

SHIRE OF YORK

LOCAL PLANNING SCHEME NO. 3

AS GAZETTED ON 13th JANUARY 2021



Department of Planning,
Lands and Heritage

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SHIRE OF YORK LOCAL PLANNING SCHEME NO. 3 - AMENDMENTS

AMD NO.	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
New Scheme	13/01/2021	13/01/2021	MLD	-

SCHEME DETAILS

SHIRE OF YORK **LOCAL PLANNING SCHEME NO. 3**

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

TABLE OF CONTENTS

PART 1 — PRELIMINARY	1
1. Citation	1
2. Commencement	1
3. Scheme revoked	1
4. Notes do not form part of Scheme	1
5. Responsibility for Scheme	1
6. Scheme area	1
7. Contents of Scheme	1
8. Purposes of Scheme	1
9. Aims of Scheme	2
10. Relationship with local laws	2
11. Relationship with other local planning schemes	2
12. Relationship with region planning scheme	2
PART 2 — RESERVES	3
13. Regional Reserves	3
14. Local reserves	3
Table 1 — Reserve objectives	3
15. Additional uses for local reserves	4
PART 3 — ZONES AND USE OF LAND	5
16. Zones	5
Table 2 — Zone objectives	5
17. Zoning table	9
Table 3 – Zoning and Land Use	9
18. Interpreting zoning table	12
19. Additional uses	13

20. Restricted uses	13
21. Special use zones	14
22. Non-conforming uses	14
23. Changes to non-conforming use	14
24. Register of non-conforming uses	15
PART 4 — GENERAL DEVELOPMENT REQUIREMENTS	16
25. R-Codes	16
26. Modification of R-Codes	16
27. State Planning Policy 3.6 to be read as part of Scheme	16
28. Modification of State Planning Policy 3.6	17
29. Other State planning policies to be read as part of Scheme	17
Table 4 – State planning policies to be read as part of Scheme	17
30. Modification of State planning policies	17
31. Environmental conditions	17
32. General Development Standards and Requirements	17
33. Site Specific Development Standards and Requirements	17
34. Variations to site and development requirements	17
35. Restrictive covenants	18
PART 5 — SPECIAL CONTROL AREAS	19
36. Special control areas	19
PART 6 - TERMS REFERRED TO IN SCHEME	20
Division 1 — General definitions used in Scheme	20
Division 2 — Land use terms used in Scheme	22
SCHEDULE A - SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS	33
61. Development for which Development Approval Not Required	33
SCHEDULE 1 - ADDITIONAL USES	35

SCHEDULE 2 - RESTRICTED USES	36
SCHEDULE 3 - SPECIAL USE ZONES	37
SCHEDULE 4 – ADDITIONAL REQUIREMENTS THAT APPLY TO LAND IN SCHEME AREA	41
1. Development Requirements	41
2. Car Parking	41
3. Residential Zone Provisions	41
4. Urban Development Zone Provisions	42
5. Rural and Rural Townsite Zone Provisions	42
6. Rural Residential Zone Provisions	42
7. Rural Smallholdings Zone Provisions	42
8. Light Industry and General Industry Zone Provisions	43
9. Service Commercial Zone Provisions	44
10. Regional Centre Zone Provisions	44
11. Requirement for structure plan	45
12. Keeping of animals in the Rural Residential and Rural Smallholdings zones	45
13. Native vegetation protection and enhancement in the Rural Residential, Rural Smallholdings and Rural Townsite zones	46
14. Significant tree preservation in the Residential, Regional Centre, and Service Commercial Zones	46
15. Effluent and liquid waste disposal	47
16. Potable water supply	48
17. Home business or home occupation	48
18. Development of lots abutting unconstructed roads	48
19. Second-hand and Re-purposed Dwellings	49
20. Advertisements	49
21. Ceding of land for right-of-way and public foreshore	50
SCHEDULE 5 - SPECIAL CONTROL AREAS	51

SCHEDULE 6 – DEVELOPMENT STANDARDS	58
SCHEDULE 7 - CAR PARKING	60
1. Car parking standards	60
2. Design and construction of car parking	61
3. Cash-in-lieu of car parking	61
SCHEDULE 8 - RURAL RESIDENTIAL – SPECIAL PROVISIONS	63
SCHEDULE 9 - EXEMPTED ADVERTISEMENTS	68

Part 1 — Preliminary

1. Citation

This local planning scheme is the Shire of York Scheme No 3.

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

The following local planning scheme is revoked —

Shire of York Town Planning Scheme No. 2, Gazetted 17 May 1996

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 York 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 Figures 1 to 6.

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);
- (b) the Scheme Map (Figures 1-6);
- (c) the supplemental provisions to the deemed provisions contained in Schedule A of the Scheme (if any)

(2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

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 including processes for the preparation of structure plans, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are to

- (a) protect and enhance the natural and cultural values of the Shire, particularly viable agricultural land, significant environmental assets, and cultural heritage values from inappropriate use and development;
- (b) facilitate innovative, creative and diverse business and employment opportunities;
- (c) protect and enhance the amenity and health of the York community;
- (d) retain the special historic significance of the York townsite;
- (e) make provision for necessary community and service infrastructure; and
- (f) facilitate a diversity of lifestyle and housing opportunities that reflect the rural and historic character of the Shire.

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 York 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 on the Scheme Map.

(3) The objectives of each local reserve are as follows —

Table 1 — Reserve objectives

Reserve name	Objectives
Public Open Space	<ul style="list-style-type: none"> To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152. To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.
Environmental conservation	<ul style="list-style-type: none"> To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves. To facilitate passive recreation and enjoyment within environmental areas that does not detract from biodiversity and conservation values.
State Forest	<ul style="list-style-type: none"> To identify areas of State Forest.
Civic and Community	<ul style="list-style-type: none"> To provide for a range of community facilities which are compatible with surrounding development. To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.
Public Purposes	<ul style="list-style-type: none"> To provide for a range of essential physical and community infrastructure.
Cemetery	<ul style="list-style-type: none"> To set aside land required for a cemetery.

Reserve name	Objectives
Railways	<ul style="list-style-type: none">• To set aside land required for passenger rail and rail freight services.
Primary Distributor Road	<ul style="list-style-type: none">• To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.
Local Distributor Road	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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 —

Table 2 — Zone objectives

Zone name	Objectives
Residential	<ul style="list-style-type: none">• To provide for a range of housing and a choice of residential densities to meet the needs of the community.• To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.• To provide for a range of non-residential uses, in particular tourism and cultural activities, which are compatible with and complementary to residential development.• To achieve a high standard of development and residential amenity that complements the heritage character of York.
Urban Development	<ul style="list-style-type: none">• To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.• To provide for a range of residential densities to encourage a variety of residential accommodation.• To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.

Zone name	Objectives
Rural	<ul style="list-style-type: none"> • To provide for the maintenance or enhancement of specific local rural character. • To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use. • To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage. • To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone. • To provide for a range of non-rural land uses where they have demonstrated social and economic benefit to the community of York and are compatible with surrounding rural uses. • To encourage the growth of tourism businesses and experiences in York, where they demonstrate compatibility with the primary agricultural use of the land.
Rural Residential	<ul style="list-style-type: none"> • To provide for lot sizes in the range of 1 ha to 4 ha. • To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land. • To encourage the growth of tourism businesses and experiences in York which are compatible with the rural character of the locality. • To retain and enhance the rural landscape and amenity
Rural Smallholdings	<ul style="list-style-type: none"> • To provide for lot sizes in the range of 4 ha to 40 ha. • To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land. • To encourage the growth of tourism businesses and experiences in York which are compatible with the rural character of the locality. • To retain and enhance the rural landscape and amenity

Zone name	Objectives
Rural Townsite	<ul style="list-style-type: none"> • To provide for a range of land uses that would typically be found in a small country town. • To encourage the growth of tourism businesses and experiences in York which are compatible with the rural character of the locality.
Light Industry	<ul style="list-style-type: none"> • To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones. • To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.
General Industry	<ul style="list-style-type: none"> • To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses. • To accommodate industry that would not otherwise comply with the performance standards of light industry. • Seek to manage impacts such as noise, dust and odour within the zone.
Industrial Development	<ul style="list-style-type: none"> • To designate land for future industrial development. • To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.
Service Commercial	<ul style="list-style-type: none"> • To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites. • To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones. • To achieve a high standard of development and presentation including buildings, landscaping, car parking, and the conservation of existing heritage buildings.

