

Part 4 — Zones and the Use of Land

4.1 Zones

- 4.1.1 The Scheme area other than land classified as reserves is classified into the zones shown on the Scheme Map.
- 4.1.2 The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

4.2. Objectives of the Zones

The objectives of the zones are as set out under the respective headings in this clause. Without limiting their application to any discretionary decision, it is intended that the objectives will be applied by Council to determine the appropriateness in a particular zone of discretionary uses, or those uses not listed in the Zoning Table.

4.2.1 Midland Strategic Regional Centre

The objectives of the Midland Strategic Regional Centre Zone are to -

- (a) ensure development of the centre accords with the WA Planning Commission's Policy as it applies to activity centres;
- (b) facilitate the creation of employment within the centre so as to reduce the demand for travel, and enhance the level of self-sufficiency within the sub-region;
- (c) promote the development of a wide range of commercial facilities and services including major offices, retailing and a mix of entertainment, recreation and community facilities to meet the needs of the sub-regional community;
- (d) facilitate the complimentary development of housing so as to enhance the vibrancy of the centre, improve the viability of businesses and provide a wider choice of accommodation within the district;
- (e) promote a high degree of accessibility to and within the centre, for users of all modes of transport (bus, rail, private car, cycle and pedestrian) and to avoid fragmentation of commercial development;
- (f) enhance pedestrian connectivity within the centre, so as to facilitate movement between sites and from public and private transport nodes;
- (g) encourage mixed uses and complementary development within the centre so as to enhance the viability of business and the efficient use of facilities and services;
- (h) ensure future development and re-development accords with activity centre design principles as referred to in State Planning Policy No. 4.2, providing an integrated, attractive, safe and vibrant focus for the community;
- (i) ensure car parking and access facilities do not disrupt the continuity of development or reduce pedestrian connectivity within the centre;
- (j) ensure development and re-development within the centre affords appropriate recognition of heritage values and the character of existing streetscapes, with reference to scale, form and design.

Note: The development and use of land within the Midland Strategic Regional Centre zone shall be in accordance with Schedule 15 of LPS17 and the approved Midland Activity Centre Structure Plan."

4.2.2 **General Commercial Zone**

The objectives of the General Commercial Zone are to –

- (a) encourage those uses necessary to provide convenience shopping of the lower order outside the Strategic Regional Centre;
- (b) avoid development of land for any purposes or in any manner likely to compromise development of the Strategic Regional Centre or the efficient distribution of commercial services within the district;
- (c) ensure development provides a high level of visual attraction at street level, and does not unduly detract from the visual amenities of adjacent residential areas;
- (d) ensure any on-site advertising is integrated with the overall site development and does not detract from the amenities of the adjacent area;
- (e) promote the development of continuous commercial frontages and the integration of adjacent commercial development so as to facilitate pedestrian access to and within commercial areas;
- (f) enhance the amenities of the area and the development of a more sustainable environment through the use of complementary landscaping, including shade trees and stormwater recharge facilities.

4.2.3 **Highway Service Zone**

The objectives of the Highway Service Zone are to –

- (a) secure the development of low intensity commercial uses along selected major arterial roads outside the Strategic Regional Centre which can benefit from the high exposure offered by the major traffic thoroughfares; and car based comparison shopping for bulky goods;
- (b) ensure commercial activity within the zone is complementary to development in other commercial zones and does not detract from the viability or integrity of development in either the Strategic Regional Centre or the Commercial zones;
- (c) ensure development contributes towards the image of the city through high quality design and development with consistent and well landscaped set backs from street frontages;
- (d) promote shared use of vehicular access and car parking facilities where such arrangements will result in improved traffic management, more efficient use of land and more attractive development;
- (e) ensure car parking and vehicular access facilities are located, designed and landscaped so as not to detract from the amenities of the road frontages or of adjacent development;
- (f) ensure any on-site advertising is integrated with the overall site development and does not detract from the amenities of the road frontages or of adjacent development.

