

# SHIRE OF KONDININ

## Local Planning Scheme No. 1

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Department of  
Planning

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

Department of Planning  
Gordon Stephenson  
House  
140 William Street  
Perth WA 6000  
  
Locked Bag 2506  
Perth WA 6001

website: [www.planning.wa.gov.au](http://www.planning.wa.gov.au)  
email:  
[corporate@planning.wa.gov.au](mailto:corporate@planning.wa.gov.au)  
tel: 08 6551 9000  
fax: 08 6551 9001  
National Relay Service: 13 36 77  
infoline: 1800 626 477

# **SHIRE OF KONDININ**

## **LOCAL PLANNING SCHEME NO. 1 (Consolidation of Scheme Text)**

### **PART A**

#### **SHIRE OF KONDININ LOCAL PLANNING SCHEME NO. 1**

This Local Planning Scheme of the Shire of Kondinin consists of Part A (this Scheme), the Scheme Maps and Part B being the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2).

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.



## Table of Contents

- Part 1 Preliminary** - sets out the Scheme title, responsible authority for implementing the Scheme, the Scheme area, the contents, purposes and aims of the Scheme and relationship to other Schemes and laws.
- Part 2 Reserves** - sets out the reserves which apply in the Scheme area and related provisions.
- Part 3 Zones and use of land** - sets out the zones which apply in the Scheme area, permissibility of land uses in the various zones and the requirement for additional uses, restricted uses, special use zones and non-conforming uses within the Scheme area.
- Part 4 General development requirements** - sets out the general requirements which apply to land use and development within the Scheme area and the specific requirements which apply to particular uses and forms of development.
- Part 5 Special control areas** - sets out particular provisions which may apply in addition to the zone requirements.
- Part 6 Terms referred to in Scheme** - lists the general terms and land use terms used in the Scheme.

## Schedules

- Schedule 1 Signage and advertisements for which development approval not required
- Schedule 2 Special requirements for Rural Residential Zones
- Schedule 3 Land within Special Use Zone 2
- Schedule A Supplemental provisions to the deemed provisions

## Appendix

- Appendix 1 Scheme Maps (sheets 1-6)

## Part 1 - Preliminary

### 1. Citation

This local planning scheme is the Shire of Kondinin Scheme No.1.

### 2. Commencement

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

### 3. Scheme revoked

No Scheme is revoked.

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

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

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law

### 5. Responsibility for Scheme

The Shire of Kondinin is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

### 6. Scheme area

This Scheme applies to the area shown on the Scheme Map which comprises sheets 1 - 5 set out in Appendix 1.

### 7. Contents of Scheme

(1) In addition to the provisions set out in this document (the Scheme text), this Scheme includes the following -

- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2), including any supplemental provisions provided for in Schedule A; and
- (b) the Scheme Map (sheets 1 - 6).

### 8. Purposes of Scheme

The purposes of this Scheme are to -

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development; and
- (e) set out procedures for the assessment and determination of development applications; and

- (f) set out procedures for contributions to be made to the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

## **9. Aims of Scheme**

The aims of this Scheme are -

- to secure the amenity, health and convenience of the Scheme area and the inhabitants thereof;
- to ensure there is a sufficient supply of suitable serviced land for housing, employment, commercial activities, community facilities, recreation and open space;
- to provide for housing choice and variety in neighbourhoods with a community identity and high levels of safety, accessibility and visual amenity;
- to preserve, protect and enhance townscapes and places, buildings and objects of heritage value, historic interest, natural beauty or scientific interest which exist throughout the Shire;
- to promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities;
- to protect, conserve and enhance the environmental values and natural resources of the Scheme area including the protection of remnant vegetation and the rehabilitation and revegetation of degraded land while providing appropriate development opportunities to promote the local economy;
- to promote ecologically sustainable land use and development;
- to assist the effective implementation of the State Planning Strategy and other adopted strategies and policies as these apply to the Wheatbelt Region; and
- to make provision for other matters necessary or incidental to town planning and development generally.

## **10. Relationship with local laws**

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

## **11. Relationship with other local planning schemes**

There are no other local planning schemes of the Shire of Kondinin which apply to the Scheme area.

## **12. Relationship with region planning scheme**

There are no region planning schemes which apply to the Scheme area.

## Part 2 - Reserves

### 13. Regional Reserves

There are no regional reserves in the Scheme area.

### 14. Local reserves

(1) In this clause -

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

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

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

(3) The objectives for each local reserve are as follows:

#### Environmental Conservation

- To set aside areas with conservation and/or landscape value and/or for the protection of public drinking water sources, and to protect those areas from development and subdivision; and
- To identify and protect those areas of conservation significance particularly within existing National Parks and other conservation reserves.

#### Public Open Space

- To set aside areas of public open space within and in close proximity to urban development; and
- To develop and maintain reserves to serve the active and passive recreation needs of the local community.

#### Public Purposes

- To provide for a range of essential physical and community infrastructure including health, education, emergency services, communications and public infrastructure.

#### Recreational

- To promote and provide for tourism and recreation opportunities.

#### Railways

- To set aside land required for passenger rail and rail freight services.

#### Primary distributor road

- To set aside land required for a primary or regional distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.

#### District distributor road

- To set aside land required for a district distributor road being a road classified as a Distributor A or Distributor B under the Western Australian Road Hierarchy.

#### Local distributor road

- To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.

#### Local Road

- To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.

### **15. Additional uses for local reserves**

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



## Part 3 - Zones and use of land

### 16. Zones

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

#### Commercial Zone

- To ensure that town centres remain the principal place for business and administration in the district.
- To encourage a high standard of development including buildings, landscaping and car parking.
- To make town centres an attractive place to work and to conduct business through the implementation of a townscape improvement plan.

#### Residential Zone

- To retain the single house as the predominant form of residential development in townsites.
- To provide for lifestyle choice in and around townsites with a range of residential densities.
- To allow for the establishment of non-residential uses subject to local amenities not being adversely affected.

#### Rural Townsite Zone

- To allow for a wide range of land uses that would typically found in a small townsite but subject to preservation of local amenities.

#### Urban Development Zone

- To allow for a variety of uses such as may be found in a small country town but subject to the preservation of local amenities and character.
- To ensure that the subdivision and development of land in the zone proceeds in accordance with the details of a Structure Plan.
- To allow a variety of uses in the zone.