Zone name	Objectives
Regional Centre	<ul style="list-style-type: none"> • Provide a range of services and uses to cater for both the local and regional community, including but not limited to specialty shopping, restaurants, cafes and entertainment. • Ensure that there is provision to transition between the uses in the regional centre and the surrounding low density residential areas to ensure that the impacts from the operation of the regional centre are minimised. • Provide a broad range of employment opportunities to encourage diversity and self-sufficiency within the Centre. • Encourage high quality, pedestrian friendly, street-orientated development that responds to and enhances the key elements of the Regional Centre, to develop areas for public interaction and support the provision of public transport. • Ensure the provision of residential opportunities within the Regional Centre including high density housing that supports the role of the regional centre and meets the needs to the community. • To encourage the growth of tourism and cultural businesses and experiences in York. • To preserve the unique qualities of the York town centre as a heritage place, and achieve high quality development that complements heritage character.
Special Use	<ul style="list-style-type: none"> • To facilitate special categories of land uses which do not sit comfortably within any other zone. • To enable the Council to impose specific conditions associated with the special use.

17. **Zoning table**

The zoning table for this Scheme is as follows —

Table 3 – Zoning and Land Use

	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Light Industry	General Industry	Service Commercial	Regional Centre
abattoir	X	A	X	X	X	X	X	X	X
agriculture — extensive	X	P	X	A	X	X	X	X	X
agriculture — intensive	X	P	A	A	X	X	X	X	X
amusement parlour	X	X	X	X	I	X	X	D	D
ancillary dwelling	I	I	I	I	I	X	X	X	I
ancillary tourist use	D	I	D	D	I	X	X	I	I
animal establishment	X	A	A	A	I	X	X	X	X
animal husbandry — intensive	X	A	X	X	X	X	X	X	X
art gallery	D	I	D	D	D	X	X	D	P
bed and breakfast	P	P	P	P	P	X	X	D	P
betting agency	X	X	X	X	X	X	X	X	I
brewery	X	A	X	X	A	D	D	D	A
bulky goods showroom	X	X	X	X	X	D	D	D	D
camping ground	X	A	X	X	A	X	X	X	X
caravan park	X	A	X	X	A	X	X	X	A
caretaker's dwelling	X	I	X	I	I	I	I	I	X
car park	X	X	X	X	X	X	X	D	A
child care premises	A	X	X	X	A	X	X	X	A
cinema/theatre	X	A	X	X	A	X	X	A	D
club premises	X	D	X	X	D	X	X	X	A
commercial vehicle parking	A	D	A	D	A	D	D	X	X
community purpose	A	A	A	A	A	X	X	X	A
consulting rooms	A	X	X	X	A	X	X	D	P
convenience store	X	X	X	X	A	X	X	P	X
corrective institution	X	X	X	X	X	X	X	X	X
educational establishment	A	X	X	X	D	X	X	X	D
exhibition centre	A	I	A	A	D	X	X	P	P
family day care	P	P	P	P	P	X	X	X	D
farm supply centre	X	A	X	X	A	P	P	D	X
fast food outlet	X	X	X	X	A	A	A	A	D
fuel depot	X	X	X	X	X	X	D	X	X

	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Light Industry	General Industry	Service Commercial	Regional Centre
funeral parlour	X	X	X	X	X	A	A	A	D
garden centre	A	D	A	A	D	D	D	A	X
general aviation	X	A	X	X	X	X	X	X	X
grouped dwelling	D	X	X	X	D	X	X	X	D
holiday accommodation	A	I	D	D	A	X	X	D	D
holiday house	A	I	D	D	A	X	X	X	D
home business	D	D	D	D	D	X	X	A	D
home occupation	D	D	D	D	D	X	X	A	D
home office	P	P	P	P	P	X	X	P	P
home store	A	I	A	A	A	X	X	D	D
hotel	X	X	X	X	A	X	X	A	D
industry	X	X	X	X	X	D	P	X	X
industry - cottage	A	D	D	D	D	X	X	D	D
industry — extractive	X	A	X	X	X	X	X	X	X
industry — light	X	X	X	X	A	P	P	A	X
industry — primary production	X	P	A	A	X	X	D	X	X
industry - service	X	X	X	X	A	P	D	D	X
liquor store — large	X	X	X	X	X	X	X	A	X
liquor store — small	X	X	X	X	X	X	X	D	P
lunch bar	X	X	X	X	A	A	A	A	D
market	X	A	X	X	A	X	X	D	D
medical centre	A	X	X	X	X	X	X	P	P
mining operations	X	A	X	X	X	X	X	X	X
motel	X	X	X	X	A	X	X	D	D
motor vehicle, boat or caravan sales	X	X	X	X	X	D	D	A	X
motor vehicle repair	X	X	X	X	A	D	D	X	X
motor vehicle wash	X	X	X	X	A	D	D	D	A
multiple dwelling	D	X	X	X	X	X	X	X	D
nightclub	X	X	X	X	X	X	X	X	D
office	X	X	X	X	X	I	I	P	P
park home park	X	X	X	X	X	X	X	X	X
place of worship	X	A	X	A	A	X	X	A	A
reception centre	X	A	X	A	A	X	X	A	A
recreation — private	X	A	X	X	A	A	X	A	A
repurposed dwelling	D	D	D	D	D	X	X	X	D
residential building	A	X	X	X	D	X	X	X	D
resource recovery centre	X	X	X	X	X	X	A	X	X
restaurant/cafe	X	I	A	A	D	X	X	D	P

	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Light Industry	General Industry	Service Commercial	Regional Centre
restricted premises	X	X	X	X	X	A	X	X	A
retirement village	A	X	X	X	X	X	X	X	A
road house	X	X	X	X	A	X	X	X	X
rural home business	A	D	A	D	A	X	X	X	X
rural pursuit/hobby farm	X	P	A	P	X	X	X	X	X
salvage yard	X	A	X	X	X	D	D	X	X
second-hand dwelling	D	P	D	D	D	X	X	D	D
serviced apartment	X	X	X	X	A	X	X	A	A
service station	X	X	X	X	A	D	X	D	D
shop	X	X	X	X	D	X	X	A	P
single house	P	P	P	P	P	X	X	D	D
small bar	X	X	X	X	X	X	X	X	D
tavern	X	X	X	X	A	X	X	A	D
telecommunications infrastructure	A	A	A	A	A	A	A	A	A
tourist development	X	A	X	A	A	X	X	X	A
trade display	X	X	X	X	X	D	P	X	X
trade supplies	X	X	X	X	X	D	P	X	X
transport depot	X	A	X	X	X	D	D	X	X
tree farm	X	A	X	X	X	X	X	X	X
veterinary centre	X	D	A	A	A	D	X	D	A
warehouse/storage	X	X	X	X	X	D	D	X	X
waste disposal facility	X	X	X	X	X	X	X	X	X
waste storage facility	X	X	X	X	X	A	D	X	X
winery	X	D	A	A	A	A	A	A	X
workforce accommodation	X	A	X	X	X	X	X	X	X

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 all 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 all 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 of 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. If a proposed development is identified as a 'P' use in the zoning table, but the proposed development does not comply with all of the development standards and requirements of the scheme, then it is to be treated as a 'D' use.
- (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) Schedule 1 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.

20. Restricted uses

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

Note:

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

21. Special use zones

- (1) Schedule 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.
- (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 the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3) or in a provision of the scheme that applies the R-Codes.

26. Modification of R-Codes

- (1) Within areas with split coding the local government may permit development to the higher code specified on the Scheme Map, provided that the development is consistent with the Scheme and complies with the following requirements:
 - (a) existing and proposed dwellings shall be connected to the reticulated sewerage system prior to occupation of new development;
 - (b) in the opinion of the local government, the design of the development has regard to heritage values; and
 - (c) the development is compatible with the surrounding land uses and development.

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 of 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

- (1) The State planning policies set out in the Table, modified as set out in clause 30, are to be read as part of this Scheme.

Table 4 – State planning policies to be read as part of Scheme

State planning policies to be read as part of Scheme
State Planning Policy 3.7 – Planning in Bushfire Prone Areas
State Planning Policy 2.5 – Rural Planning

- (2) The local government —
- (a) must make a copy of each State planning policy referred to in subclause (1) available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of each of those State planning policies on the website of the local government.

