

PART 4 – GENERAL DEVELOPMENT REQUIREMENTS

4.1 EXCLUSIONS

In the General Rural Zone, the Rural Resource Zone, the Special Rural Zone, the Rural Community Zone and the Special Residential Zone, the provisions of Clauses 3.16, 3.17, 3.18, 3.19 and 3.23 as the case may be, shall prevail if there is any conflict or inconsistency with this Part.

4.2 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

4.2.1 Except for the requirements set out in subclauses 3.7.3, 3.7.4, 3.13.5 and 3.13.6 of the Scheme and the housing density requirements of the Residential Design Codes, if a development is the subject of an application for Planning Approval and does not comply with a development standard or requirement prescribed under the Scheme or the Residential Design Codes, the Council may, notwithstanding the non compliance, approve the application conditionally or subject to such conditions as the Council thinks fit.

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

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to subclause 6.7.1; and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

4.2.3 The power conferred by this clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.

4.3 REQUIREMENTS NOT READILY DETERMINED BY THE SCHEME

Where in the circumstances of a particular case a requirement or standard cannot readily be determined from an examination of the Scheme, such requirement or standard shall be determined by the Council. In making such a determination the Council shall have regard to any study or policy relevant to the area or the development in question and may have regard to any other matter relevant to amenity and orderly and proper planning.

4.4 RESIDENTIAL DESIGN CODES

- 4.4.1 For the purposes of this Scheme “Residential Design Codes” means the Residential Design Codes set out in Appendix 2 to the Commission’s Statement of Planning Policy No. 1, together with any amendments thereto.
- 4.4.2 A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.
- 4.4.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.
- 4.4.4 Subject to subclause 4.4.5, the Residential Design Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes Maps.
- 4.4.5 Notwithstanding the provisions of Clause 4.4.4, where land within the Scheme is subject to an Agreed Structure Plan, the Residential Density Codes for the area shall be determined according to the Agreed Structure Plan.
- 4.4.6 An Agreed Structure Plan may vary the requirements of the Residential Design Codes.
- 4.4.7 Notwithstanding that the Residential Density Codes Maps may purport to apply a Residential Density Code over land which is reserved under this Scheme, the Residential Design Codes are not applicable to land which is reserved under this Scheme, unless such specific provision is made through the operation of an Agreed Structure Plan.

4.5 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES

- 4.5.1 Where residential development is proposed to be mixed with non-residential development, Council may vary any provision of the Codes with the exception of the housing density requirements of the Codes.

Before exercising its powers of discretion Council may require that a proposal be advertised and plans made available for public inspection in accordance with the procedures laid down in Clause 6.7.

- 4.5.2 The provisions of clauses 3.16, 3.17, 3.18 and 3.19 relating to setbacks shall prevail over any inconsistent provisions of the Codes.
- 4.5.3 Notwithstanding the density code applicable in a particular instance, development in excess of a single dwelling shall not be permitted in unsewered areas unless:
- (a) The development accords with the Government Sewerage Policy - Perth Metropolitan Region (1995), or

- (b) The Health Department of Western Australia recommends to Council that there are exceptional circumstances to warrant a variation from the Policy.

4.6 HOME BUSINESS

4.6.1 Home Business – Category 1

4.6.1.1 Subject to subclause 4.6.4, a person may conduct a Home Business – Category 1 within a dwelling without the need to first obtain Planning Approval.

4.6.1.2 If in the opinion of the Council the activity is no longer consistent with the limits of a Home Business – Category 1, or is otherwise causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, Council may serve notice on the person requiring the person to cease using the dwelling for the home business.

4.6.2 Home Business – Category 2

4.6.2.1 A person wishing to conduct a Home Business - Category 2 on residential premises is required to first obtain Planning Approval under Part 6 of the Scheme.