#### Light Industry Zone

- To provide for light and service industry to support development in the district.
- To provide for light and service industries and associated uses which are compatible with, and acceptable in close proximity to, residential uses.
- To encourage a high standard of development including buildings, landscaping and car parking.

### General Industry Zone

- To encourage industrial development with diverse employment opportunities.
- To provide for general industry to support development in the District.

### Rural Residential Zone

- To select areas wherein closer subdivision will be permitted to provide for uses such as hobby farms, horse breeding and rural residential retreats.
- To make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.
- To locate Rural Residential zones generally within a five (5) kilometre radius of established settlements so that residents have convenient access to services and facilities without draining the resources of the wider community.
- To provide for the creation of rural residential lots having a minimum area of two (2) hectares within or adjacent to the Kondinin and Hyden townsites and larger lots elsewhere.

### Rural Zone

- To ensure the continuation of broad-hectare farming as the principal land use in the district and encouraging where appropriate the retention and expansion of agricultural activities.
- To consider non-rural uses where they can be shown to be of benefit to the District and not detrimental to the natural resources or the environment.
- To allow for facilities for tourists and travellers, and for recreation uses.

### Special Use Zone

- To facilitate special categories of land use which do not sit comfortably within any other zone.

## **17. Zoning table**

The zoning table for this Scheme is as follows -

**Table 1 - Zoning Table**

USE AND DEVELOPMENT CLASS	ZONES							
	Residential	Commercial	Rural Townsite	General Industry	Light Industry	Urban Development	Rural	Rural Residential
Abattoir	X	X	X	X	X	X	A	X
Aged or dependent persons' dwelling	D	X	D	X	X	D	D	D
Agriculture - extensive	X	X	X	X	X	X	P	X
Agriculture - intensive	X	X	X	X	X	X	D	X
Animal establishment	X	X	X	X	X	X	P	X
Animal husbandry - intensive	X	X	X	X	X	X	A	X
Ancillary dwelling	P	X	D	X	X	D	D	D
Art gallery	X	D	D	X	X	D	X	X
Bed and breakfast	A	A	A	X	X	A	A	A
Cabin	X	X	X	X	X	X	A	X
Caretaker's dwelling	X	D	D	D	D	D	D	D
Car park	A	P	P	A	X	A	X	X
Chalet	X	X	X	X	X	X	A	X
Child care premises	X	A	A	X	X	A	X	X
Cinema/theatre	X	A	A	X	X	X	X	X
Civic use	X	P	D	D	D	D	X	X
Club premises	X	D	D	X	X	X	X	X
Community purpose	X	A	A	X	X	X	X	X
Consulting rooms	X	P	A	X	X	X	X	X
Convenience store	X	P	A	X	X	X	X	X
Education establishment	A	X	D	D	D	A	D	A
Exhibition centre	X	D	D	X	X	X	X	X
Family day care	X	D	D	X	X	X	X	X
Fast food outlet	X	D	D	X	X	X	X	X
Feedlot	X	X	X	X	X	X	X*See Note 1 D*See Note 2 A*See Note 3	X
Fuel depot	X	X	X	P	D	X	D	X
Garden centre	X	A	X	X	X	X	X	X
Guest house	X	X	A	X	X	X	A	X
Holiday accommodation	A	X	A	X	X	X	A	X
Holiday house	A	X	A	X	X	X	A	X
Home business	A	X	A	X	X	X	A	X
Home occupation	A	X	A	X	X	A	A	A
Home office	D	X	D	X	X	D	P	P
Home store	A	X	A	X	X	X	X	X

USE AND DEVELOPMENT CLASS	ZONES							
	Residential	Commercial	Rural Townsite	General Industry	Light Industry	Urban Development	Rural	Rural Residential
Hospital	X	D	D	X	X	X	X	X
Hotel	X	D	A	X	X	X	X	X
Industry - cottage	D	X	D	X	D	D	D	D
Industry - extractive	X	X	X	X	X	X	D	X
Industry - general	X	X	A	D	X	X	A	X
Industry - light	X	X	A	P	P	D	A	X
Industry - primary production	X	X	X	X	X	X	D	X
Market	X	D	D	X	X	X	X	X
Medical centre	X	A	P	X	X	X	X	X
Motel	A	P	A	X	X	A	A	A
Motor vehicle, boat or caravan sales	X	D	D	P	X	X	X	X
Motor vehicle repair	X	X	A	P	P	X	A	X
Motor vehicle wash	X	D	A	D	X	X	X	X
Office	X	P	P	D	D	D	X	X
Park home park	X	X	A	X	X	X	X	X
Place of worship	D	D	A	X	X	A	X	X
Reception centre	X	D	D	X	X	X	X	X
Recreation - private	A	D	D	A	A	D	X	X
Residential building	D	D	D	X	X	D	D	D
Residential - single house	P	D	P	X	X	D	P	P
Residential - grouped dwelling	D	X	A	X	X	D	X	X
Residential - multiple dwelling	A	X	A	X	X	X	X	X
Restaurant	X	P	D	X	X	X	D	X
Road house	X	A	A	X	X	X	X	X
Rural home business	A	X	A	X	X	X	A	A
Rural pursuit	X	X	A	X	X	X	P	A
Service station	X	A	A	D	D	X	A	X
Shop	X	P	D	A	A	D	D	X
Tavern	X	X	A	X	X	X	X	X
Telecommunications infrastructure	A	A	A	D	D	A	A	A
Transient workforce accommodation	X	X	A	X	X	X	A	X
Transport depot	X	P	A	P	D	X	A	X
Tree farm	X	X	X	X	X	X	A	X
Veterinary centre	X	A	A	P	A	X	D	D
Warehouse	X	D	X	P	D	X	X	X
Waste disposal facility	X	X	X	X	X	X	A	X
Waste storage facility	X	X	X	A	X	X	A	X

## NOTES:

1. Feedlots are not permitted in the Rural zone where such use is proposed to be located within a **five (5) kilometre** radius of an established townsite.
2. Feedlots are not permitted in the Rural zone unless such a use is proposed to be located more than **five (5) kilometres** from an established townsite and more than **two (2) kilometres** from an existing residential dwelling.
3. Feedlots are not permitted within **two (2) kilometres** of an existing neighbouring residential dwelling unless the local government has exercised its discretion by granting development approval after considering a site specific study provided by the applicant addressing the proximity of sensitive land uses and potential impacts, and giving notice in accordance with clause 64 of the deemed provisions.