4.2.4 **Light Industrial Zone**

The objectives of the Light Industrial Zone are to –

- (a) provide for a range of generally small scale industrial development, which exhibit a relatively high standard of design and environmental performance in terms of amenity, noise, emissions and generation of vehicular traffic, and

which can be expected to be compatible with any adjacent urban and rural areas;

- (b) ensure development within the zone is complementary to development in other zones and to avoid development of land for any purposes or in any manner which would detract from the viability or integrity of development in either the Strategic Regional Centre or the Commercial zones;
- (c) ensure any on-site advertising is integrated with the overall site development and does not detract from the amenities of the road frontages or of adjacent development.

4.2.5 **General Industrial Zone**

The objectives of the General Industrial Zone are to –

- (a) provide for a range of generally larger scale industrial development, including manufacturing, servicing, storage and distribution;
- (b) ensure development within the zone is complementary to development in other zones and to avoid development of land for any purposes or in any manner which would detract from the viability or integrity of development in either the Strategic Regional Centre or the Commercial zones;
- (c) ensure any on-site advertising is integrated with the overall site development and does not detract from the amenities of the road frontages or of adjacent development;
- (d) ensure environmental performance of industry, does not detract from the amenity of adjacent sensitive areas and conforms with any relevant environmental standards applicable to the neighbourhood.

4.2.6 **Industrial Development Zone**

The objectives of the Industrial Development Zone are to –

- (a) provide for the coordinated development of future industrial areas through the application of a comprehensive plan to guide subdivision and development to be known as a “Structure Plan”;
- (b) ensure that the coordinated provision of infrastructure, and the equitable sharing of service costs associated with the subdivision and development of industrial land;
- (c) avoid the premature development of land for any purposes likely to compromise development elsewhere in the district or prejudice the future development of land in the Industrial Development zone for more appropriate purposes;
- (d) protect the amenity of adjacent property owners as well as providing a safe, efficient and predictable context for future industrial development.

4.2.7 **Residential Zone**

The objectives of the Residential Zone are to –

- (a) provide for a range of forms and densities of residential development to meet the needs of the wide variety of households which make up the community;
- (b) promote a residential environment in each locality consistent with the form and density of residential development permissible in the locality, so as to enhance a sense of place and community identity;
- (c) preserve and enhance those characteristics which contribute towards residential amenity, and to avoid those forms of development which have the

potential to prejudice the development of a safe and attractive residential environment;

- (d) provide for a limited range of ancillary development compatible with the form and density of residential development, and complementary to the needs of local communities, but which will not compromise residential amenity;
- (e) avoid development of land for any purpose or in any manner that would detract from the viability or integrity of development in either the Strategic Regional Centre or the Commercial zones.

4.2.8 Residential Development Zone

The objectives of the Residential Development Zone are to –

- (a) provide for the coordinated development of future residential areas through the application of a comprehensive plan to guide subdivision and development to be known as a “Structure Plan”;
- (b) provide for predominantly residential development, but including also a range of compatible services, consistent with the needs of an integrated neighbourhood, and planned so as to minimise adverse impacts on amenity;
- (c) avoid the development of land for any purposes or at a time when it is likely to compromise development elsewhere in the district or prejudice the future development of land in the Residential Development zone for more appropriate purposes;
- (d) take account of the need to protect the amenity and on-going use of adjacent property owners as well as to provide for the needs of future residents.

4.2.9 Residential Redevelopment Zone

The objectives of the Residential Redevelopment zone are to –

- (a) Identify existing residential areas with significant redevelopment potential for residential purposes, for which comprehensive planning is required in order to ensure a coordinated approach to the subdivision and development of land and upgrading infrastructure;
- (b) Provide for the coordinated redevelopment of existing residential areas through the application of a comprehensive plan to guide subdivision and development to be known as an “Outline Development Plan”; and
- (c) Avoid the subdivision or development of land for any purposes that are likely to prejudice or compromise the future coordinated development of the land, until such time as an Outline Development Plan has been finalized for the subject areas and sufficient provisions are in place to facilitate equitable contributions from landowners to the provision of infrastructure

4.2.10 Rural-Residential Zone

The objectives of the Rural-Residential zone are to –

- (a) provide for low density residential development and associated rural-residential activities in comprehensively planned estates;
- (b) recognise the environmental characteristics of the landscape, including landform, water resources, remnant vegetation, and native fauna, and to ensure as far as practicable, that these characteristics are not compromised by development and use of the land;
- (c) encourage the rehabilitation of degraded areas through selected replanting of indigenous flora, and the creation and enhancement of habitat for indigenous fauna.

