suburb:
Proposal: ..... ..... .....		
Details of the proposal are available to the public at .....		
Submissions may be made on the proposal in the period ending on the ..... day of ..... Comments on the proposal may be submitted to the local government in writing on or before that day.		
Signed:		Dated:
.....		
for and on behalf of the City/Town/Shire of: .....		

(4) The form of a notice of determination on an application for development approval referred to in clause 70 is as follows —

Planning and Development Act 2005

City/Town/Shire of .....

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

Location:	
Lot:	Plan/Diagram:
Vol. No:	Folio No:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for development approval is:	
<input type="checkbox"/> Approved subject to the following conditions	
<input type="checkbox"/> Refused for the following reason(s)	
Conditions/reasons for refusal: ..... .....	

.....	
<b>Date of determination:</b> .....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the <i>Planning and Development Act 2005</i> Part 14. An application must be made within 28 days of the determination.
Signed:	Dated:
.....	
for and on behalf of the City/Town/Shire of: .....	
<i>(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)</i>	

*[Clause 86 amended: SL 2020/252 r. 78.]*

## Part 12 — Miscellaneous

*[Heading inserted: SL 2020/252 r. 79.]*

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

(1) This clause applies if under a provision of this Scheme the local government is required to publish in accordance with this clause a notice, plan, application or other document (the **document**).

(2) The local government must make the document available in accordance with the applicable requirements of subclauses (3) to (5).

Note for this subclause:

Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to publish documents in accordance with subclauses (3) to (5).

(3) For all documents, the local government must —

(a) publish on the website of the local government —

(i) the document; or

(ii) a hyperlink to a webpage on which the document is published;

and

(b) if it is reasonably practicable to do so — make a copy of the document available for public inspection at a place in the district of the local government during normal business hours.

(4) If the document is a notice and the local government considers that it is appropriate in the circumstances for the notice to be published in a newspaper, the local government must also ensure that the notice is published in a newspaper circulating in the relevant locality in the local government district.

(5) The local government must ensure that the document remains published under subclause (3)(a) and (if applicable) available for public inspection under subclause (3)(b) —

(a) if the document is published in compliance with a requirement that is expressed to be an ongoing publication requirement — at all times that the document is in effect; or

(b) if the document is published in compliance with a requirement to advertise for submissions under this Scheme — during the whole of the period within which submissions may be made; or

(c) if paragraphs (a) and (b) do not apply — during a period that the local government considers is reasonable.

[Clause 87 inserted: SL 2020/252 r. 79.]

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

(1) In this clause —

**complex application notice and signage requirements** means the requirements of clause 64(3)(b) and (c) in relation to advertising complex applications;

**document** has the meaning given in clause 87(1);

**publication requirements** means the requirements of clause 87(3) to (5) in relation to making documents available to the public.

(2) If the Commission considers that it is not practicable for the local government to comply with any of the publication requirements in relation to documents that it is or may become required to publish, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government making documents available to the public.

(3) If a notice under subclause (2) is in effect, the local government is taken to comply with the applicable publication requirements in relation to a document if the local government complies with those requirements as varied by the notice.

(4) If the Commission considers that it is not practicable for the local government to comply with any of the complex application notice and signage requirements in relation to complex applications it is or may become required to advertise, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government advertising complex applications.

(5) If a notice under subclause (4) is in effect, a complex application made to the local government is taken to be advertised in compliance with the complex application notice and signage requirements if it is advertised in compliance with those requirements as varied by the notice.

(6) A notice under subclause (2) or (4) —

(a) must state whether it has effect indefinitely or for a period specified in the notice; and

(b) takes effect when it is given to the local government; and

(c) ceases to be in effect —

(i) if the Commission gives the local government a further written notice revoking it; or

(ii) at the end of the period (if any) specified under paragraph (a).

[Clause 88 inserted: SL 2020/252 r. 79.]

## **Part 13 — Transitional provisions for *Planning Regulations Amendment Regulations 2020***

[Heading inserted: SL 2020/252 r. 79.]

## **89 . Terms used**

In this Part —



**amended deemed provisions** means the deemed provisions of this Scheme set out in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 2 as amended by the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2;

**commencement day** means the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation;

**former deemed provisions** means the deemed provisions of this Scheme set out in the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) Schedule 2 as in force immediately before commencement day.

[Clause 89 inserted: SL 2020/252 r. 79.]

## 90 . Application of amendments made by *Planning Regulations Amendment Regulations 2020*

(1) The amendments to Part 7 made by the *Planning Regulations Amendment Regulations 2020* do not apply in relation to development —

- (a) that commenced before commencement day; or
- (b) for which development approval was granted before commencement day.

(2) The amendments to Parts 8 and 9 made by the *Planning Regulations Amendment Regulations 2020* do not apply in relation to an application for development approval made before commencement day.

[Clause 90 inserted: SL 2020/252 r. 79.]