## 18. Interpreting zoning table

(1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

(2) The symbols used in the zoning table have the following meanings -

P means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to, the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 the deemed provisions;

X means that the use is not permitted by this Scheme.

Note:1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.

2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.

(3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.

(4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table -

(a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or

(b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed

provisions before considering an application for development approval for the use of the land; or

- (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless -
- (a) the development approval application relates to land that is being used for a non-conforming use; and
  - (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.
- (7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land -
- (a) a structure plan;
  - (b) an activity centre plan;
  - (c) a local development plan.

**19. Additional uses**

- (1) Table 2 sets out -
- (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
  - (b) the conditions that apply to that additional use.
- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

**Table 2 - Specified additional uses for zoned land in Scheme area**

No.	Description of land	Additional use	Conditions
A1	Lot 74 (No.17) Rankin Street, Kondinin	Ambulance Hall	As determined by the Local Government
A2	Lots 133 & 134 Connell Street, Kondinin	Rural Saleyard	As determined by the Local Government
A3	Lot 113 Connell Street, Kondinin	Museum, Antique and Arts and Craft Shop	As determined by the Local Government

## 20. Restricted uses

There are no restricted uses which apply to this Scheme.

## 21. Special use zones

(1) Table 3 sets out -

- (a) special use zones for specified land that are in addition to the zones in the zoning table; and
- (b) the classes of special use that are permissible in that zone; and
- (c) the conditions that apply in respect of the special uses.

**Table 3 - Special use zones in Scheme area**

No.	Description of land	Special use	Conditions
SU1	Reserve No. 31208 (Lot 259) Gordon Street, Kondinin	Caravan Park	No extension or change of land use without local government approval
SU2	Railway Land, Marshall Street, Hyden (in accordance with the diagram in Schedule 2)	Community Purposes Farm Supply Centre Office Restaurant Shop Showroom	Development shall be in accordance with a structure plan prepared in accordance with Part 4 of the deemed provisions. The plan shall be prepared in consultation with Main Roads WA.

(2) A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

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

## 22. Non-conforming uses

(1) Unless specifically provided, this Scheme does not prevent -

- (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
- (b) the carrying out of development on land if -
  - (i) before the commencement of this Scheme, the development was lawfully approved; and
  - (ii) the approval has not expired or been cancelled.

(2) Subclause (1) does not apply if -

- (a) the non-conforming use of the land is discontinued; and
- (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.

(3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government -

- (a) purchases the land; or

- (b) pays compensation to the owner of the land in relation to the non-conforming use.

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

- (1) A person must not, without development approval -
  - (a) alter or extend a non-conforming use of land; or
  - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
  - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
  - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use -
  - (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
  - (b) is closer to the intended purpose of the zone in which the land is situated.

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

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following -
  - (a) a description of each area of land that is being used for a non-conforming use;
  - (b) a description of any building on the land;
  - (c) a description of the non-conforming use;
  - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government -
  - (a) must ensure that the register is kept up-to-date; and
  - (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and
  - (c) may publish a copy of the register on the website of the local government.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.



## **Part 4 - General development requirements**

### **25. R-Codes**

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government -
  - (a) must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of the R-Codes on the website of the local government.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within boundaries shown on the Scheme Map.
- (4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3).

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

The following variations to the R-Codes apply in the Scheme area:

- (1) In areas coded R10 the development standards of the R10 code shall apply except that the development standards of the R25 code may be permitted by the local government but only where:
  - (i) the development is to be connected to a reticulated sewerage system or an alternative means of effluent disposal approved by the local government and the Department of Health;
  - (ii) the subject lot, in the opinion of the local government, is located in close proximity to essential services and facilities; and
  - (iii) the local government, following completion of the advertising procedures specified in clause 64 of the deemed provisions, is satisfied that the development will not have an adverse impact upon local amenities.

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

- (1) State Planning Policy 3.6 - Development Contributions for Infrastructure, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The local government -
  - (a) must make a copy of State Planning Policy 3.6 available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of State Planning Policy 3.6 on the website of the local government.

### **28. Modification to State Planning Policy 3.6**

There are no modifications to State Planning Policy 3.6.

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

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

### 30. Environmental conditions

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

### 31. Additional site and development requirements

#### (1) Setbacks requirements

- (a) Table 4 sets out the minimum setback requirements for land in zones within the Scheme which may be supplemented by the local government's specific requirements.
- (b) The local government in determining applications for any development may require such development to comply generally with the minimum setbacks required for the zone as required in Table 4 to ensure that the scale, nature, design, general appearance and impact of such uses is compatible with the objectives of the zone in which the development is proposed and the general purposes and aims of the Scheme.
- (c) The site and development requirements for development within zones not referred to in Table 4 shall be in accordance with the local government's specific requirements in each particular case.

**Table 4: Minimum setbacks from boundaries**

ZONE	MINIMUM SETBACKS FROM BOUNDARIES		
	FRONT	REAR	SIDE
Residential	As per R-Codes	As per R-Codes	As per R-Codes
Commercial	*	*	*
Rural Townsite	*	*	*
General Industry	11metres or 22 metres (See Note 3)	7.5 metres	3 metres
Light & Service Industry	*	7.5 metres	3 metres
Urban Development	*	*	*
Rural	20 metres	15 metres	15 metres
Rural Residential	20 metres	15 metres	15 metres

#### NOTES:

1. Table 4 is intended as a guideline and may be varied at the discretion of the local government.

2. \* means to be determined by the local government in each particular case.
3. A 11 metre front setback shall be applied where loading and unloading facilities are provided at the rear of buildings. A 22 metre front setback shall be applied where loading and unloading facilities are provided at the front of buildings.