4.2.11 **Special Rural Zone**

The objectives of the Special Rural Zone are to –

- (a) provide for small rural lot subdivision and development in selected locations to accommodate such uses as hobby farms, horse breeding and training, rural-residential retreats and small-scale intensive horticulture;
- (b) recognise the environmental characteristics of the landscape, including landform, water resources, remnant vegetation, and native fauna, and to ensure as far as practicable, that these characteristics are not compromised by development and use of the land;
- (c) encourage the rehabilitation of degraded areas through selected replanting of indigenous flora, and the creation and enhancement of habitat corridors for indigenous fauna.

4.2.12 **Swan Valley Rural Zone**

The objectives of the Swan Valley Rural Zone are to –

- (a) promote the core area of the Swan Valley primarily as a horticultural, recreational, tourism and landscape resource;
- (b) provide for limited rural living within the Swan Valley, subject to locational, design and landscaping requirements to enhance the character and amenity of the valley and to ensure compatibility with productive rural activities;
- (c) recognise the occurrence of high quality horticultural soils and scarce plastic clays and to protect these resources from development which would jeopardise their current and future use;
- (d) ensure that the development and use of land accords with the planning objectives for Area B as specified in the *Swan Valley Planning Act 1995*.

4.2.13 **Rural Living Zone**

The objectives of the Rural Living Zone are to –

- (a) encourage a wide range of uses, including rural residential activities that are compatible with the maintenance of the rural character of the area;
- (b) encourage viticulture and horticulture and the protection and enhancement of the natural environment;
- (c) ensure that the development and use of land accords with the planning objectives for Area C as specified in the *Swan Valley Planning Act 1995*.

4.2.14 **Resource Zone**

The objectives of the Resource Zone are to –

- (a) provide for the extraction of basic raw materials with proper environmental safeguards;
- (b) protect resources of basic raw materials from inappropriate development.

4.2.15 **Landscape Zone**

The objectives of the Landscape Zone are to –

- (a) provide for low density rural residential development and associated rural-residential activities, recognizing the visual characteristics of the landscape;
- (b) ensure as far as practicable, that the environmental and landscape characteristics of the area are not compromised by development and use of the land for either rural or residential purposes;

- (c) encourage the rehabilitation of degraded areas through selected replanting of indigenous flora.

4.2.16 **General Rural Zone**

The objectives of the General Rural Zone are to –

- (a) facilitate the use and development of land for a range of productive rural activities, which will contribute towards the economic base of the region;
- (b) provide for a limited range of compatible support services to meet the needs of the rural community, but which will not prejudice the development of land elsewhere which is specifically zoned for such development;
- (c) ensure the use and development of land does not prejudice rural amenities, and to promote the enhancement of rural character;
- (d) ensure that development and land management are sustainable with reference to the capability of land and the natural resource values.

4.2.17 **Private Clubs and Institutions Zone**

The objectives of the Private Clubs and Institutions Zone are to –

- (a) facilitate the use and development of land for a range of uses associated with private clubs & institutions, including but not limited to private schools, sporting clubs and places of worship.
- (b) encourage the use of land in a manner that does not impact upon the amenity of surrounding residents (where applicable) and that is compatible with surrounding land use.

4.2.18 **Special Use Zone** (See Schedule 4)

The objectives of the Special Use Zones are to –

- (a) provide for specific uses or combination of uses in circumstances where the uses have particular locational and developmental requirements for which a generic zoning is unsuitable;
- (b) facilitate the development of strategically important facilities that cannot be satisfactorily provided for within any of the generic zones, and to ensure compatibility with adjacent development.

Note: The Special Use Zones are not shown in the Zoning Table as it only occurs as a result of points (a) and (b) above. Every Special Use Zone could have different uses and a tabulated cross-referencing of use classes against zones is not applicable.