4.6.3 Home Business – Category 3

4.6.3.1 A person wishing to conduct a Home Business – Category 3 on residential premises is required to first obtain Planning Approval under Part 6 of the Scheme.

4.6.3.2 The provisions of the Codes and all other clauses in the Scheme relating to developments in a Residential Zone shall apply to a Home Business – Category 3. Council may exercise its discretion and vary a provision of the Codes, except the housing density requirements of the Codes.

4.6.4 Review

4.6.4.1 At any time Council may undertake a review of the status of a business being carried out in a dwelling as a Home Business – Category 1, by requiring the resident to submit a statement setting out the nature and extent of the business being carried out on the premises or, on reasonable notice, permitting inspection of the dwelling by Council.

4.6.4.2 Following completion of a review, Council may designate the business either as a Home Business – Category 1, Category 2 or 3 and require the resident to comply with the requirements of the Scheme in a manner applicable to that designation and if the designation has changed, then notwithstanding that the

business may have been lawful up to the time of the review, such business shall be carried out only in conformity with Council provisions of either a Home Business Category 2 or a Home Business – Category 3, whichever is applicable, once issued.

4.7 SETBACKS FOR NON RURAL AND NON RESIDENTIAL DEVELOPMENT

4.7.1 Subject to the provisions of Part 3 or as otherwise provided in this clause, non rural and non residential buildings shall be set back as follows:

- (a) Street boundary – 6 metres;
- (b) Side and rear boundaries – Nil.

4.7.2 Where a lot has a boundary with two or more streets, the Council shall determine which of these streets may be considered secondary street boundaries. Setbacks to secondary street boundaries may be reduced by Council to 3 metres.

4.7.3 Where a non residential development is proposed to be located on a lot having a common boundary with a Residential Zoned lot, the side and rear setbacks shall not be less than:

- (a) 3 metres for buildings of one storey; or
- (b) 6 metres for buildings of two or more storeys.

4.7.4 That portion of a lot within 3 metres of the street alignment shall only be permitted to be used for a means of access and landscaping.

4.7.5 That portion of a lot between 3 metres of the street alignment and the building setback line shall only be permitted to be used for:

- (a) a means of access;
- (b) the loading and unloading of vehicles;
- (c) landscaping;
- (d) a trade display;
- (e) the daily parking of vehicles used by employees and customers of the development.

No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired or for the stacking or storage of materials, products or wastes.

4.7.6 All buildings constructed on a lot adjoining a Right-of-Way shall be setback a minimum of 1.5 metres from the Right-of-Way, or in the case of

a carport, garage or parking bay, such additional distance that Council may require to ensure adequate vehicular manoeuvring.

- 4.7.7 All development on land abutting a road which is proposed to be widened shall be setback from the street alignment of the road as if the road had been widened as proposed.

4.8 BUILDING FACADES FOR NON RURAL AND NON RESIDENTIAL DEVELOPMENT

- 4.8.1 The façade or facades of all non rural and non residential development shall be of a high standard of architectural design and constructed in brick, masonry and/or plate glass or other approved material which in the opinion of Council would not adversely impact on the amenity or streetscape of the area. Where metal clad walls are approved by Council they shall have a factory applied paint finish.

- 4.8.2 The façade or facades of all non rural and non residential development shall have incorporated in their design, integrated panels for the purpose of signage placement.

4.9 TRAFFIC ENTRANCES

The Council may where it considers it desirable and in the interests of traffic safety, to reduce traffic hazards or otherwise to assist in the planning for vehicular traffic, direct the owner of any lot to limit access and egress or provide such additional access and egress as it requires to any premises.

4.10 VISUAL TRUNCATIONS TO VEHICULAR ACCESSWAYS IN THE VICINITY OF STREETS OR RIGHTS-OF-WAY

No building, wall, fence, landscaping or other development greater than 0.6 metres in height measured from the natural ground level at the boundary shall be constructed or maintained within the sight line area stipulated in the Australian Standard for Off Street Parking AS2890.1 at the intersection of a vehicular accessway and a street or right-of-way.