## 91 . Advertising processes in progress on commencement day

(1) In this clause —

**relevant advertising process** —

- (a) means any of the following processes —
  - (i) the advertising of a proposed local planning policy, or amendment to a local planning policy, under clause 4;
  - (ii) the advertising of the proposed designation of a heritage area, or the proposed amendment or revocation of the designation of a heritage area, under clause 9;
  - (iii) the advertising of a proposed structure plan, or amendment to a structure plan, under clause 18;
  - (iv) the advertising of a proposed local development plan, or amendment to a local development plan, under clause 50;

and

(b) includes the giving of notices to persons or public authorities or the erection of signs as part of a process referred to in paragraph (a).

(2) A relevant advertising process that commenced, but was not completed, before commencement day may be completed in accordance with the relevant requirements of the former deemed provisions rather than the amended deemed provisions.

(3) If the relevant advertising process for a policy, designation, plan or amendment (the **relevant planning instrument**) is completed in accordance with subclause (2) —

(a) the relevant planning instrument is taken to have been advertised in compliance with the relevant requirements of the amended deemed provisions; and

(b) this Scheme applies with any necessary changes to the relevant planning instrument.

[Clause 91 inserted: SL 2020/252 r. 79.]

## 92. Activity centre plans or structure plans in effect before commencement day

(1) In this clause —

**current activity centre plan** —

(a) means an activity centre plan under this Scheme for which the approval is in effect immediately before commencement day; and

(b) includes a plan taken to be an activity centre plan under the [Planning and Development \(Local Planning Schemes\) Regulations 2015 regulation 79](#) that is in effect under this Scheme immediately before commencement day;

**current structure plan** —

(a) means a structure plan under this Scheme for which the approval is in effect immediately before commencement day; and

(b) includes a plan taken to be a structure plan under the [Planning and Development \(Local Planning Schemes\) Regulations 2015 regulation 79](#) that is in effect under this Scheme immediately before commencement day.

(2) On and after commencement day, a current activity centre plan —

(a) continues in effect under this Scheme; and

(b) is taken to be a precinct structure plan approved under this Scheme for which the approval has effect; and

(c) may be amended or revoked accordingly.

(3) On and after commencement day, a current structure plan —

(a) continues in effect under this Scheme; and

(b) is taken to be a standard structure plan approved under this Scheme for which the approval has effect; and

(c) may be amended or revoked accordingly.

(4) Clause 28 of the amended deemed provisions applies to a structure plan, whether it is a plan referred to in subclause (2) or (3) or a plan approved under this Scheme on or after commencement day.

[Clause 92 inserted: SL 2020/252 r. 79.]

## 93. Activity centre plans or amendments in course of preparation on commencement day

(1) In this clause —

**preparation and approval process**, in relation to an activity centre plan or amendment to an activity centre plan, means the process for preparing or accepting, advertising, reporting on, modifying and approving the plan or amendment set out in Part 5 of the former deemed provisions.

(2) This clause applies to an activity centre plan or amendment to an activity centre plan if —

- (a) 1 or more steps in the preparation and approval process for the plan or amendment occurred before commencement day under Part 5 of the former deemed provisions; but
- (b) the Commission did not approve or refuse to approve the proposed plan or amendment before commencement day.
- (3) If the process of advertising the proposed activity centre plan or amendment under clause 34 of the former deemed provisions commenced but was not completed before commencement day —
- (a) that advertising process may be completed in accordance with the requirements of that clause; and
- (b) after the advertising process referred to in paragraph (a) is completed —
- (i) the proposed plan or amendment is taken to be a proposed precinct structure plan or amendment to a precinct structure plan that has been advertised in compliance with the requirements of clause 18 of the amended deemed provisions; and
- (ii) the other steps taken before commencement day in the preparation and approval process for the plan or amendment are taken to have been taken under and in accordance with the equivalent provision of Part 4 of the amended deemed provisions.
- (4) If subclause (3) does not apply, on and after commencement day —
- (a) the proposed activity centre plan or amendment is taken to be a proposed precinct structure plan or amendment to a precinct structure plan; and
- (b) the steps taken before commencement day in the preparation and approval process for the plan or amendment are taken to have been taken under and in accordance with the equivalent provision of Part 4 of the amended deemed provisions.




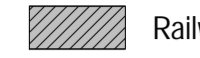








*[Clause 93 inserted: SL 2020/252 r. 79.]*



**LEGEND**

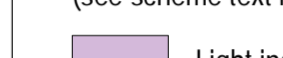









**LOCAL SCHEME RESERVES**

(see scheme text for additional information)

 District roads	 PS Public purposes : Primary school
 Local roads	 Railway purposes
 Public purposes	 Recreation and conservation : Conservation and natural landscapes
 AR Public purposes : Army reserve	 PR Recreation and conservation : Parks and recreation
 CA Public purposes : Camping	 State Forest
 C Public purposes : Cemetery	 State and regional roads

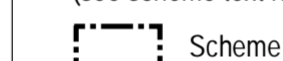









**LOCAL SCHEME ZONES**

(see scheme text for additional information)