30. Modification of State planning policies

There are no modifications to a State planning policy that, under clause 29 is to be read as part of the Scheme.

31. Environmental conditions

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

32. General Development Standards and Requirements

- (1) Schedule 4 sets out requirements relating to development that are additional to those set out in the R-Codes, activity centre plans, local development plans or State or local planning policies.
- (2) To the extent that a requirement referred to in subclause (1) 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.

33. Site Specific Development Standards and Requirements

There are no additional requirements that apply to this Scheme.

34. Variations to site and development requirements

- (1) In this clause —

additional site and development requirements means requirements set out in clauses 32 and 33.

- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.
- (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 in an area 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 for development approval under clause 64 of 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 requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

35. 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 dwelling unless it gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

Part 5 — Special control areas

36. Special control areas

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area is set out in Schedule 5.
- (3) The provisions contained in a Special control area apply in addition to the provisions that apply to the underlying zone

Part 6 - Terms referred to in Scheme

Division 1 — General definitions used in Scheme

37. Terms used

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

building envelope means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;

building height, in relation to a building —

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

cabin 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 provide short-term accommodation for guests;

chalet means a dwelling forming part of a tourist development or caravan park that is —

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

commencement day means the day this Scheme comes into effect under section 87(4) of the Act;

commercial vehicle 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);

constructed road means a track which has been graded and stabilised within a dedicated road reserve;

flood fringe means the area of the floodplain, outside the main floodway, which is affected by flooding;

floodplain means the portion of a river valley next to the river channel that is or has been periodically covered with water during flooding;

floodway means the river channel and portion of the floodplain which forms the main flow for floodwaters once the main channel has overflowed;

floor area has meaning given in the Building Code;

frontage, in relation to a building —

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

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

large animal means a horse, cow, goat, llama, alpaca, pig, donkey, sheep, camel or similar sized animal (and exclude cats, dogs, birds and poultry);

minerals has the meaning given in the *Mining Act 1978* section 8(1);

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

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

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

plot ratio 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;

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

predominant use means the primary use of premises to which all other uses carried out on the premises are incidental;

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

significant tree means a woody plant at a height of at least four (4) metres above ground level and meets one of the following criteria:

- (a) for a single trunk species, a trunk circumference of at least 500mm at a height of one (1.0) metre above ground level; or
- (b) for a multi trunk species a trunk circumference of at least 250mm at a height of one (1.0) metre above ground level;

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

transportable structure means a non-residential building or structure which has been transported either whole or in parts to the intended location;

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

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;

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

(2) A word or expression that is not defined in this Scheme —

- (a) has the meaning it has in the *Planning and Development Act 2005*; or
- (b) if it is not defined in that Act — has the same meaning as it has in the R-Codes.

Division 2 — Land use terms used in Scheme

38. 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 follows —

abattoir means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

agriculture — extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

agriculture — intensive 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;

amusement parlour 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;

ancillary tourist use means premises used for —

- (a) recreation or entertainment
- (b) consumption of food and/or beverages

- (c) the sale of produce
- (d) the sale of arts and crafts and/or
- (e) tourist excursions
- (f) workshops and seminars

where such use is incidental to an approved use of the land.

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

animal husbandry — intensive means premises used for keeping, rearing or fattening of alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), sheep or other livestock in feedlots, sheds or rotational pens. Does not include agriculture-extensive;

art gallery means premises —

- (a) that are open to the public; and
- (b) where artworks are displayed for viewing or sale;

bed and breakfast 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;

betting agency means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;

brewery means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*;

bulky goods showroom 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, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;
 - (ix) office equipment and supplies;
 - (x) babies' and childrens' goods, including play equipment and accessories;

- (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools;
- and
- (b) used to sell 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;

camping ground has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*

caravan park means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

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

car park 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;

child care premises means premises where —

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
- (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

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

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

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

commercial vehicle parking means premises used for parking of one or 2 commercial vehicles but does not include —

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) parking of commercial vehicles incidental to the predominant use of the land;

community purpose 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;

consulting rooms 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;

convenience store 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 m² net lettable area;

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

educational establishment 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;

exhibition centre means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;

family day care means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;

farm supply centre means the use of land and buildings for the supply of vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment;

fast food outlet 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;

fuel depot 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;

funeral parlour means premises used —

- (a) to prepare and store bodies for burial or cremation;
- (b) to conduct funeral services;

garden centre means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

general aviation means any premises used for purposes related to aircraft landing, take-off and maintenance and does not include a private airstrip incidental to farming operations;

holiday accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

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 m²; 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 of 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 m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; 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 of 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 m²; and
- (b) is operated by a person residing in the dwelling;

hospital means premises that are a hospital within the meaning given in the *Health Services Act 2016* section 8(4);

hotel means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

industry means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes;

industry — cottage means a business or trade industry which produces goods which cannot be carried out under the provisions relating to a home occupation and which, in the opinion of the local government —

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;
- (b) where operated in a Residential zone, does not entail the employment any person other than a member of the occupiers household;
- (c) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located;
- (d) does not display a sign exceeding 0.2 square metres in area; and

- (e) does not offer or present for sale any goods or artefacts not wholly produced or provided on the premises;

industry — extractive means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

industry — light 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;

industry — primary production means premises used —

- (a) to carry out a primary production business as that term is defined in the *Income Tax Assessment Act 1997* (Commonwealth) section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses;

industry — service means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced;

liquor store — large means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300 m²;

liquor store — small means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300 m²;

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

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

medical centre means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

mining operations means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1) is carried out;

motel means premises, which may be licensed under the *Liquor Control Act 1988* —

- (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;

motor vehicle, boat or caravan sales means premises used to sell or hire motor vehicles, boats or caravans;

motor vehicle repair 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 re-treading of tyres;

motor vehicle wash means premises primarily used to wash motor vehicles;

nightclub means premises the subject of a nightclub licence granted under the *Liquor Control Act 1988*;

office means premises used for administration, clerical, technical, professional or similar business activities;

park home park means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997*;

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

reception centre means premises used for hosted functions on formal or ceremonial occasions;

recreation — private means premises that are —

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge;

renewable energy facility - means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or in connection with, the generation of energy by a renewable source, where energy is being produced (i.e. solar farms as opposed to solar panels)

repurposed dwelling – a building or structure not previously used as a single house, which has been repurposed for use as a dwelling;

residential building has the same meaning as the Residential Design Codes;

resource recovery centre means premises other than a waste disposal facility used for the recovery of resources from waste;

restaurant/cafe means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*;

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

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995* (Commonwealth); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or

- (c) smoking-related implements;

retirement village means any land or buildings used to accommodate retirees, together with ancillary facilities but does not include a “Park Home Park”;

road house 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 —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) short-term accommodation for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies; and
- (f) dump points for the disposal of black and /or grey water from recreational vehicles

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

- (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m²; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;

rural pursuit/hobby farm 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 —

- (a) the rearing, agistment, stabling or training of animals;
- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises;

salvage yard means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but

without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

second-hand dwelling means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular home or transportable dwelling;

serviced apartment means a group of units or apartments providing —

- (a) self-contained short stay accommodation for guests; and
- (b) any associated reception or recreational facilities;

service station means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; and/or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;

shop 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;

small bar means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;

tavern means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;

telecommunications infrastructure 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;

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

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

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

trade supplies 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 the following purposes including goods which may be assembled or manufactured off the premises —

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;

- (f) primary production;
- (g) use by government departments or agencies, including local government;

transport depot means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles; and
- (c) the transfer of goods or persons from one vehicle to another

tree farm 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 *Carbon Rights Act 2003* section 5;

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

warehouse/storage means premises including indoor or outdoor facilities used for —

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

waste disposal facility means premises used —

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

waste storage facility 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;

winery means premises used for the production of viticultural produce and associated sale of the produce;

workforce accommodation means premises, which may include modular or relocatable buildings, used —

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

Schedule A - Supplemental Provisions to the Deemed Provisions

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

61. Development for which Development Approval Not Required

- (1) The development approval of the local government is not required for the following development of land, unless located within a Special Control Area:
 - (k) The erection or extension of a single house on a lot if a single house is a permitted ("P") use in the zone (where the R Codes do not apply) in which that lot is located, and where the development standards set out in the Scheme (including the Schedules), or local planning policy for that particular zone (including boundary setbacks) or local planning policy are satisfied, unless the development is located in a place that is:
 - (i) entered in the Register of Heritage Places under the Heritage Act 2018; or
 - (ii) the subject of an order under the Heritage 2018 Part 4; 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 Act 2018 section 90.
 - (l) 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 the zone (where the R Codes do not apply) and where the development standards set out in the Scheme (including the Schedules) for that particular zone (including boundary setbacks), or local planning policy are satisfied, unless the development is located in a place that is:
 - (i) entered in the Register of Heritage Places under the Heritage Act 2018; or
 - (ii) the subject of an order under the Heritage Act 2018 Part 4; 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 Act 2018 Section 90.