4.11 PEDESTRIAN AND VEHICLE RECIPROCAL ACCESS REQUIREMENTS

If the Council approves car parking and pedestrian access on neighbouring premises in a manner which relies on the reciprocal movement of vehicles and pedestrians between or across the premises, the owners concerned shall allow the necessary reciprocal access and parking at all times to the satisfaction of Council.

4.12 SERVICE AREAS AND ACCESS

Provision shall be made for service access to the rear of all taverns, hotels, motels, shops, showrooms, restaurants, takeaway food outlets, drive through takeaway food outlets and other commercial uses as required by the Council for the purpose of

loading and unloading goods unless considered by the Council to be undesirable in a particular instance.

4.13 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.

4.14 CAR PARKING STANDARDS

4.14.1 The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

4.14.2 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed, marked, drained and thereafter maintained to the satisfaction of the Council.

4.15 CAR PARKING – CASH IN LIEU OR STAGING

4.15.1 The Council may permit car parking to be provided in stages subject to the landowner setting aside an area of land sufficient to accommodate the total carparking requirement for the development and entering into a legal agreement to satisfactorily complete all the remaining parking when requested to do so by the Council.

4.15.2 Council may accept a cash payment in lieu of the provision of any required parking area subject to being satisfied that there is adequate provision for car parking or a reasonable expectation that there will be adequate provision for public car parking in the proximity of the proposed development.

4.15.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the Council shall from time to time determine.

- 4.15.4 Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by Council.

4.16 BICYCLE PARKING AND END OF TRIP FACILITIES

Council may require the provision of bicycle parking and end of trip facilities such as showers, change rooms and lockers in commercial developments and other employment centres in accordance with Austroads' Guide to Engineering Practice Part 14: Bicycles.

4.17 LANDSCAPING REQUIREMENTS FOR NON RURAL AND NON RESIDENTIAL DEVELOPMENT

- 4.17.1 A minimum of 8% of the area of a development site shall be set aside, developed and maintained as landscaping to a standard satisfactory to the Council. In addition the road verge adjacent to the lot shall be landscaped and maintained to the satisfaction of the Council.
- 4.17.2 When a proposed development includes a car parking area abutting a street, an area no less than 3 metres wide within the lot along all street alignments shall be set aside, developed and maintained as landscaping to a standard satisfactory to the Council. This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous subclause.
- 4.17.3 Landscaping shall be carried out and maintained on all those areas of a development site which are not approved for buildings, accessways, storage purposes or car parking. Alternatively, Council may require these areas to be screened from view of streets and other public places.
- 4.17.4 Landscape areas shall be designed and located to improve the visual appeal of the development from the street and other public spaces and the standard of amenity for those using the development. The use of endemic trees and shrubs are encouraged.
- 4.17.5 Shade trees shall be planted and maintained in car parking areas designed within the wells at the rate of one tree for every four (4) car parking bays, to the Council's satisfaction.

4.18 SCREENING OF STORAGE AREAS

The owner of land on which there is stored, stacked or allowed to remain any materials which in Council's opinion detract from the amenity of the area shall completely screen the said materials from adjoining properties and from streets in a manner specified by and to the satisfaction of Council, by means of walls, fences, hedges or shrubs.

4.19 SCREEN WALLS FOR NON RESIDENTIAL DEVELOPMENT ABUTTING RESIDENTIAL LOTS

Where a non residential development is proposed to be located on a lot having a common boundary with a lot that is zoned or developed for residential purposes, a screen wall at least 1.8 metres in height and to a standard specified by the Council shall be provided along the common boundary of the two lots to protect the residential amenity.

4.20 MINIMUM LOT DIMENSIONS

Minimum lot sizes and frontages are not specifically set for the purposes of this Part. The extent of any development on any lot shall be dependent upon other development requirements. Notwithstanding the foregoing, the Council may establish policies outlining specific minimum lot dimensions for specific types of development where it considers that it is prudent to do so.