(2) Car parking requirements

- (a) The minimum number and dimensions of car parking spaces to be provided on a residential lot shall be in accordance with the provisions of the R-Codes.
- (b) Car parking bay dimensions for other uses shall be in accordance with Australian Standard AS2890.1.
- (c) A person shall not develop or use any land or erect, use or adopt any building in the Commercial, Rural Townsite, General Industry, Light Industry, Urban Development or Rural Residential zones unless car parking spaces specified by the local government are provided and such spaces are constructed and maintained in accordance with the Scheme.
- (d) The car parking spaces required under the provisions of the Scheme shall measure not less than the dimensions specified by the local government's current policy for the type of car parking layout adopted.
- (e) All car parking spaces and all necessary access ways shall, unless the local government agrees otherwise and except as hereinafter provided, be paved.
- (f) Where the maximum dimension of any open car parking area exceeds twenty metres in length or width, one car parking space in ten shall be used for garden and tree planting to provide visual relief and so long as the garden and tree planting areas shall be maintained in good order, those car parking spaces shall be included in calculations as car parking and not as landscaping.
- (g) Where the owner can demonstrate to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in subclauses (a) and (b), landscaping may be provided in lieu of car parking spaces not constructed and the said landscaping shall be included in the calculations as car parking but not as landscaping provided that the local government may from time to time require that the additional parking spaces be provided.
- (h) In a commercial zone where a developer can satisfy the local government that the maximum car parking requirement cannot be provided on the site the local government may accept a cash payment in lieu of the provision of car parking spaces but subject to the requirements of this clause:
  - (i) A cash-in-lieu payment shall be not less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme, plus the value, as estimated by the Chief Valuer of the Department of State Taxation, of the area of his land which would have been occupied by the parking spaces.
  - (ii) Before the local government agrees to accept a cash payment in lieu of the provision of car parking spaces, the local government must either have already provided a public car park nearby, or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen (18) months from the time of

agreeing to accept the cash payment.

(iii) Payments made under this clause shall be paid into a special fund to be used to provide public car parks.

(i) When considering an application to commence development the local government shall have regard to and may impose conditions in respect of the location and design of the required car parking spaces, natural planting and pedestrian spaces on the lot. In particular, the local government shall take into account and may impose conditions concerning -

(i) the proportion of car parking spaces to be roofed or covered;

(ii) the proportion of car parking spaces to be below natural ground level;

(iii) the means of access to each car parking space and the adequacy of any vehicular manoeuvring area;

(iv) the location of the car parking spaces on the site and their effect on the amenity of adjoining development, including the potential effect if those spaces should later be roofed or covered;

(v) the extent to which car parking spaces are located within required building setback areas;

(vi) the locations of proposed public footpaths, vehicular crossings, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety; and

(vii) the suitability and adequacy of elevated structural decks for development and service as a proportion of the required area for natural planting and pedestrian space.

### (3) Landscaping

(a) The landscaping requirement shown in the Scheme means an open area designed, developed and maintained as garden planting and areas for pedestrian use and, at the discretion of the local government, may include natural bushland, swimming pools and areas under covered ways, garbage collection and handling spaces, and other open storage areas shall not be included.

(b) Access driveways between a street alignment and buildings may be included in the landscaping requirement but otherwise car parking areas and driveways shall not be included.

(c) The local government may in a landscaped area restrict the use of concrete, gravel, pebble and similar hard materials and require the planting of lawns, trees or shrubs in lieu thereof.

(d) No person shall, unless the local government otherwise approves, occupy any buildings forming part of an approved development until the required landscaping has been constructed and planted.

### (4) Disability services

(a) The local government may require the provision of facilities for the disabled when considering applications for development approval.

(5) Townscape character

- (a) Each of the townsites of Kondinin and Hyden has identifiable characters. In order to enhance existing character and complement current patterns of land use and development the local government will have regard for the scale, colours, materials and design of new buildings and extensions and proposals contained in any relevant townscape plans when considering applications for development approval in town centre areas.

(6) Bed and breakfast accommodation

- (a) Bed and breakfast accommodation shall be permitted to be operated from single houses but only where the development in the opinion of the local government:
  - (i) does not adversely affect the amenity of the area;
  - (ii) provides a tourist facility;
  - (iii) is in a location approved by the local government;
  - (iv) has been advertised for public comment in conformity with the advertising requirements specified in clause 64 of the deemed provisions and no significant objections have been received during the advertising period; &
  - (v) the proposal complies with all other Scheme requirements and any relevant local government policy.

(7) Tourist facilities

- (a) The local government may permit tourist facilities in selected locations but only where the development, in the opinion of the local government:
  - (i) does not adversely affect the amenity of the area;
  - (ii) provides a tourist facility;
  - (iii) has no significant environmental impact;
  - (iv) complies with all other Scheme requirements and any relevant local government policy; and
  - (v) has been advertised for public comment in conformity with the advertising requirements specified in clause 64 of the deemed provisions and no significant objections have been received during the advertising period.

(8) Townsite Expansion Plans

- (a) The local government has prepared and adopted Townsite Expansion Plans for the Kondinin and Hyden townsites as local planning policies under Part 2 of the deemed provisions. These plans have been prepared to provide general guidance for the future subdivision, land use and development in areas identified as being suited to future townsite expansion. In considering applications for development approval or town planning scheme amendments in these areas the local government shall make reference to the Townsite Expansion Plans in determining such applications.

- (9) Declared rare flora
- (a) Prior to the subdivision or development of any lot where there is remnant native vegetation, the local government may seek advice from the Department of Parks and Wildlife as to whether any declared rare flora will be affected by the proposal, and shall take appropriate action if the lot contains such flora.
- (10) Residential Zone
- (a) Development in the Residential Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.
  - (b) No horse or other hoofed animal shall be kept on any lot in the Residential Zone.
- (11) Commercial Zone
- (a) Development in the Commercial Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.
  - (b) Development in the Commercial Zone shall not exceed two (2) storeys in height except where the local government considers that particular circumstances may warrant an exception being made and provided such development will not affect local amenity and will enhance the character of the immediate area.
  - (c) In considering applications for development approval in the Commercial Zone (including additions and alterations to existing development) the local government shall have regard to the following:
    - (i) the colour and texture of external building materials;
    - (ii) building size, height, bulk, roof pitch;
    - (iii) setback and location of the building on its lot;
    - (iv) architectural style and design details of the building;
    - (v) function of the building;
    - (vi) relationship to surrounding development; and
    - (vii) other characteristics the local government considers relevant.
  - (d) The local government may require the building facade and side walls of any new development in the Commercial zone to be constructed in masonry with side walls having a minimum building depth in masonry of three (3) metres.
  - (e) All landscaping to be provided in the Commercial zone shall complement the appearance of the proposed development and the immediate locality.
  - (f) The layout of any proposed new car parking area in the Commercial zone shall have regard to traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining car park.
- (12) Rural Townsite Zone
- (a) Development in the Rural Townsite Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.

- (b) The local government shall have regard to any Townsite Expansion Plan adopted for the townsites covered by this zone and shall have regard to the appropriateness of any development proposal in terms of its location and compatibility with existing land uses.