- (m) The erection or installation of any of the exempted advertisements listed in Schedule 9, except in respect of a sign that is to be erected or installed in a place included on a heritage list, prepared in accordance with this Scheme or on land located within an area designated under this Scheme as a heritage area.
- (n) The construction of outbuildings, external fixtures, water tanks, dams and soaks in the Rural and Rural Smallholdings zones, ancillary to a permitted agricultural use (except Industry Primary Production) and in compliance with the development provisions of the Scheme or local planning policy, except where a dam or soak:
 - (i) removes remnant vegetation; or
 - (ii) impacts or alters the flow of an existing watercourse; or
 - (iii) directs runoff to areas other than a watercourse on site and/or impacts adjoining properties or roads; or
 - (iv) has a vertical wall height of greater than 3 metres.
- (o) The keeping of animals within the Rural Residential zone, where in accordance with the requirements of Schedule 4.
- (p) Street trading and outdoor eating facilities on public places.

Schedule 1 - Additional Uses

[cl. 19]

No.	Location	Additional Use(s)
A1	Lot 10 (No. 201) Goldfields Road, Malebelling. Lot 10 (No.45) Burges Siding Road, Quellington	The additional use subject to development approval may be a tourist farm based on restored farm buildings and incorporating camping and chalet accommodation, tavern and restaurant, and recreation facilities.
A2	Lot 31 (No. 7) Henrietta Street and 130 (No. 10) William Street, York.	The additional use subject to development approval may be a motel.
A3	Lot 42 (No. 81) Cowan Road, York.	The additional use subject to development approval may be a local shop which may also include the sale of motor vehicle fuels.
A4	Lots 24 (No. 11) and 26807 Broome Street, 25 (No. 11), 26 (No. 10), 27 (No. 10), 38 (No.10), and 58 (No. 10) Henrietta Street, York.	The additional use subject to development approval may be furniture manufacture and display, and a dwelling.
A5	Lot 342 (No. 8) of Sub-Lot D Grey Street, York.	The additional use subject to development approval may be craft rooms, printing museum, tearooms, and a printing works which is limited to the scale at the gazettal date.
A6	Lot 150 (No. 4630) Quairading-York Road, Kauring.	The additional use subject to development approval may be a shop with a maximum nett lettable area of 83 square metres which at the discretion of the local government may also include the sale of motor vehicle fuels.

Schedule 2 - Restricted Uses

[cl. 20]

No.	Location	Restricted Use(s)
R1	Lots 21(No. 63) and 22 (No. 61) Avon Terrace and Henrietta Street.	Service station
R2	Lot 629 (No. 13), Railway Street, York.	A museum established on the land may include a shop wherein goods offered for sale are related to the exhibition of cultural or historical artefacts. The uses "industry - light", "industry - service", "garden centre", and "service station" shall not be permitted.
R3	Lot 619 (6) Howick Street, York	The uses "industry - light", "industry - service", "garden centre", and "service station" shall not be permitted.

Schedule 3 - Special Use Zones

[cl. 21]

No.	Location	Special Use	Conditions
SU1	Lot 7 (No. 24) Grey Street, York.	Convention Centre Exhibition Centre Gallery Guest House Museum Restaurant	All uses other than existing uses shall be subject to an application for development approval
SU2	Lot 547 (No. 14), and Macartney Street York	Uses permissible in the "Town Centre zone". Residential uses.	<ol style="list-style-type: none"> 1. Development with frontage to Macartney Street to be developed for commercial uses or a mix of commercial/residential purposes. 2. All development within the site will comply with the local government's Heritage Design Guidelines. 3. All development requires development approval. 4. Any subdivision or development for residential purposes should: <ol style="list-style-type: none"> a. accord with the R20 code unless otherwise determined by the local government; b. incorporate notification on title indicating that residential amenity may be affected by noise and vibration from the rail line; c. incorporate noise abatement measures to the satisfaction of the the local government; and d. incorporate a buffer along the western boundary of the site.

SU3	Lot 573 Eighth Road, York	Caravan Park, Single House, Grouped Dwelling	<ol style="list-style-type: none"> 1. Applications for subdivision or development that would increase the number of residential lots or dwellings will not be supported. Any future subdivision should be to a density of R10. 2. Development approval will be required for all proposed development. 3. Use of the parent Lot 573 solely for residential purposes will not be permitted. The land should incorporate a mix of tourism (caravan park) and residential uses, with residential use only permitted in the general location of existing strata Lots 2 to 13. 4. As a condition of future subdivision or development on the site, notifications pursuant to section 70a of the Transfer of Land Act 1893 (as amended), or a similar legal instrument, are to be registered on the Certificates of Titles of all lots to advise that amenity may be affected by noise and vibration from the rail line, with all costs related to the notification to be borne by the applicant/landowner. 5. All development on the site should incorporate suitable noise abatement measures to the satisfaction of the local government. 6. Retention of drainage on-site will be a condition of development approval of any future subdivision or development on the site. 7. Protection of the existing watercourse in the north- eastern corner of the property will be a condition of development or subdivision approval on the site.
SU4	Lot 615 (No. 3) Brook Street York.	Function Centre, Exhibition Centre, Restaurant, Art Gallery, Residential, Short Term Accommodation	<ol style="list-style-type: none"> 1. All development is to be assessed at a Residential Density Coding of R10. 2. All development (including change of use) shall be subject to application for approval by the Heritage Council of

			<p>Western Australian and in accordance with an approved Conservation Plan.</p> <p>3. All development (including change of use) shall be subject to an application for local government's planning development approval in accordance with the Shire of York Local Planning Policy Heritage Places and precincts (as amended).</p>
SU5	<p>Lots 1 & 2 (No. 18) Panmure Road</p>	<p>The purpose of SU5 is to promote an integrated tourist development, which offers reception events, restaurant facilities, beauty therapy services and short term accommodation in a form and manner that is reflective of the site's underlying heritage character and residential surrounds.</p> <p>Special uses are:</p> <ul style="list-style-type: none"> • Exhibition Centre; • Guest House; • Holiday accommodation; • Reception Centre; • Restaurant; • Shop; and • All non-residential land uses permitted within the residential zone. 	<p>1. Notwithstanding anything else in the Scheme all development on the site (including change of use) shall be subject to a development application being submitted to the local government for approval to commence development. Applications for development approval shall be advertised in accordance with clause 64 of the deemed provisions.</p> <p>2. Development is to be of an appropriate scale and design so as to maintain and preserve the surrounding residential amenity and the heritage significance of the manor building.</p> <p>3. Development of the land shall be in accordance with a Local Development Plan (LDP) approved by the local government. The LDP should provide sufficient information to address the requirements of the Scheme and the following:</p> <ol style="list-style-type: none"> a. the staging of infrastructure and development; b. the spatial extent and location of development (permanent and/or temporary); c. bushfire risk, including emergency access; d. access and traffic management; e. built heritage values; f. the number and location of holiday accommodation chalets; g. wastewater disposal; h. waste management; i. physical noise attenuation measures; j. landscaping and screening.

			<ol style="list-style-type: none">4. Any application for development approval for the site shall be accompanied by a site management plan that addresses amenity impacts, including, but not limited to:<ol style="list-style-type: none">a. hours of operation;b. noise management (internal and external);c. traffic and parking management;d. landscaping and screening; ande. public health and safety.5. The total number of guests for the 'Reception Centre' and 'Restaurant' land uses combined is not to exceed 130 persons, inclusive of guests, staff and residents of the land, at any one time.6. A 'Shop' shall only be considered for approval where the uses are consistent with the special use purpose, and are ancillary to the predominant use(s) of the site.7. Development is not to dominate the landscape so as to maintain the openness of the streetscape and prominence of the Manor.8. The R-Codes are to apply. Subdivision and development is to be in accordance with the 'R2.5' density code.
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Schedule 4 – Additional Requirements That Apply to Land In Scheme Area

[cl. 32]

1. Development Requirements

- (a) Unless otherwise provided by the Scheme, all development is required to comply with the requirements of Schedule 6 – Development Standards.