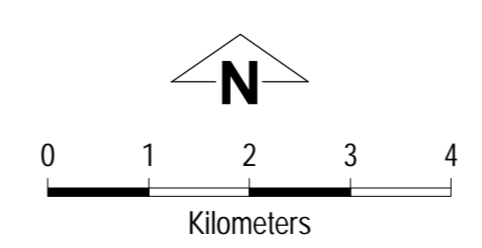
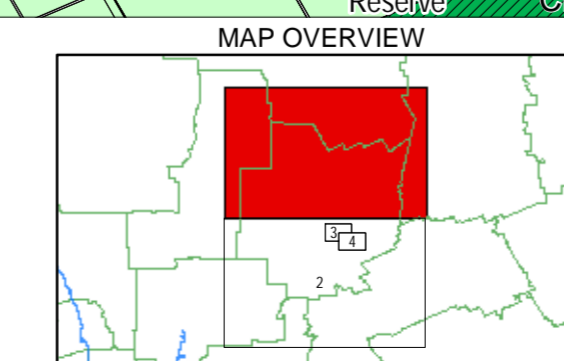
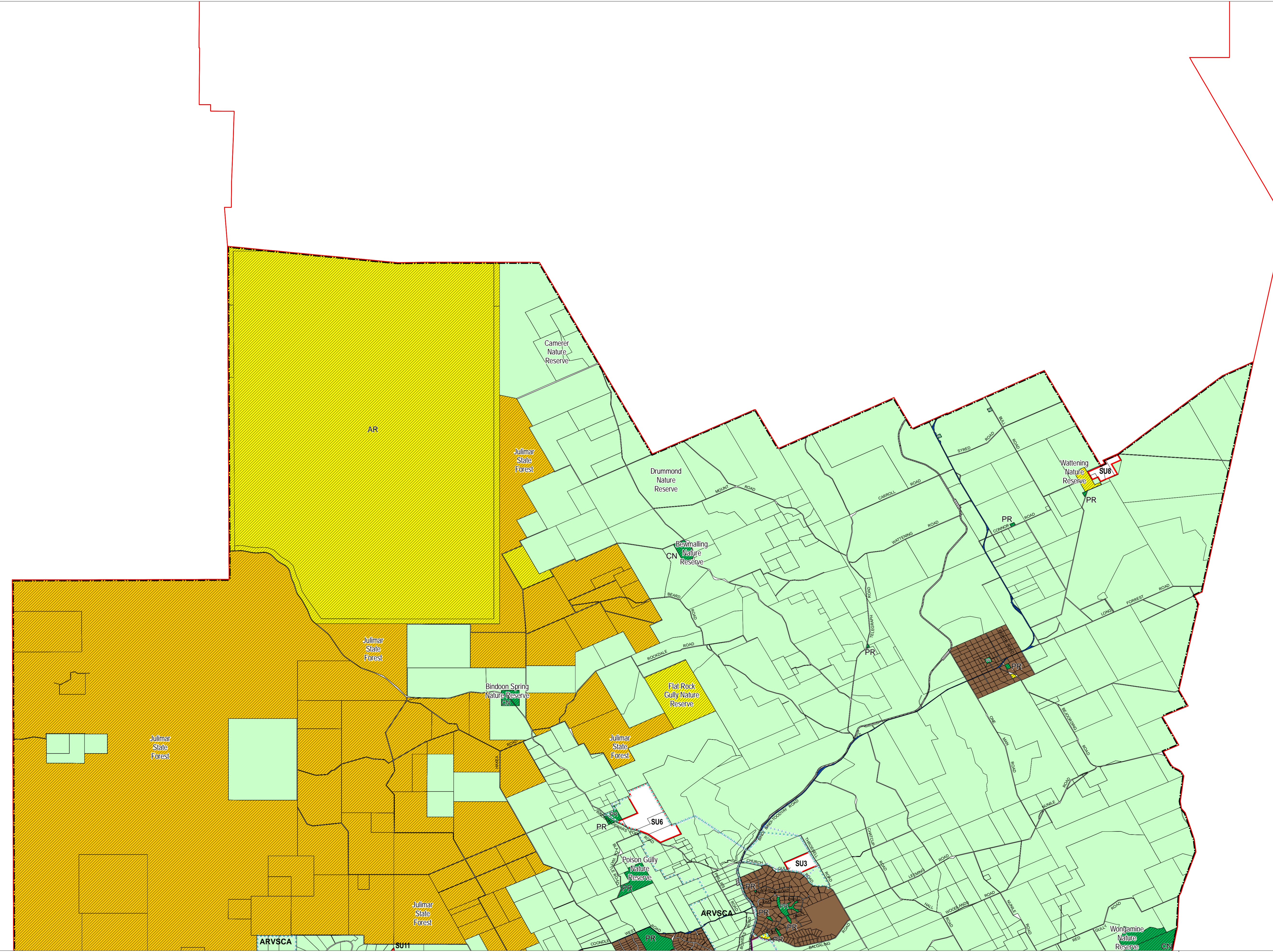
 Light industry	 Rural
 Mixed business	 Rural living
 Residential	 Rural residential
 Residential development	 Special residential
	 Special use
	 Town centre