(13) General Industry Zone

- (a) Development in the General Industry zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 3.
- (b) The first five (5) metres of the front setback on any lot in the General Industry Zone shall be landscaped to the satisfaction of the local government. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government.
- (c) All development in the General Industry Zone shall be subject to the following requirements:
  - (i) Adequate screening of work, service and storage areas;
  - (ii) All loading and unloading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site;
  - (iii) Minimum fencing standard shall be 1.8m security fence unless otherwise approved by the local government; and
  - (iv) New buildings proposed adjacent to the Residential Zone shall be compatible in scale, materials and appearance with any existing residential development.

(14) Light Industry Zone

- (a) Development in the Light Industry Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.
- (b) The first five (5) metres of the front setback on any lot in the Light Industry Zone shall be landscaped to the satisfaction of the local government. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government.
- (c) All development in the Light Industry Zone shall be subject to the following requirements:
  - (i) Adequate screening of work, service and storage areas;
  - (ii) All loading and unloading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site;
  - (iii) Minimum fencing standard shall be 1.8m security fence unless otherwise approved by the local government; and
  - (iv) New buildings proposed adjacent to land classified Commercial or Residential Zone shall be compatible in scale, materials and appearance with any existing commercial or residential development.

(15) Urban Development Zone

- (a) Development in the Urban Development Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.
- (b) Development proposals including subdivision for land zoned Urban Development will not be considered by the local government until such time as a Structure Plan for all land within the zone has been prepared in accordance with the requirements of Part 4 of the deemed provisions.
- (c) All development in the Urban Development zone shall be in accordance with a Structure Plan prepared and adopted in accordance with the provisions of Part 4 of the deemed provisions.

(16) Rural Zone

- (a) Development in the Rural Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.
- (b) Except for:
  - (i) the establishment of a firebreak required to comply with a regulation or by-law; or
  - (ii) the provision of access to a building site; or
  - (iii) the area of building; or
  - (iv) cash crops;

not more than 2,000m<sup>2</sup> on any lot shall be cleared of indigenous trees or substantial vegetation. If the local government is satisfied upon receipt of a submission the clearing of an area greater than 2,000m<sup>2</sup> will not adversely affect the amenity, character and landscape qualities of the locality it may approve such land to be cleared subject to conditions as may be required by the local government.

- (c) Having regard to the prime agricultural importance of land in the Rural zone the local government will only support further subdivision of existing lots where:
  - (i) the lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a farming property as a single unit (unless adjoining land could be similarly subdivided and thereby, by the process of precedent, lead to an undesirable pattern of land use in the area or in lots too small for uses compatible with the prevailing use in the area or in ribbon development alongside roads);
  - (ii) the lots are for farm adjustment and the erection of dwellings is restricted;
  - (iii) the lots are for specific uses such as recreation facilities and public utilities; or
  - (iv) the lots are required for the establishment of uses ancillary to the rural use of the land or are required for the travelling public and tourists (such as service stations and motels).



(17) Rural Residential Zone

- (a) Development in the Rural Residential Zone shall comply with the requirements of Table 4 and the objectives for that zone as outlined in Part 3.
- (b) Before making provision for a Rural Residential Zone, the local government will require the owner(s) of the land to prepare a submission supporting the creation of the Rural Residential Zone and such submission shall include:
  - (i) a statement as to the purpose or intent for which the zone is being created and the reasons for selecting the particular area the subject of the proposed zone;
  - (ii) a plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, creeks, wells and significant improvements;
  - (iii) information regarding the method whereby it is proposed to provide a potable water supply to each lot; and
  - (iv) in the absence of a Rural Strategy, it will be the responsibility of each applicant for rezoning to Rural Residential to prepare a land capability and suitability assessment to the satisfaction of the local government and in accordance with the Commission's relevant policies and guidelines.
- (c) Prior to the subdivision of land in the Rural Residential Zone the local government shall require a Structure Plan to be prepared.
- (d) In addition to the Structure Plan, the Scheme provisions for a specific Rural Residential Zone shall specify:
  - (i) any facilities which the purchasers of the lots will be required to provide (e.g. their own potable water supply, liquid or solid waste disposal, etc.);
  - (ii) proposals for the control of land uses and development which will ensure that the purpose or intent of the zone and the rural environment and amenities are not impaired; and
  - (iii) any special provisions appropriate to secure the objectives of the zone.
- (e) The Scheme provisions for specific areas classified Rural Residential Zone shall be as laid down in Schedule 2 of the Scheme and future subdivision of land in these areas shall generally be in accordance with the Structure Plan approved for these locations.
- (f) All development in the Rural Residential Zone shall comply with the following specific requirements:
  - (i) not more than one (1) dwelling per lot shall be permitted but the local government may, at its discretion, permit an ancillary accommodation;
  - (ii) in order to conserve the rural environment and/or features of natural beauty all trees shall be retained unless their removal is authorized by the local government;

- (iii) in order to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require, as a condition of any development approval, the planting of such trees and/or groups of trees and species as specified by the local government;
- (iv) any person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government; and
- (v) with the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of a Rural Residential Zone, the local government may take any action which in the opinion of the local government is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the local government in taking such action shall be recoverable by the local government from the landowner.

(18) Requirement for consultation to commence mining

- (a) In considering proposals to commercially extract minerals, Council may exercise its discretion to inform the Minister for Mines and Petroleum and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of the Scheme.

(19) Development of lots not abutting a constructed public road

- (a) In considering an application for the development of land abutting an unconstructed road or a lot which does not have frontage to a constructed road the local government shall either:
  - (i) Refuse the application until the road has been constructed or access by means of a constructed road is provided as the case may be;
  - (ii) Grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof and any other conditions it thinks fit to impose; or
  - (iii) Grant the application subject to the following conditions, or any other conditions the local government see fit to impose -
    - Arrangements are to be made for permanent access, to the satisfaction of the local government.
    - The location of any legal access shall be to the satisfaction of the local government.
    - Access must be constructed and maintained to the satisfaction of the local government.
    - A notification is to be placed on the title of the land alerting landowners that the lot does not have access to a constructed public road and alternative access arrangements must be maintained, both physically and legally.

(20) To the extent that a requirement referred to in subclauses (1)-(19) is inconsistent with a requirement in the R-Codes, an activity centre plan, a local development

plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

### **32. Variations to site and development requirements**

- (1) In this clause ***additional site and development requirements*** means requirements set out in clause 31.
- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirement.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or adjoining the site of the development the local government must -
  - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications uses under the deemed provisions; and
  - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that -
  - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and
  - (b) the non-compliance with the additional site and development standard will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

### **33. Restrictive covenants**

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant -
  - (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
  - (b) the local government must not grant development approval for the construction of the residential dwellings unless it gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

## **Part 5 - Special control areas**

### **34. Special control areas**

There are no special control areas which apply to this Scheme.