2. Car Parking

- (a) Unless otherwise provided by the Scheme, all development is required to comply with the requirements of Schedule 7 – Car Parking.

3. Residential Zone Provisions

- (a) Crawford Court residential precinct

The Crawford Court residential precinct is to include land bounded by Northam-York Road, Attfield Road, Chandos Road, Herbert Road and Steere Road. In this area the following additional provisions shall apply:

- i) An overall drainage plan must be prepared for the precinct prior to subdivision.
 - ii) No additional access shall be permitted onto the Northam-York Road.
 - iii) Where a structure plan is not required by the Shire of York or Western Australian Planning Commission prior to subdivision of any lot, any subdivision proposals must demonstrate the proposal will not compromise orderly and proper planning principles for the precinct.
- (b) Exceptions to the zoning table
 - i) Notwithstanding the provisions of clause 17 and clause 18, “agriculture – intensive” and “winery” shall be deemed an “A” use on properties in the Residential Zone that are greater than 4,000m².
 - ii) Notwithstanding the provisions of clause 17 and clause 18, “rural pursuit/hobby farm” shall be deemed a “D” use on

properties in the Residential Zone that are greater than 1 hectare, or 4,000m² for the keeping of one large animal where a management plan is approved by the local government.

4. Urban Development Zone Provisions

- (a) Development and subdivision in accordance with structure plan
 - i) All development and subdivision is to be in accordance with a structure plan prepared in accordance with clause 16 of Schedule 2 - Deemed provisions.
 - ii) Notwithstanding subclause (i) the local government may approve the development of land within the Urban Development zone prior to a structure plan coming into effect in relation to that land, if the local government is satisfied that the nature or scale of such development or use will not have an adverse effect on:
 - (a) the preparation of a structure plan for the area
 - (b) the orderly and proper planning of the area
 - (c) the health, amenity, safety or convenience of the future occupants of that area

5. Rural and Rural Townsite Zone Provisions

- (a) Protection of rural character

Having regard to the scenic values of the district and the views from roads, the local government may refuse an application for development approval if, in the opinion of the local government, the development if approved will have a detrimental effect on the rural character and amenities.

6. Rural Residential Zone Provisions

- (a) Development and subdivision is to comply with the additional requirements of Schedule 8.
- (b) No fencing constructed of sheet metal, brick, stone, reinforced fibre cement or any other form of screen fencing is permitted in the rural residential zone.

7. Rural Smallholdings Zone Provisions

- (a) Building envelopes

- i) All buildings are to be located within an approved building envelope
- ii) A building envelope of not more than 4,000m² is to be nominated by the applicant and approved by the local government at the first stage of subdivision or development approval.

8. Light Industry and General Industry Zone Provisions

(a) Lots abutting the residential zone

No building or other structure shall be erected closer than a distance of 15.0 metres from any part of the Residential Zone. The setback area shall be landscaped and maintained as may be required by the local government as a condition of development approval.

(b) Landscape requirements

- i) The first 5.0 metres of the front setback on any lot shall be landscaped to the satisfaction of the local government.

(c) Building materials

- i) The whole of any wall or building facing any street shall be constructed in brick, concrete, or masonry.
- ii) Notwithstanding subclause (i), the local government may approve the use of other materials where it is satisfied that the materials will not detract from local amenity.

(d) Fencing

Each open yard on an industrial lot shall be screened from any street by a closed fence or wall not less than 1.8 metres in height.

(e) Lot 50 Great Southern Highway, York

- i) All development and subdivision is to be in accordance with a structure plan prepared in accordance with clause 16 of Schedule 2 - Deemed provisions.
- ii) Notwithstanding subclause i) the local government may approve development of this site prior to a structure plan coming into effect, to facilitate interim use of the land for transport and freight logistics.

9. Service Commercial Zone Provisions

- (a) Development abutting residential zoned land

Notwithstanding Schedule 6, for a lot in the Service Commercial Zone which abuts a lot in the Residential Zone, setbacks shall comply with the Residential Design Code applicable to the abutting lot.

- (b) Landscaping

Landscaping shall be provided in accordance with an approved landscape plan.

- (c) Building materials

The building facade and side walls to a building depth of three metres are required to be constructed in masonry.

10. Regional Centre Zone Provisions

- (a) Residential density

ii) Development of land for residential purposes only within the Regional Centre Zone shall comply with the requirements of the Residential Design Codes at a density of R60.

iii) The density of the residential component of any mixed use development shall be determined by the local government taking into account any relevant policy, and include consideration of heritage protection and design, and where it complies with the development standards set out in Schedule 6.

- (b) Building materials

The building facade and side walls to a building depth of three metres are required to be constructed in masonry.

- (c) Storage and rubbish accumulation

All storage, including the storage of accumulated rubbish, shall be confined to within a building, or a suitably enclosed area screened from its immediate surrounds and any adjacent public street or road by normal viewing by a wall not less than 1.8 metres in height constructed of brick, masonry or other approved material. All storage of accumulated rubbish shall be located in a position accessible to rubbish collection vehicles and where vehicular access and car parking will not be adversely affected.

(d) Landscaping

At the discretion of the local government, landscaping shall be provided in accordance with an approved landscape plan to complement the appearance of the proposed development and the locality.

(e) Drive-through access in the Regional Centre Zone

Any land uses associated with take away food outlets shall not have any vehicular access from Avon Terrace to drive-through service areas.

11. Requirement for structure plan

The local government may require preparation of a structure plan prepared in accordance with clause 16 of Schedule 2 - Deemed provisions prior to granting and/or recommending approval for development or subdivision in any zone where considered necessary to provide for the orderly planning of:

- (a) drainage and water management;
- (b) bushfire hazard;
- (c) access;
- (d) environmental protection;
- (e) flooding management; and
- (f) public foreshore access to the Avon River

12. Keeping of animals in the Rural Residential and Rural Smallholdings zones

- (a) Stocking rates shall not exceed those recommended in the Department of Agriculture and Food's *Stocking rate guidelines for rural small holdings, Swan Coastal Plain and Darling Scarp and surrounds, Western Australia (2000)* as amended.
- (b) The keeping of any grazing animals shall be setback a minimum 100 metres from any watercourse and this area shall be fenced to the satisfaction of the local government.
- (c) Appropriate measures are to be taken to prevent native vegetation degradation, noise, odour or dust pollution or soil erosion to the satisfaction of the local government.
- (d) 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.

- (e) Any costs incurred by the local government in taking action under (d) above shall be recoverable by the local government from the landowner.

13. Native vegetation protection and enhancement in the Rural Residential, Rural Smallholdings and Rural Townsite zones

- (a) Approval is required from the local government for the removal of vegetation unless:
 - i) it is associated with the construction of a building that is identified as development for which development approval is not required in clause 61 (1); or
 - ii) such vegetation is diseased or dangerous; or
 - iii) it is the removal of exotic species and/or declared weeds; or
 - iv) it is a firebreak required by the local government or any other requirement of an approved fire management plan, including an asset protection zone; or
 - v) it is consistent with a development approval.
- (b) The local government may refuse an application for development approval for clearing of vegetation if, in the opinion of the local government, the clearing will have a detrimental effect on the biodiversity, amenity, rural character or landscape qualities of the locality.
- (c) In order to enhance the biodiversity, rural character and amenity of the locality, the local government may require as a condition of any development approval the planting of native vegetation in areas considered deficient in tree cover.

14. Significant tree preservation in the Residential, Regional Centre, and Service Commercial Zones

The purpose of this clause is to require the retention of significant trees or planting of new trees on zoned land which is the subject of an application for development approval under the Scheme and on road reserves abutting that zoned land.

- (a) Development should as much as practical retain significant trees on lots and abutting road reserve.