**OTHER CATEGORIES**

(see scheme text for additional information)

 Scheme boundary	 LP1 Landscape protection area
 Local Government boundary	 TRBSCA Toodyay Road bypass special control area
 R20 R Codes	 WRC Wetlands / river channel special control area
 A1 Additional uses	 No zone
 SU1 Special use area	
 ARVSCA Avon River Valley special control area	

VERSION No 1



Authorised: T.Servaas  
 Plot Date: 20 April 2016  
 G.Gazette: Wednesday, 13 February 2008

Local Planning Scheme Map No. 1 of 4  
 MAP: Toodyay North



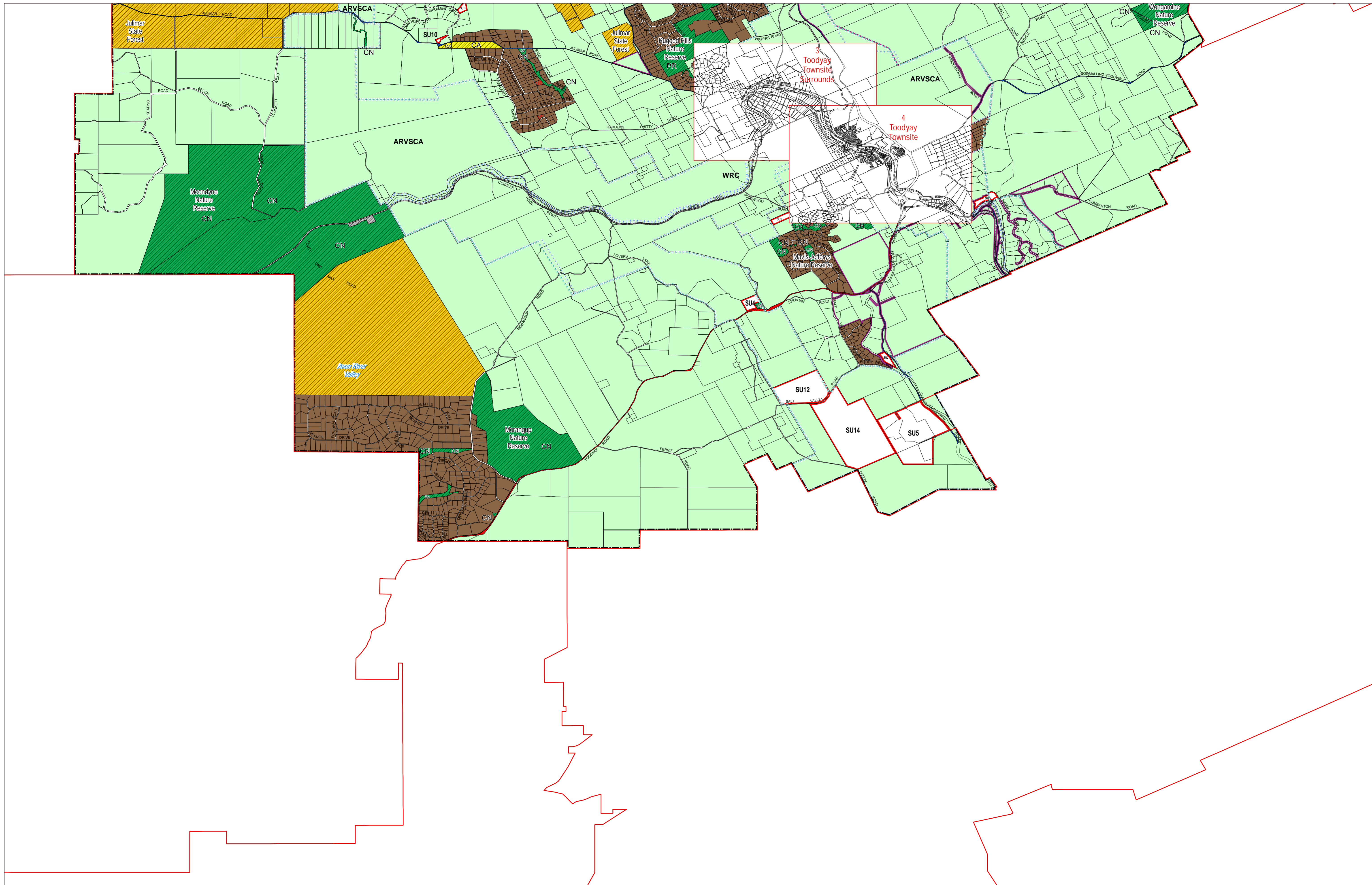
Whilst all care has been taken to accurately portray the current Scheme provisions, no responsibility shall be taken for any omission or errors in this documentation.  
 Consultation with the respective Local Government should be made to view a legal version of the Scheme. Please advise the Department of Planning of any omissions or errors in the document at Spatialdata@planning.wa.gov.au