## Part 6 - Terms referred to in Scheme

### Division 1 - General definitions used in Scheme

#### 35. Terms used

(1) If a word used in this Scheme is listed in this clause the meaning of the word is as set out below -

<b>building envelope</b>	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.
<b>building height</b>	in relation to a building - (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or (b) if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes.
<b>commencement day</b>	means the day this Scheme comes into effect under section 87(4) of the Act.
<b>commercial vehicle</b>	means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including - (a) a utility, van, truck, tractor, bus or earthmoving equipment; and (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).
<b>floor area</b>	has meaning given in the Building Code.
<b>frontage</b>	in relation to a building - (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or (b) if the building is used for purposes other than residential purposes, means the 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.
<b>incidental use</b>	means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use.
<b>minerals</b>	has the meaning given in the <i>Mining Act 1978</i> section 8(1).
<b>net lettable area or nla</b>	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.

<b>non-conforming use</b>	has the meaning given in the <i>Planning and Development Act 2005</i> section 172.
<b>plot ratio</b>	means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located.
<b>precinct</b>	means a definable area where particular planning policies, guidelines or standards apply.
<b>predominant use</b>	means the primary use of premises to which all other uses carried out on the premises are incidental.
<b>retail</b>	means the sale or hire of goods or services to the public.
<b>short-term accommodation</b>	means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.
<b>wall height</b>	in relation to a wall of a building- (a) if the building is used for residential purposes, has the meaning given in the R-Codes, or (b) if the building is used for purposes other than residential purposes, means the vertical distance from natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet.
<b>wholesale</b>	means the sale of goods or materials to be sold by others.

## Division 2 - Land use terms used in Scheme

### 36. Land use terms used

If this Scheme refers to a category of land use that is listed in this provision the meaning of that land use is as set out below -

<b>abattoir</b>	means premises used commercially for the slaughtering of animals for the purposes of consumption as food products.
<b>Aged or Dependent Persons Dwelling</b>	has the same meaning given to the term in the R-Codes.
<b>agriculture - extensive</b>	means premises used for the raising of stock or crops but does not include agriculture - intensive or animal husbandry - intensive.
<b>agriculture - intensive</b>	means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following - (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts; (b) the establishment and operation of plant or fruit nurseries; (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms); (d) aquaculture.
<b>amusement parlour</b>	means premises - (a) that are open to the public; and (b) that are used predominantly for amusement by means of amusement machines including computers; and (c) where there are 2 or more amusement machines.
<b>animal establishment</b>	means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry - intensive or veterinary centre.
<b>animal husbandry - intensive</b>	means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens.
<b>ancillary dwelling</b>	has the same meaning given to the term in the R-Codes.
<b>art gallery</b>	means premises that are open to the public and where artworks are displayed for viewing or sale.
<b>bed and breakfast</b>	means a dwelling - (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms and one guest bathroom.

<b>betting agency</b>	means an office or totalisator agency established under the <i>Racing and Wagering Western Australia Act 2003</i> .
	<b>brewery</b> means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> ;
<b>bulky goods showroom</b>	means premises - (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes - (i) automotive parts and accessories; (ii) camping, outdoor and recreation goods; (iii) electric light fittings; (iv) animal supplies including equestrian and pet goods; (v) floor and window coverings; (vi) furniture, beddings, furnishings, fabrics, manchester and home wares; (vii) party supplies; (viii) office equipment and supplies (ix) baby's and children's goods, including play equipment and accessories; (x) sporting, cycling, leisure, fitness goods and accessories; or (b) used to sell by retail goods and accessories by retail if- (i) a large area is required for the handling, display or storage of the goods; or (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.
<b>cabin</b>	means a dwelling forming part of a tourist development or caravan park that is - (a) an individual unit other than a chalet; and (b) designed to short-term accommodate for guests.
<b>caravan park</b>	means premises that are a caravan park as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5 (1).
<b>caretaker's dwelling</b>	means a dwelling on the same site as a building, operation or plant, and occupied by a supervisor of that building, operation or plant.
<b>car park</b>	means premises used primarily for parking vehicles whether open to the public or not but does not include - (a) any part of a public road used for parking or for a taxi rank; or (b) any premises in which cars are displayed for sale.
<b>chalet</b>	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.



<b>child care premises</b>	means premises where- (a) an education and care service as defined in the <i>Education and Care Services National Law (Western Australia) section 5 (1)</i> , other than a family day care service as defined in that section, is provided; or (b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided.
<b>cinema/theatre</b>	means premises where the public may view a motion picture or theatrical production.
<b>civic use</b>	means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
<b>club premises</b>	means premises used by a legally constituted club or association or other body of persons united by a common interest.
<b>community purpose</b>	means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.
<b>consulting rooms</b>	means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
<b>convenience store</b>	means premises - (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and (b) operated during hours which include, but may extend beyond, normal trading hours; and (c) the floor area of which does not exceed 300 m <sup>2</sup> net lettable area.
<b>corrective institution</b>	means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility.
<b>educational establishment</b>	means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution.
<b>exhibition centre</b>	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
<b>family day care</b>	means premises where a family day care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> is provided.

<b>fast food outlet/ lunch bar</b>	means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten - (a) without further preparation; and (b) primarily off the premises.
<b>freeway service centre</b>	means premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services — (a) service station facilities; (b) emergency breakdown repair for vehicles; (c) charging points for electric vehicles; (d) facilities for cyclists; (e) restaurant, cafe or fast food services; (f) take-away food retailing; (g) public ablution facilities, including provision for disabled access and infant changing rooms; (h) parking for passenger and freight vehicles; (i) outdoor rest stop facilities such as picnic tables and shade areas;
<b>fuel depot</b>	means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used - (a) as a service station; or (b) for the sale of fuel by retail into a vehicle for use by the vehicle.
<b>funeral parlour</b>	means premises used - (a) to prepare and store bodies for burial or cremation; (b) to conduct funeral services.
<b>garden centre</b>	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.
<b>guest house</b>	means a dwelling or part of a dwelling occupied by a person but containing rooms used to provide short-term accommodation for guests for hire or reward.
<b>holiday accommodation</b>	means 2 or more dwellings on one lot used to provide accommodation for holiday or temporary purposes for persons other than the owner of the lot.
<b>holiday house</b>	means a single dwelling on one lot used to provide short-term accommodation for not more than 6 persons but does not include a bed and breakfast or a guest house.