- (b) The retention of significant trees may be imposed as a condition of development approval.
- (c) Where the local government approves development on a site which, at the time does not contain a significant tree or involves the removal of a significant tree from the site, the local government may, as a condition of development approval, require advanced trees approved by the local government to be planted in particular locations on the site at a maximum ratio of one advanced tree for every 500m² of the site's area.
- (d) Where the local government approves development on a site with a condition of development approval requiring the retention of a significant tree or the planting of an advanced tree, the local government may, as a condition of development approval, require adequate surrounding soil space at ground level around each tree to sustain its health and growth.
- (e) The local government may impose a condition of development approval to require the planting of an advanced tree, at the applicant's cost, on an abutting road reserve, where required to replace a tree removed by the development.

15. Effluent and liquid waste disposal

- (a) Where existing and proposed lots within the Scheme Area are not connected to a reticulated sewerage system, on-site effluent disposal systems servicing development shall be to the specifications and satisfaction of the local government. The use of "non-standard" effluent disposal systems, such as an Aerobic Treatment Unit which include nutrient attenuation to the specifications of the Department of Health, may be required. Irrespective, the following requirements shall be satisfied:
 - i) a 2 metre separation is to be achieved between the base of the leach drain and the highest recorded groundwater level and;
 - ii) a minimum 100 metre horizontal separation is to be achieved between the disposal system and existing water bodies; and
 - iii) the area around each effluent disposal system shall be planted with indigenous trees and shrubs by the landowner and be maintained to the satisfaction of the local government.
- (b) Notwithstanding any other provision of the Scheme, the local government may refuse to issue development approval for any development if, in the opinion of the local government, adequate provision has not been made or cannot reasonably be made for

the disposal of effluent and/or other liquid wastes from that development.

16. Potable water supply

- (a) All buildings intended for residential and accommodation use shall be connected to a reticulated water supply provided by a licensed water provider.
- (b) Where a reticulated supply is not available, buildings intended for residential use shall be provided with a supply of potable water either from an underground bore or a rainwater-storage system with a minimum capacity of 120,000 litres to the satisfaction of the local government.

17. Home business or home occupation

- (a) An approval to carry out a home business or home occupation:
 - i) relates only to the premises for which, and the person for whom, the application was made and the approval subsequently issued; and
 - ii) is not capable of being transferred or assigned to any other person and does not run with the land in respect of which it was granted.

18. Development of lots abutting unconstructed roads

Notwithstanding any other provision of the Scheme, where an application for development approval is made in respect of land abutting an unconstructed road or a lot which does not have frontage to a constructed road the local government shall:

- (a) refuse the application until the road has been constructed or access by means of a constructed road is provided; or
- (b) grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof, and any other conditions it deems fit to impose; or
- (c) grant the application subject to a condition requiring other arrangements to be made for the provision of appropriate permanent access to the satisfaction of the local government.

19. Second-hand and Re-purposed Dwellings

- (a) Where a second-hand dwelling use is proposed it shall comply with the following in addition to any other relevant provision of the Scheme:
 - (i) a building that has a roof or wall sheeting or any other material such as sound proofing or insulation, that contains asbestos, is not permitted to be relocated until those materials containing asbestos are removed and disposed of in the appropriate manner, prior to transportation.
 - (ii) the void area between the floor and natural ground levels is to be enclosed with brickwork, battens or other suitable materials as approved by the local government.
- (b) When considering an application for planning approval for a second-hand or re-purposed dwelling, the local government may impose conditions concerning:
 - (i) the external appearance and material finishes, the screening of sub-floor spaces, the addition to or modification to the existing dwelling and the time frame imposed to complete specified work and connect the dwelling or building to lot services;
 - (ii) the provision of landscaping and/or screening of the building and/or site; and
 - (iii) the provision of a bond or bank guarantee in favour of the local government as surety for the completion of the building to a standard of presentation acceptable to the local government within a specified time.
- (c) Where the provision of a bond or bank guarantee is required, the local government shall refund the payment upon satisfactory completion of the necessary works.

20. Advertisements

Existing advertising signs which:

- (a) were lawfully erected, placed or displayed prior to the approval of the Scheme; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the local government prior to the approval of this Scheme;

may continue to be displayed or be erected and displayed unless the condition of the advertisement warrants removal or repair in accordance with clause 80 of the deemed provisions.

21. Ceding of land for right-of-way and public foreshore

- (a) The owner of any site affected by a right of way widening under a Local Planning Policy or Local Development Plan relating to Right of Ways shall cede such right of way widening free of cost as a condition of development approval or as a condition of subdivision or strata subdivision supported by the local government.
- (b) The owner of any site affected by a public foreshore reserve under a Local Planning Policy relating to Public Foreshore Reserve shall cede such foreshore area free of cost as a condition of development approval or as a condition of subdivision or strata subdivision supported by the local government.

Schedule 5 - Special Control Areas

[cl. 36]

Name of area	Purpose	Objectives	Additional provisions
SCA1 Special Control Area - Environment	To provide guidance for land use and development in the Avon River flood plain.	<ol style="list-style-type: none"> 1. To avoid inappropriate development on land subject to flooding; 2. To ensure that land use and development is consistent with the ecological values and function of the Avon River and its flood fringe; 3. To ensure land use with the Avon River special control area does not result in degradation of the river or riparian (associated) vegetation; 4. To ensure that future infrastructure in the area does not adversely alter the capacity of the area to convey floodwater; and 5. To ensure that housing and infrastructure is protected from flood damage. 	<ol style="list-style-type: none"> 1. Despite any other provision of the Scheme, development approval is required for all development within the special control area. 2. The local government shall not recommend approval of any subdivision with potential to create additional lots in this special control area, unless the new lot(s) are for flood mitigation purposes with no development potential, and is proposed to be purchased, or ceded free of cost, for the management, care and control of the local government, the crown or other relevant government body. 3. No buildings are to be located within the floodway. 4. Proposed development that is located within the special control area (i.e. filling, building, or any land improvements) and is considered to be obstructive to major river flooding as determined by the appropriate State Government water

			<p>agency and the local government shall not be permitted.</p> <p>5. Any habitable building to be located within the special control area shall have a minimum floor level of 500 mm above the 100 year ARI flood level.</p> <p>6. At the local government's discretion, where a proposed non habitable development is in the special control area, but within a designated heritage streetscape area, a minimum floor level of 300mm above the centre of the road fronting the property may be approved.</p> <p>7. Any application for development or land use shall require a notification pursuant to section 70A of the Transfer of Land Act 1893 (as amended), or a similar legal instrument, to be placed on title of the land to the effect that the land is subject to inundation during a flood event.</p> <p>8. The erection of a fence within the floodway is permitted providing it is of a non-obstructive nature to flood flows, such as post and rail fencing, so that it does not alter the direction of natural water flows nor retain surface</p>
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			<p>water that may affect adjoining properties.</p> <p>9. Any development proposed in the special control area should consider potential opportunities for environmental improvements and rehabilitation.</p> <p>10. Any development proposed upon lots that are within the special control area shall be connected to reticulated sewer, unless primary treatment can be demonstrated to be within the criteria set out in Government Sewerage Policy.</p> <p>11. In determining planning proposals the local government shall consult with the appropriate State Government water, environment and conservation agencies.</p> <p>12. Approval is required from the local government for the removal of vegetation unless:</p> <ul style="list-style-type: none">(i) it is necessary to establish a boundary fence;(ii) the local government has agreed in writing that such vegetation is diseased or dangerous;(iii) it is the removal of exotic species and/or declared weeds; or(iv) it is a firebreak required by the local
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			government or any other requirement of an approved fire management plan, including an asset protection zone.
SCA2 Special Control Area - Environment	<ol style="list-style-type: none"> 1. To protect the main landscape features that define the character of the town of York. 2. To maintain public views to Mount Brown and Mount Bakewell/Dyott Range. 	<ol style="list-style-type: none"> 1. To protect the natural and rural character of the prominent landscape features that form the backdrop to York Townsite. 2. To preserve the ecological values of Mount Brown and Mount Bakewell/Dyott Range. 3. To ensure that grazing, cultivation and recreation activities do not cause land degradation. 	<ol style="list-style-type: none"> 1. Despite any provisions of the Scheme, development approval is required for all development within the special control area. 2. There is a general presumption against rezoning land within the special control area for more intensive land uses. 3. The local government may consider supporting subdivision applications within the area if - <ol style="list-style-type: none"> a. the subdivision is consistent with an approved Structure Plan and policies of the Western Australian Planning Commission; or b. subdivision is for boundary realignment, amalgamation or creation of a reserve for conservation purposes, that will not create the potential for additional development within the special control area;