Produced by GeoSpatial Research and Modelling, Department of Planning.  
 Base Information Supplied by the Western Australian Land Information Authority, LI 782-2015-1

**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )

**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )





**LEGEND**

**LOCAL SCHEME RESERVES**

(see scheme text for additional information)

- District roads
- Local roads
- Public purposes
- AR Public purposes : Army
- CA Public purposes : Camping
- C Public purposes : Cemetery
- Railway purposes
- Recreation and conservation : Conservation and natural landscapes
- PR Recreation and conservation : Parks and recreation
- State Forest
- State and regional roads

**LOCAL SCHEME ZONES**

(see scheme text for additional information)

- Rural
- Rural living
- Light industry
- Mixed business
- Residential
- Residential development
- Rural residential
- Special residential
- Special use
- Town centre

**OTHER CATEGORIES**

(see scheme text for additional information)

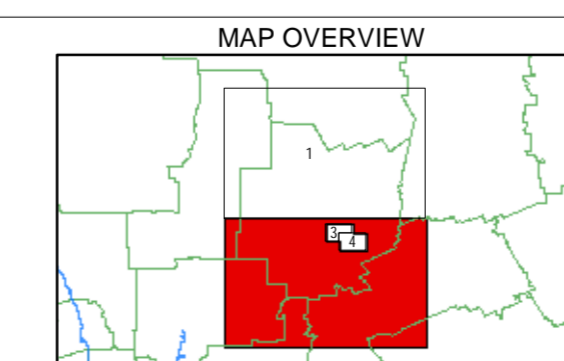
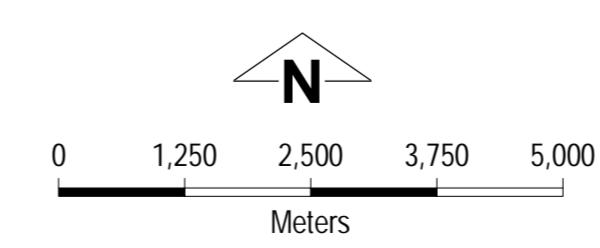
- Scheme boundary
- Local Government boundary
- R20 R Codes
- A1 Additional uses
- SU1 Special use area
- ARVSCA Avon River Valley special control area
- LP1 Landscape protection area
- TRBSCA Toodyay Road bypass special control area
- WRC Wetlands / river channel special control area
- No zone

VERSION No 1

Department of Planning  
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**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )

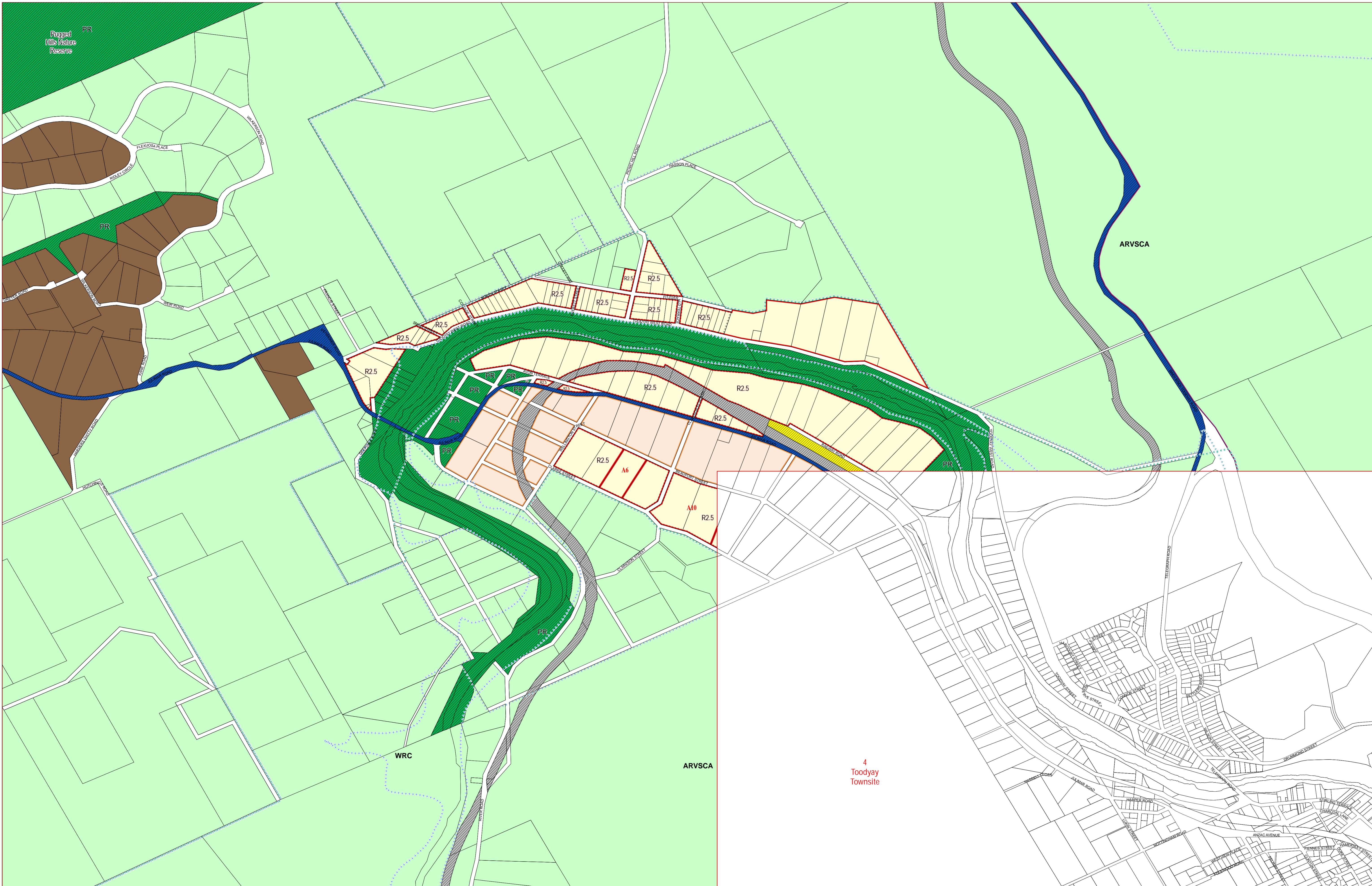


Authorised: T.Servaas  
 Plot Date: 02 September 2016  
 G.Gazette: Wednesday, 13 February 2008

Local Planning Scheme Map No. 2 of 4  
 MAP: Toodyay South

**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )





**LEGEND**

**LOCAL SCHEME RESERVES**

(see scheme text for additional information)

- |                              |                                                                   |
|------------------------------|-------------------------------------------------------------------|
| District roads               | PS Public purposes : Primary school                               |
| Local roads                  | Railway purposes                                                  |
| Public purposes              | Recreation and conservation : Conservation and natural landscapes |
| AR Public purposes : Army    | PR Recreation and conservation : Parks and recreation             |
| CA Public purposes : Camping | State Forest                                                      |
| C Public purposes : Cemetery | State and regional roads                                          |

**LOCAL SCHEME ZONES**

(see scheme text for additional information)

- |                         |                     |
|-------------------------|---------------------|
| Light industry          | Rural               |
| Mixed business          | Rural living        |
| Residential             | Rural residential   |
| Residential development | Special residential |
|                         | Special use         |
|                         | Town centre         |

**OTHER CATEGORIES**

(see scheme text for additional information)

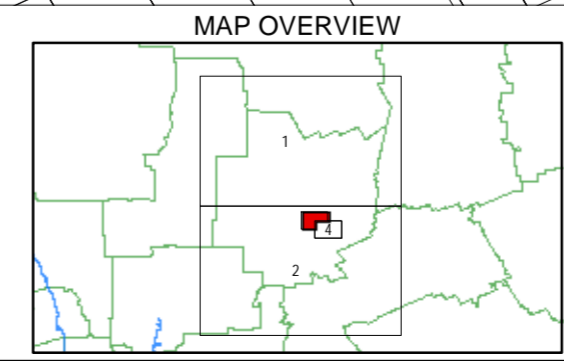
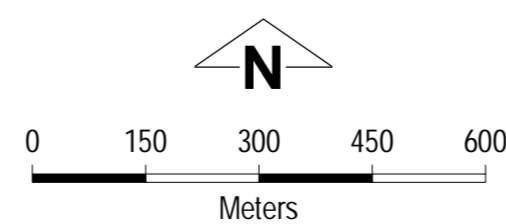
- |                                               |                                                   |
|-----------------------------------------------|---------------------------------------------------|
| Scheme boundary                               | LP1 Landscape protection area                     |
| Local Government boundary                     | TRBSCA Toodyay Road bypass special control area   |
| R20 R Codes                                   | WRC Wetlands / river channel special control area |
| A1 Additional uses                            | No zone                                           |
| SU1 Special use area                          |                                                   |
| ARVSCA Avon River Valley special control area |                                                   |

VERSION No 1

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**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )

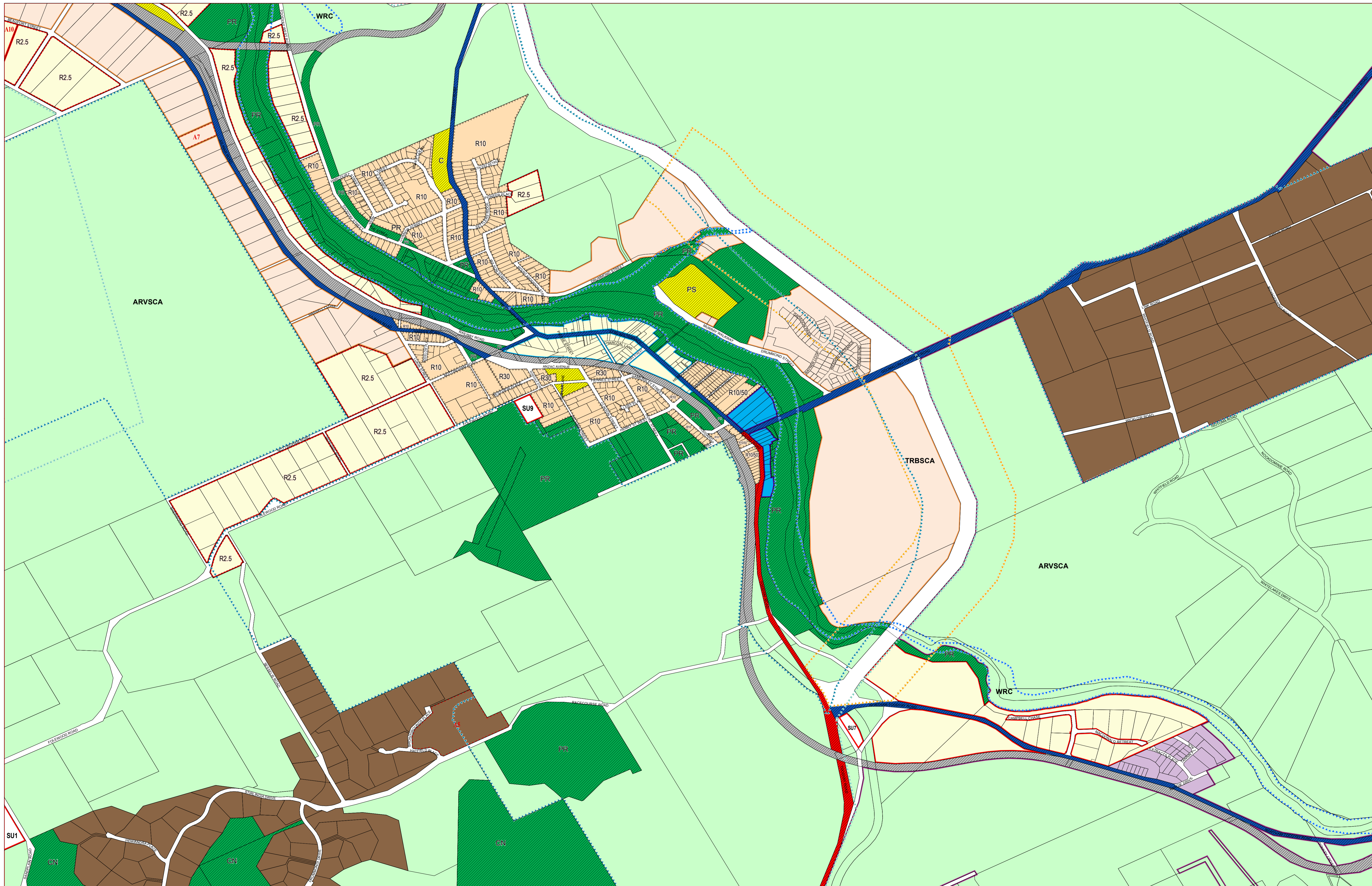


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 Plot Date: 02 September 2016  
 G.Gazette: Wednesday, 13 February 2008

Local Planning Scheme Map No. 3 of 4  
 MAP: Toodyay Townsite Surrounds

**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )





**LEGEND**

**LOCAL SCHEME RESERVES**

(see scheme text for additional information)

- District roads
- Local roads
- Public open space
- Public purposes
- AR Public purposes : Army
- CA Public purposes : Camping
- C Public purposes : Cemetery
- Railway purposes
- Recreation and conservation : Conservation and natural landscapes
- PR Recreation and conservation : Parks and recreation
- State Forest
- State and regional roads

**LOCAL SCHEME ZONES**

(see scheme text for additional information)

- Rural
- Rural living
- Light industry
- Mixed business
- Residential
- Residential development
- Rural residential
- Special residential
- Special use
- Town centre

**OTHER CATEGORIES**

(see scheme text for additional information)

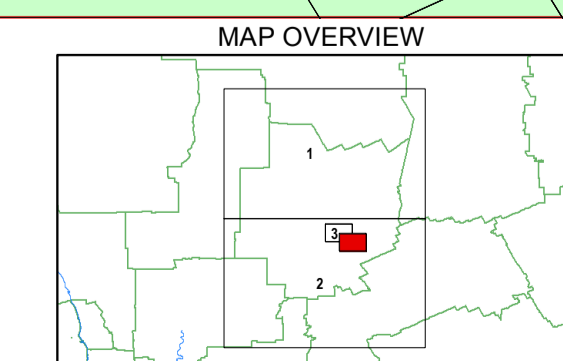
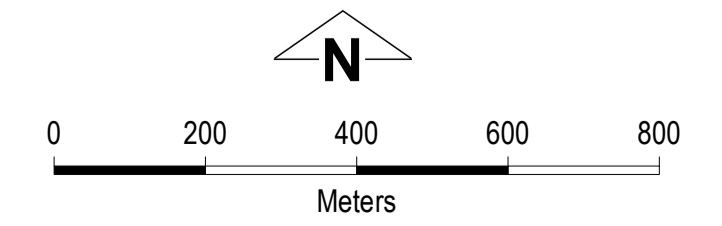
- Scheme boundary
- Local Government boundary
- R20 R Codes
- A1 Additional uses
- SU1 Special use area
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VERSION No 1