4.21 RESTRICTIVE COVENANTS

4.21.1 Subject to subclause 4.21.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme. Land burdened by such restrictive covenants which may be extinguished or varied are detailed in Schedule 11.

4.21.2 Where subclause 4.21.1 operates to extinguish or vary a restrictive covenant Council will not grant planning approval to the development of the land which would, but for the operation of subclause 4.21.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of Clause 6.7.

4.22 ENVIRONMENTAL CONDITIONS

4.22.1 In accordance with Section 7A4 of the Act, environmental conditions imposed by the Minister for the Environment on the Scheme or amendments to the Scheme and contained in Statements under Section 48F Environmental Protection Act, shall be incorporated into the Scheme by provision made in Schedule 12 of the Scheme contemporaneously with the making of the Scheme or amendment.

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

4.22.3 The Council shall maintain a register of all the Statements published under Section 48F referred to in subclause 4.22.1 which shall be made available for public inspection at the offices of the Council.

4.23 COMMERCIAL VEHICLE PARKING

- 4.23.1 Parking of commercial vehicles in the Residential, Mixed Use, Business, Urban Development, Centre, Marina, Commercial, Special Residential, Special Rural, Rural Community, General Rural and Rural Resource Zones shall not be permitted except in accordance with the provisions set out in the following paragraphs of this clause. The provisions of clause 4.23 do not apply when the commercial vehicle parking is in association with or incidental to a commercial use that has been approved by the Council or a use that is otherwise lawfully being undertaken on the land.
- 4.23.2 A person shall not park, or permit to be parked, more than one commercial vehicle on any lot in the zones referred to in this clause except in the Special Rural, Rural Community, General Rural and Rural Resource Zones, where the following provisions shall apply in respect to the parking of more than one commercial vehicle on any lot in those zones:
- (a) Upon application for planning approval Council may permit up to two commercial vehicles to be parked on a lot in the Special Rural and Rural Community zones, or on a lot of two hectares or less in the General Rural and Rural Resource zones;
 - (b) Upon application for planning approval Council may permit up to four commercial vehicles to be parked on a lot larger than two hectares in the General Rural and Rural Resource zones.
- 4.23.3 A person may only park a commercial vehicle on a lot in the zones referred to in this clause if:
- (a) the lot on which the vehicle is parked contains only a single house (including any associated outbuildings) provided that Council may permit the parking of such vehicle on a lot which contains grouped dwellings if it is of the opinion that this will not adversely affect the amenity of the grouped dwelling development or the surrounding area;
 - (b) in the case of a lot in the Residential, Mixed Use, Business, Urban Development, Centre, Marina and Commercial zones the vehicle is parked entirely on the subject lot and is located on a hard standing area which is located behind the front of the dwelling, or alternatively the vehicle is parked within a garage. In the case of a lot in the Special Residential, Special Rural, Rural Community, General Rural and Rural Resource Zones, the vehicle(s) shall not be readily visible from beyond the property boundaries and shall be located within the building envelope (if applicable) and behind the building setbacks, with adequate screening or alternatively parked within a garage;
 - (c) the vehicle is used as an essential part of the lawful occupation of an occupant of the dwelling. The foregoing requirement of this item shall not be satisfied in any case unless the owner of the vehicle or an occupier of the dwelling within seven days of the

Council making a request, supplies to the Council full information as to the name and occupation of the person said to be using the vehicle. The request for that information is made for the purpose of this item by posting the request to the address of the owner of the vehicle shown on the vehicle registration, or by posting the request to or leaving it at the dwelling addressed in general way to the occupier. The parking of the vehicle on the lot does not authorise the conduct on that lot of the occupation of the vehicle user;