			<p>c. a visual landscape impact assessment has been undertaken to the satisfaction of the local government and in accordance with the Western Australian Planning Commission's <i>Visual Landscape Planning Manual</i> (2007), and indicates that natural and rural landscape character can be retained and that there will be no adverse impact on public recreation experience.</p> <p>4. In considering subdivision and development proposals the following matters are to be considered:</p> <ul style="list-style-type: none">(i) lot number, size and configuration;(ii) the location of roads and public access points;(iii) lot boundaries;(iv) location and siting of buildings, driveways and firebreaks; and(v) building design (height, alignment, bulk,
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			<p>colour and reflectivity).</p> <p>5. in considering any development application, the local government may require a visual landscape impact assessment to be undertaken to the satisfaction of the local government in accordance with the Western Australian Planning Commission's Visual Landscape Planning Manual (2007)</p> <p>6. Development applications for land within the special control area will not be supported where the development may be visually intrusive.</p> <p>7. Telecommunications infrastructure is to be co-located on existing towers to minimise the proliferation of structures within the special control area.</p> <p>8. Approval is required from the local government for the removal of vegetation unless:</p> <p>(i) it is necessary to establish a boundary fence;</p> <p>(ii) the local government has agreed in writing that such vegetation is diseased or dangerous;</p>
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			<p>(iii) it is the removal of exotic species and/or declared weeds; or</p> <p>(iv) it is a firebreak required by the local government or any other requirement of an approved fire management plan, including an asset protection zone.</p>
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Schedule 6 – Development Standards

[Schedule 4 cl. 1]

Site element		Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite Zone	Light and General Industry	Service Commercial	Regional Centre
Lot size and frontage		As per R-codes	-	1 – 4 hectares. To be determined in accordance with a structure plan unless otherwise specified in Schedule 7.	4 – 40 hectares. To be determined in accordance with a structure plan.	As per R-codes	At the discretion of the local government – to provide for the efficient use of the land for its intended purpose	At the discretion of the local government - to be generally consistent with existing lots in the vicinity.	At the discretion of the local government - to be generally consistent with existing lots and development in the vicinity.
Minimum Setbacks (m)	Front	As per R-codes	15	20	20	As per R-codes	7.5m	In accordance with the front setback on adjoining properties or as otherwise agreed by the local government.	Nil
	Rear	As per R-codes	15	10	15	As per R-codes	7.5m	As per Building Code of Australia	Nil
	Side	As per R-codes	15	10	15	As per R-codes	5m	As per Building Code of Australia	Nil

Site element	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite Zone	Light and General Industry	Service Commercial	Regional Centre
Maximum height	As per R-codes	At the discretion of the local government.	<p>Top of external wall - 6 metres above natural ground level</p> <p>Top of pitched roof – 9 metres above natural ground level</p>	<p>Top of external wall - 6 metres above natural ground level</p> <p>Top of pitched roof – 9 metres above natural ground level</p>	As per R-codes	At the discretion of the local government.	<p>Top of external wall - 9 metres above natural ground level</p> <p>Top of pitched roof – 12 metres above natural ground level</p>	<p>Top of external wall - 9 metres above natural ground level, except where a property is located in a heritage precinct in which case in accordance with heritage local planning policy.</p> <p>Top of pitched roof – 12 metres above natural ground level, except where a property is located in a heritage precinct in which case in accordance with heritage local planning policy.</p>
Maximum plot ratio	As per R-codes	n/a	n/a	n/a	As per R-codes	n/a	1.0	1.0

Schedule 7 - Car Parking

[Schedule 4 cl. 2]

1. Car parking standards

- (a) A person shall not develop or use any land, change the use of land or erect, use or adapt any building unless car parking spaces as specified in the Table are provided.

Table

Car Parking Standards

Land Use	Regional Centre Zone Car Parking Standard	All Other Zones Car Parking Standard
Hotel, motel, tavern, small bar, serviced apartment, nightclub, brewery	1 bay per unit of accommodation where applicable plus 1 bay per 10m ² NLA of public bar space (areas occupied by customers, excluding servery areas) plus 1 bay per 10m ² of outdoor public bar space plus 6 bays per 100m ² NLA lounge/dining area.	1 bay per unit of accommodation where applicable plus 1 bay per 10m ² NLA of public bar space (areas occupied by customers, excluding servery areas) plus 1 bay per 10m ² of outdoor public bar space plus 6 bays per 100m ² NLA lounge/dining area.
Convenience store, fast food outlet/lunch bar, liquor store – small, market, restaurant/café, shop	1 bay per 25m ² NLA	1 bay per 20m ² NLA
Consulting rooms	Four (4) spaces for every consulting room up to two (2) such rooms and two (2) for every additional consulting room.	Four (4) spaces for every consulting room up to two (2) such rooms and two (2) for every additional consulting room.
Office	1 bay per 25m ² NLA	1 bay per 25m ² NLA
Industry - light, industry - service, bulky goods showroom	n/a	1 bay per 50m ² NLA
Warehouse, industry	n/a	1 bay per 100m ² NLA
Veterinary centre	1 bay per 25m ² NLA	1 bay per 25m ² NLA

Garden centre, farm supply centre	n/a	1 bay per 50m ² NLA
Liquor store - large	n/a	1 bay 20m ² NLA
Transport depot	n/a	1 bay per employee

- (b) Where land is to be developed or used for a purpose not mentioned in (a) above, the local government shall determine in each case the required number of car parking bays to be provided on the land having regard to the:
- i) nature of the proposed development;
 - ii) number of employees or others likely to be employed or engaged in the use of the land;
 - iii) anticipated demand for visitor parking;
 - iv) orderly, proper and sustainable planning of the area;
 - v) heritage values of the subject land;
 - vi) parking requirements under the Scheme for uses of a similar nature (if any).

2. Design and construction of car parking

- (a) Car parking spaces provided in accordance with 1.(a) and (b) above are to be constructed in accordance with Australian Standard 2890.1-2004 as amended.
- (b) Layout of carparking areas shall have regard for traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining carpark.

3. Cash-in-lieu of car parking

- (a) Where the local government so decides, cash payments in lieu of the provision of parking spaces on the site of any proposed development may be accepted but the cash-in-lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking spaces required by the scheme plus the value, as estimated by the local government, of that area of the land which would have been occupied by the parking spaces.

- (b) Payments under subclause (a) shall be paid into a parking fund to be used for the provision and maintenance of public car parking facilities anywhere within reasonable proximity to the subject land in respect of which a cash-in-lieu arrangement is made.

Schedule 8 - Rural Residential – Special Provisions

[Schedule 4 cl. 6(b), Schedule A cl. 61(1)(f)]

No.	Specified Rural Residential Area	Special Provisions Applying to Specified Rural Residential Area
RR1	Various lots in the vicinity of Lewis Road, Red Swamp Place and Buckingham Road, Attfield as shown on the Scheme Map.	<ol style="list-style-type: none"> 1. Dog kennels will not be permitted. 2. Transportable structures require the approval of the local government and will only be permitted if the materials and colours are of the “earth” colour range (ie. creams, yellow browns, red browns, green browns) and additional screen planting is provided. 3. The average lot size shall generally be 1.5 hectares with a minimum recommended lot size of 1.0 hectare.
RR2	Various lots in the vicinity of Park Road, Railway Road and York Road, Cold Harbour as shown on the Scheme Map.	<ol style="list-style-type: none"> 1. Commercial horse training and breeding will not be permitted. 2. The minimum lot size shall be no less than 2 hectares.
RR3	Various lots in the vicinity of Knotts Road and Spices Road as shown on the Scheme Map.	<ol style="list-style-type: none"> 1. No further subdivision is permitted other than for minor boundary realignments, amalgamation or in accordance with with a structure plan that has been approved by the local government and adopted by the Western Australian Planning Commission. 2. A building envelope with an area that is no greater than 15% of the lot area is to be approved by the local government for each lot. The local government may request the nomination of a building envelope as a condition of any subdivision approval. Development is not permitted on a lot unless a building envelope has been identified and approved by the local government. 3. The local government is not to permit development of transportable structures, repurposed and second-hand dwellings or outbuildings on a lot. New transportable structures and/or outbuildings may be permitted subject to the provisions of the Scheme.