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**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )

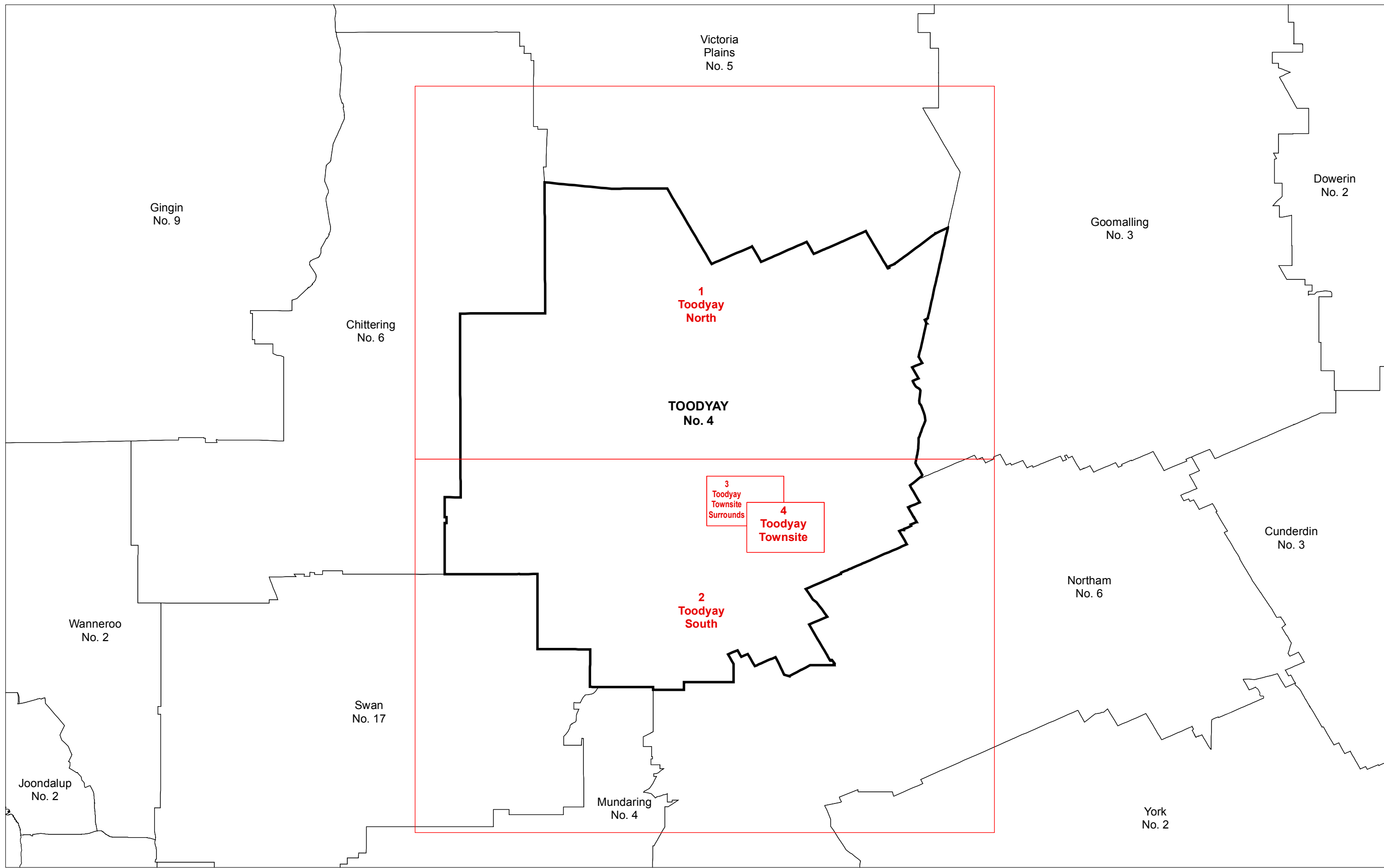


Authorised: T.Servaas  
 Plot Date: 21 February 2017  
 G.Gazette: Wednesday, 13 February 2008

Local Planning Scheme Map No. 4 of 4  
 MAP: Toodyay Townsite

**Shire of Toodyay**  
 Local Planning Scheme No. 4  
 ( District Scheme )





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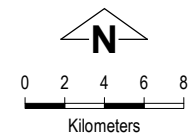
Department of  
**Planning**

# Shire of Toodyay

Local Planning Scheme No. 4

( District Scheme )

MAP SHEET INDEX



MAP OVERVIEW