**home business**

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

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

**home occupation**

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

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

**home office**

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

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

**home store**

means a shop attached to a dwelling that -

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

<b>hospital</b>	means premises used as a hospital as defined in the <i>Hospitals and Health Services Act 1927</i> section 2(1).
<b>hotel</b>	means premises the subject of a hotel licence other than a small bar or tavern licence granted under the <i>Liquor Control Act 1988</i> including any betting agency on the premises.
<b>industry</b>	means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes - <ul style="list-style-type: none"> <li>(a) the storage of goods;</li> <li>(b) the work of administration or accounting;</li> <li>(c) the selling of goods by wholesale or retail;</li> <li>(d) the provision of amenities for employees;</li> <li>(e) incidental purposes.</li> </ul>
<b>industry - cottage</b>	means premises, other than premises used for a home occupation, that are used by the occupier of the premises for the purpose of carrying out a trade or light industry producing arts and crafts goods if the carrying out of the trade or light industry - <ul style="list-style-type: none"> <li>(a) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(b) if the premises is located in a residential zone - does not employ any person other than a member of the occupier's household; and</li> <li>(c) is compatible with the principal uses to which land in the zone in which the premises is located may be put; and</li> <li>(d) does not occupy an area greater than 50 m<sup>2</sup>; and</li> <li>(e) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>.</li> </ul>
<b>industry - extractive</b>	means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include the following purposes - <ul style="list-style-type: none"> <li>(a) the process of raw materials including crushing, screening, washing, blending or grading;</li> <li>(b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.</li> </ul>
<b>industry - light</b>	means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.
<b>Industry - primary production</b>	means land used: <ul style="list-style-type: none"> <li>(a) to carry out a primary production business as that term is defined in the <i>Income Tax Assessment Act 1997</i> (Commonwealth) section 995-1; or</li> <li>(b) for a workshop servicing plant or equipment used in primary production businesses.</li> </ul>
<b>liquor store - large</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of more than 300 m <sup>2</sup> .

<b>liquor store - small</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300 m <sup>2</sup> .
<b>market</b>	means premises used for the display and sale of goods from stalls by independent vendors.
<b>medical centre</b>	means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
<b>mining operations</b>	means premises where mining operations, as that term is defined in the <i>Mining Act 1978</i> section 8 (1) is carried out.
<b>motel</b>	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> - (a) used to accommodate guests in a manner similar to a hotel; and (b) with specific provision for the accommodation of guests with motor vehicles.
<b>motor vehicle, boat or caravan sales</b>	means premises used to sell or hire motor vehicles, boats or caravans.
<b>motor vehicle repair</b>	means premises used for or in connection with - (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or (b) repairs to tyres other than recapping or retreading of tyres.
<b>motor vehicle wash</b>	means premises primarily used to wash motor vehicles.
<b>nightclub</b>	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .
<b>office</b>	means premises used for administration, clerical, technical, professional or similar business activities.
<b>park home park</b>	means premises used as a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> Schedule 8.
<b>place of worship</b>	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
<b>reception centre</b>	means premises used for hosted functions on formal or ceremonial occasions.
<b>recreation - private</b>	means premises that are - (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
<b>residential building</b>	means a building or part of a building used to provide - (a) short-term accommodation for 2 or more persons; or (b) long-term accommodation for 7 or more persons who are not part of the same family.
<b>resource recovery centre</b>	means premises other than a waste disposal facility used for the recovery of resources from waste.
<b>restaurant/cafe</b>	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 <i>Liquor Control Act 1988</i> .

<b>restricted premises</b>	<p>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 -</p> <ul style="list-style-type: none"> <li>(a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); and</li> <li>(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.</li> </ul>
<b>road house</b>	<p>means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services -</p> <ul style="list-style-type: none"> <li>(a) a full range of automotive repair services;</li> <li>(b) wrecking, panel beating and spray painting services;</li> <li>(c) transport depot facilities;</li> <li>(d) short-term accommodation for guests;</li> <li>(e) facilities for being a muster point in response to accidents, natural disasters and other emergencies.</li> </ul>
<b>rural home business</b>	<p>means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation -</p> <ul style="list-style-type: none"> <li>(a) does not involve employing more than 2 people who are not members of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 200 m<sup>2</sup>; and</li> <li>(d) does not involve the retail sale, display or hire of any goods; and</li> <li>(e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and</li> <li>(f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle more than 30 tonnes gross weight.</li> </ul>
<b>rural pursuit/hobby farm</b>	<p>means any premises, other than premises used for agriculture - extensive or agriculture - intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household -</p> <ul style="list-style-type: none"> <li>(a) the rearing, agistment, stabling or training of animals; or</li> <li>(b) the keeping of bees; or</li> <li>(c) the sale of produce grown solely on the premises.</li> </ul>
<b>serviced apartment</b>	<p>means a group of units or apartments providing -</p> <ul style="list-style-type: none"> <li>(a) self-contained short stay accommodation for guests; and</li> <li>(b) any associated reception or recreational facilities.</li> </ul>
<b>service station</b>	<p>means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for -</p> <ul style="list-style-type: none"> <li>(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or</li> <li>(b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.</li> </ul>

<b>shop</b>	means premises other than a bulky goods showroom, a liquor store large or a liquor store small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
<b>small bar</b>	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> .
<b>tavern</b>	means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> .
<b>telecommunications infrastructure</b>	means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.
<b>tourist development</b>	means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park of holiday accommodation, used to provide - <ul style="list-style-type: none"> <li>(a) short-term accommodation for guests; and</li> <li>(b) onsite facilities for the use of guests; and</li> <li>(c) facilities for the management of the development.</li> </ul>
<b>trade display</b>	means premises used for the display of trade goods and equipment for the purpose of advertisement.
<b>trade supplies</b>	means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for any of the following purposes including goods which may be assembled or manufacture off the premises - <ul style="list-style-type: none"> <li>(a) automotive repairs and servicing;</li> <li>(b) building including repair and maintenance;</li> <li>(c) industry;</li> <li>(d) landscape gardening;</li> <li>(e) provision of medical services;</li> <li>(f) primary production;</li> <li>(g) use by government departments or agencies, including local government.</li> </ul>
<b>transport depot</b>	means premises used primarily for the parking or garaging of 3 or more commercial vehicles including - <ul style="list-style-type: none"> <li>(a) any ancillary maintenance or refuelling of those vehicles; and</li> <li>(b) any ancillary storage of goods brought to the premises by those vehicles; and</li> <li>(c) the transfer of goods or persons from one vehicle to another.</li> </ul>
<b>tree farm</b>	means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the <i>Carbon Rights Act 2003</i> section 5.
<b>veterinary centre</b>	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
<b>warehouse/storage</b>	means premises including indoor or outdoor facilities used for - <ul style="list-style-type: none"> <li>(a) the storage of goods, equipment, plant or materials; or</li> <li>(b) the display or the sale by wholesale of goods.</li> </ul>