		<ol style="list-style-type: none"> 4. The disposal of liquid wastes on a lot is to be carried out by the installation of an Aerobic Treatment Unit (ATU) in accordance with the requirements of the local government and Department of Water and Environmental Regulation. 5. On-site systems for the disposal of liquid wastes are to be located in accordance with Schedule 1, clause 15 unless otherwise agreed with the local authority and Department of Water. 6. The local government may request the construction of contour banks and seepage interceptor drains as a condition of any subdivision approval. Contour banks and drains which traverse a lot are to be maintained in working order by the owner of the lot to the satisfaction of the local government and shall not be altered without the prior approval of the local government.
RR4	Lots in the vicinity of Avon Terrace, Equine Precinct as shown on the Scheme Map.	<ol style="list-style-type: none"> 1. Subdivision shall generally be in accordance with a structure plan that has been approved by the local government and adopted by the Western Australian Planning Commission. 2. The structure plan is to include the requirement for a building envelope and the identification and protection of native vegetation. It shall also provide for a northern linkage to ensure public access to areas of reserve to the north of the land. The northern linkage shall comprise a 15 m wide road reserve to provide flexibility for the future construction of a road or dual use path. 3. Lot sizes shall be between 1 ha and 4 ha, with a mandatory requirement to connect to a reticulated potable water supply. If connection to a reticulated potable water supply is not available, the minimum lot size shall be 4 ha and dwellings shall have installed a roof catchment water tank of a capacity of no less than 120,000 litres. 4. In order to protect the landscape values of the area, larger lots exceeding 6 ha in area will be required on the elevated slopes of Mount Bakewell, being those areas generally above the 220 m AHD contour line. Natural vegetation in this area is to be fenced off in order to protect it from grazing animals.

		<ol style="list-style-type: none"> 5. Subdivision south of Prunster Road is not permitted. 6. Effluent is to be disposed of through installation of Aerobic Treatment Units to the satisfaction of the appropriate State Government health agency and the local government. A dwelling shall not be occupied without the prior approval and installation of such a disposal system. 7. The developer/vendor shall inform prospective purchasers of any lot, in writing, of the provisions of the Local Planning Scheme relating to the management of the land.
RR5	Lots in the vicinity of Beverley-York Road, Mt Hardey as shown on the Scheme Map.	Prior to consideration of subdivision, a Structure Plan shall be prepared and approved by the local government and endorsed by the Western Australian Planning Commission.
RR6	Lots in the vicinity of Ulster Road, Tenth Road, Ninth Road, Bland Road and Oshaburg Road, North-west Precinct as shown on the Scheme Map.	The minimum lot size shall be no less than 1.0 hectare.
RR7	Lots generally in the vicinity of Great Southern Highway, Gwambygine Estate as shown on the Scheme Map.	<ol style="list-style-type: none"> 1. A structure plan is required prior to subdivision and development of this area. 2. Subdivision shall generally be in accordance with a structure plan adopted by Council and endorsed by the Western Australian Planning Commission. 3. Buildings shall be contained within defined building envelope depicted on the structure plan. 4. All lots shall be connected to a reticulated potable water supply.

		<ol style="list-style-type: none"> 5. Effluent is to be disposed of through installation of Aerobic Treatment Units to the satisfaction of the appropriate State Government health agency and local government. A dwelling shall not be occupied without the prior approval and installation of such a disposal system. Onsite effluent disposal systems shall be sited to the satisfaction of the local government and in consultation with the Department of Water and Environmental Regulation. 6. Fencing for each lot shall be constructed prior to the sale of the lot and such fencing shall be uniform throughout the estate. 7. Fencing may not be located on boundaries where these may have a detrimental effect on the environmental areas. 8. No fencing will be permitted within the buffer areas designated on the structure plan. 9. Each lot shall have a crossover to the public road to the specification and location as approved by Council. 10. The developer/vendor shall inform prospective purchasers of the lots, in writing, of the provisions of the Local Planning Scheme relating to the development and management of the land.
RR8	Lots generally in the vicinity of Great Southern Highway and Railway Road, York.	<ol style="list-style-type: none"> 1. A structure plan is required prior to subdivision and development of this area. 2. The structure plan should address the following: <ol style="list-style-type: none"> a. Building envelopes with an area of no greater than 15% of the lot area should be established and sited to ensure development in accordance with Schedule 5, 1. Avon River Flood Fringe provisions and at least 500m from the edge of the York Wastewater Treatment Plant to the satisfaction of the local government. b. Appropriate locations for on-site effluent disposal systems to the satisfaction of the local government and in consultation with the Department of Water and Environmental Regulation. c. Consideration of the preferred alignment of the York bypass road.

		<p>d. Memorials to be incorporated on all titles advising prospective purchasers that the land may be affected by transport noise (rail and/or road).</p> <p>3. Lot sizes are generally to be a minimum of 4.0 hectares.</p> <p>4. All lots should be connected to reticulated water supply.</p> <p>5. All buildings and on-site effluent disposal systems are to be confined to the building envelope for each lot, to the satisfaction of the local government.</p> <p>6. Effluent is to be disposed of through installation of Aerobic Treatment Units to the satisfaction of the appropriate State Government health agency and local government. Onsite effluent disposal systems shall be sited to the satisfaction of the local government and in consultation with the Department of Water and Environmental Regulation. A dwelling shall not be occupied without the prior approval and installation of such a disposal system.</p> <p>7. The Council is not to permit development of secondhand relocated or transported dwellings or outbuildings on a lot.</p> <p>8. All lots shall be fenced prior to sale of any lot.</p>
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Schedule 9 - Exempted Advertisements

[Schedule A cl. 61(h)]

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise states)	MAXIMUM AREA
Dwellings	One professional nameplate as appropriate.	0.2m ²
Home Business or Home Occupation	One advertisement describing the nature of the home business or home occupation.	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ²
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 compliance with any adopted Local Planning Policies.	Combined area of all advertisements not to exceed 5m ²
Industrial and Warehouse Premises (excluding rural and cottage industry)	A maximum of four 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 and excluding signs which are connected to a pole, wall, or other building. A maximum of two freestanding advertisement signs not exceeding 5 metres in height above ground level.	Total area of such advertisements are not to exceed 15m ² Maximum permissible total area is not to exceed 10m ² and individual advertisement signs are not to exceed 6m ²
Showroom, racecourses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	Not Applicable
Public Places and Reserves	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of Government, a public authority or local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	Not Applicable

	<p>(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government, and</p> <p>(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	
Railway Property	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon railway station.	No sign shall exceed 2m ² in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings, which cannot ordinarily be seen by a person outside of those buildings.	Not Applicable
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.	0.2m ²

TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA
<p>Building Construction Sites (advertisement signs displayed only for the duration of the construction) as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding three (3) storeys in height</p>	<p>One advertisement per street frontage containing details of the project and the constructors undertaking the construction work.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above One additional sign showing the name of the project builder.</p>	<p>2m²</p> <p>5m²</p> <p>10m² 5m²</p>
Sales of goods or livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose	2m ²

<p>Property transactions Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large properties comprised of shopping centres, buildings in excess of four (4) storeys and rural properties in excess of five (5) hectares.</p>	<p>One sign per street frontage for each property relating to the Sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above</p>	<p>Each sign is not to exceed an area of 2m²</p> <p>Each sign is not to exceed an area of 5m²</p> <p>Each sign is not to exceed an area of 10m²</p>
<p>Display Homes Advertisement signs displayed for the period over which homes are on display for public inspection</p>	<p>(a) One sign for each dwelling on display.</p> <p>(b) In addition to (a) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.</p>	<p>2m²</p> <p>5m²</p>

COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME

Adopted by resolution of the Council of the Shire of York at the Ordinary Meeting of Council held on 25 June 2018.

P MARTIN

CHIEF EXECUTIVE OFFICER

D WALLACE

SHIRE PRESIDENT

COUNCIL RESOLUTION TO SUPPORT SCHEME FOR APPROVAL

Council resolved to support approval of the draft Scheme of the Shire of York at the Ordinary Meeting of Council held on 16th December 2020.

The Common Seal of the Shire of York was hereunto affixed by authority of a resolution of the Council in the presence of:

A COOPER
A/CHIEF EXECUTIVE OFFICER

CR D SMYTHE
SHIRE PRESIDENT

WAPC Recommended for Approval

C MEAGHAN
Delegated under S.16 of the Planning and Development Act 2005
Date: 1 December 2020

R SAFFIOTI
MINISTER FOR PLANNING
Date: 14-12-2020