- (d) the vehicle does not exceed 3 metres in height (including the load), 2.5 metres in width, or 8 metres in length, except in the case of a lot in the Special Rural, Rural Community, General Rural and Rural Resource Zones where the height and width are not controlled but the maximum vehicle combination length shall not exceed 19 metres;
- (e) the vehicle is not started or manoeuvred on site between the hours of 10.00 pm and 6.00 am the next following day;
- (f) while on the lot, the vehicle's motor is not left running while the vehicle is unattended or in any event for any period in excess of five minutes;
- (g) storage of liquid fuels on the lot complies with the Explosive and Dangerous Goods Act, 1961;
- (h) the vehicle is not used or designed for use for the transportation of livestock or the transportation or disposal of liquid or solid wastes or other use so as to cause nuisance or pollution as defined in the Health Act 1911 and/or the Environmental Protection Act 1986;
- (i) the vehicle is not carrying a refrigeration unit which is operating on a continuous or intermittent basis;
- (j) while on the lot, there is no transfer of goods or passengers from one vehicle to another vehicle, unloading or loading of the vehicle, or storage of goods associated with the use of the vehicle;
- (k) the vehicle is not used or operated as a tow truck or other emergency vehicle, between the hours of 10.00 pm to 6.00 am in a manner that adversely affects the residential amenity of the area;
- (l) the parking and manoeuvring of the vehicle shall not cause damage or removal to existing vegetation on the lot.

4.23.4 Where a noise complaint is substantiated in accordance with the relevant Regulations made pursuant to the Environmental Protection Act 1986, the hours of operation shall be restricted to 7.00 am – 9.00 pm Monday to Saturday and 9.30 am – 9.00 pm Sundays and Public Holidays.

Any restrictions imposed on the hours of operation shall not limit further application of the relevant Regulations made pursuant to the Environmental Protection Act 1986.

- 4.23.5 Only minor servicing, including minor mechanical repairs and adjustments, and/or cleaning that generates easily contained liquid waste is carried out on the lot. Liquid waste shall be as defined in the Health (Liquid Waste) Regulations 1993 and shall be disposed of in accordance with the same.

All cleaning and servicing shall be conducted behind the front of the dwelling or other location on the lot as approved by Council under subclause 4.23.6.

- 4.23.6 The Council may upon application for planning approval approve a variation to any of the requirements of subclause 4.23.3 (b), (d), (e), (k) and (l) provided the Council is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation.
- 4.23.7 An approval of the Council granted under subclause 4.23.6 is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person, and does not run with the land in respect of which it is granted.

4.24 PROTECTION AND RELOCATION OF NATIVE FAUNA

- 4.24.1 Where land is to be cleared of vegetation or where landforms or drainage patterns are to be altered and in the opinion of the City the area may provide habitat for native fauna, the Council may, as part of the preparation of a Structure Plan under Part 9 of the Scheme or an approval to commence development and/or subdivision, require the proponent to prepare a Native Fauna Management Plan to the satisfaction of the City on the advice of the Department of Conservation and Land Management prior to clearing the land.
- 4.24.2 The Native Fauna Management Plan is to be prepared and implemented at the developer's/subdivider's cost by a suitably qualified person(s) acceptable to the City.
- 4.24.3 The Native Fauna Management Plan should include, but is not limited to the following:
- (a) a description of the field survey and recording methodology;
 - (b) a time frame and program for undertaking the surveys;
 - (c) the field survey results and recommendations;

- (d) the method of protecting, enhancing and conserving the existing habitat where any native fauna is to be retained on-site or on adjoining land;
- (e) a time frame and program for undertaking the trapping and relocation of any native fauna;
- (f) the method of relocating the native fauna, if appropriate;
- (g) a description of the trapping procedure, if required;
- (h) the identification of a suitable alternative habitat for the native fauna, if required; and
- (i) a time frame for advising Council and the relevant Government agencies of the outcome of any relocation program undertaken for any native fauna.