<b>waste disposal facility</b>	means premises used - (a) for the disposal of waste by landfill; or (b) the incineration of hazardous, clinical or biomedical waste.
<b>waste storage facility</b>	means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.
<b>wind farm</b>	means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use.
<b>winery</b>	means premises used for the production of viticultural produce and associated sale of the produce.
<b>workforce accommodation</b>	means premises, which may include modular or relocatable buildings, used - (a) primarily for the temporary accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.



## Schedule 1 - Signage and advertisements for which development approval not required

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	1 professional name plate as appropriate	0.2sqm
Home Occupation	1 advertisement describing the nature of the home occupation	0.2sqm
Places of Worship, Meeting Halls and Place of Public Assembly	1 advertisement detailing the function and/or the activities of the institution concerned.	0.2sqm
Cinemas, Theatres and Drive-in Theatres	2 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 5sqm
Shops, Showrooms and other uses appropriate to a Shopping Area	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 a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
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. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements shall not exceed 15sqm Maximum permissible total area shall not exceed 10sqm & individual advertisement signs shall not exceed 6sqm.
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	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 a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Public Place and Reserves	(a) Advertisement signs (illuminated or non-illuminated) relating to the functions of government, a public authority or council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body; and (b) Advertisement signs (illuminated or 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 council of a municipality; and (c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or 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.	N/A
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 2sqm in area
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a	N/A

	person outside of those buildings.	
All classes of buildings other than single family dwellings	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.	0.2sqm
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows):		
(i) Dwellings	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2sqm
(ii) Multiple Dwellings, Shops, Commercial & Industrial projects	One sign as for (i) above.	5sqm
(iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One sign as for (i) above.	10sqm
	One additional sign showing the name of the project builder.	5sqm
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.	2sqm
Property Transactions Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows:		
(a) Dwelling	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property.	Each sign shall not exceed an area of 2sqm
(b) Multiple dwellings, shops, Commercial & Industrial Properties	One sign as for (a) above.	Each sign shall not exceed an area of 2sqm
(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5 ha	One sign as for (a) above.	Each sign shall not exceed an area of 10sqm
Display Homes Advertisement signs displayed or the period over which homes are on display for public inspection.	(i) One sign for each dwelling on display. (ii) In addition to (i) 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.	2sqm 5sqm

## Schedule 2- Special requirements for Rural Residential Zones

NO	DESCRIPTION OF LAND USE	SPECIAL REQUIREMENTS
1	Lot 2 Lovering Road, Hyden	<p><u>1. Objective</u></p> <p>The objective is to create low density rural living type lots capable of supporting small scale agricultural uses and activities or other compatible land uses with an emphasis on minimising any detrimental impacts on all existing natural vegetation and providing for the revegetation and rehabilitation of degraded areas including those affected by salinity.</p> <p><u>2. Subdivision</u></p> <p>Having regard to the proximity of the land to the adjacent air strip, surrounding agricultural practices and the land capability considerations, the land may be subdivided into no more than three lots of no less than 30ha in area, and to be generally as shown on the Subdivision Guide Plan approved by the Council and endorsed by the WA Planning Commission.</p> <p><u>3. Notification</u></p> <p>At the subdivision stage the Shire will recommend to the WA Planning Commission that a notification be placed on the Certificate of Title of each new lot advising that the lot is located in close proximity to the Hyden airstrip and may be subject to noise and other possible impacts associated with the continued operation of the airstrip.</p> <p><u>4. Permissible Land Uses</u></p> <p>Council may consider a number of land uses in the 'Rural Residential' Zone in accordance with the Zoning Table. In considering any development application Council will have regard to the following matters:</p> <ul style="list-style-type: none"> <li>(i) The compatibility of the proposed land use/s with the existing airstrip;</li> <li>(ii) The proposed location and relationship of the development with existing established land uses;</li> <li>(iii) The need for additional rehabilitation, revegetation and/or landscaping buffers;</li> <li>(iv) The matters to be considered by the local government under Part 9 of the deemed provisions;</li> <li>(v) The objectives for all land classified 'Rural Residential' Zone in the Scheme.</li> </ul> <p><u>5. Landscaping and Revegetation</u></p> <ul style="list-style-type: none"> <li>(a) Within each lot no indigenous trees or vegetation may be felled, damaged or removed except where the trees or vegetation are dead, diseased or dangerous.</li> <li>(b) Revegetation of the 'Revegetation Areas' identified on the Subdivision Guide Plan is to be undertaken at the subdivision development stage using local endemic species and maintained to the satisfaction of the Shire.</li> <li>(c) The 'Revegetation Areas' identified on the Subdivision Guide Plan are to be fenced from stock at the subdivision development stage to the satisfaction of the Shire.</li> </ul>

		<p>(d) The development of any buildings or structures within the areas identified as 'Revegetation Areas' on the Subdivision Guide Plan is not permitted.</p> <p>(e) The local government may require as a condition of development approval additional planting and maintenance of endemic native trees and shrubs or salt resistant species.</p>
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### Schedule 3 - Land within Special Use Zone 2 (SU2)



## **Schedule A - 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 1 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.

**Clause 61(1)(l)** - the erection or extension of a single house on a lot if a single house is a permitted ("P") use in a zone where the R Codes do not apply, in which that lot is located and 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) abutting an unconstructed road or a lot which does not have frontage to a constructed road.

**Clause 61(1)(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") use in a zone where the R Codes do not apply and 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) abutting an unconstructed road or a lot which does not have frontage to a constructed road.

**Clause 61(1)(n)** - the demolition of any building or structure except where the building or structure 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 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.