4.3 Zoning Table

ZONES USE CLASSES	Strategic Centre	Commercial/ Industrial					Residential				Rural					Other		
	Midland Strategic Regional Centre	General Commercial	Highway Service	Light Industrial	General Industrial	Industrial Development*	Residential	Residential Development*	Residential Redevelopment	Rural-Residential*	Special Rural *	Swan Valley Rural	Rural Living	Resource	Landscape*	General Rural	Private Clubs & Institutions	
Aged or Dependent Persons Dwelling	Development and use of land is to be in accordance with the Midland Strategic Regional Centre zoning table – refer to Schedule 15.	X	X	X	X	Development and use of land is to be in accordance with an approved Structure Plan	D		A	X	Refer to Schedule 11	X	X	X	X	X	D	
Agriculture - Extensive		X	X	X	X		X		X	D		D	P	P	D	D	P	X
Agriculture - Intensive		X	X	X	X		X		X	D		P	P	P	D	A	P	X
Agroforestry		X	X	X	X		X		X	D		X	X	X	X	X	X	X
Amusement Parlour		D	X	X	X		X		X	X		D	D	D	D	D	D	X
Ancillary Accommodation		X	X	X	X		D		A	D		X	X	D	D	D	D	X
Animal Establishment		X	X	D	P		X		X	X		X	X	D	X	D	X	X
Animal Husbandry - Intensive		X	X	X	X		X			X		X	X	X	X	X	D	X
Bed and Breakfast		X	X	X	X		P		P	P		P	P	P	P	P	P	P
Betting Agency		P	X	D	D		X		X	X		X	X	X	X	X	X	X
Cabin or Chalet		X	X	X	X		X		X	A		D	A	X	A	D	X	
Camping Area		X	X	X	X		X		X	D		D	X	X	D	D	X	
Car Park		P	D	D	D		X		X	X		X	D	X	X	X	D	
Caravan Park		X	X	X	X		X		X	X		X	X	X	X	X	X	
Caretaker's Dwelling		D	D	D	D		D		X	X		D	D	D	D	D	D	
Child Care Premises		P	X	X	X		D		X	X		X	X	X	X	X	D	
Cinema/Theatre		P	X	X	X		X		X	X		X	X	X	X	X	X	
Civic Use		X	X	X	X		D		X	X		X	D	X	X	D	D	
Club Premises		P	X	X	X		X		X	A		D	D	X	X	D	D	
Community Purpose		P	D	X	X		D		X	D		D	D	X	A	D	D	
Consulting Rooms		P	D	X	X		D		X	X		X	X	X	X	X	X	
Convenience Store		D	X	X	X		X		X	X		X	X	X	X	X	X	
Corrective Institution		X	X	X	A		X		X	X		X	X	X	X	A	X	
Educational Establishment		D	D	D	P		D		X	X		X	D	X	X	D	A	
Equestrian Facility		X	X	X	X		X		X	A		X	A	X	A	A	A	
Exhibition Centre		P	X	X	X		X		X	X		D	A	X	X	D	A	
Family Day Care		X	X	X	X		P		P	P		P	P	P	P	P	P	
Fast Food Outlet		P	D	X	X		X		X	X		X	X	X	X	X	X	
Food and Beverage Production		D	X	D	X		X		X	A		D	X	X	A	D	X	
Fuel Depot		X	X	D	P		X		X	X		X	X	D	X	X	X	
Funeral Parlour		P	P	P	P		X		X	X		X	X	X	X	X	X	
Garden Centre		D	D	D	D		X		X	D		D	D	D	X	D	X	
Grouped Dwelling		X	X	X	X		D		X	A		A	A	X	X	A	D	
Home Business		X	X	X	X		D		D	D		D	D	D	D	D	D	
Home Occupation	X	X	X	X	P		P	P	P	P	P	P	P	P				
Home Office	X	X	X	X	P		P	P	P	P	P	P	P	P				
Home Store	X	X	X	X	A		X	X	X	X	X	X	X	X				
Hospital	X	X	X	X	X		X	X	X	X	X	X	A	A				
Hotel	A	X	X	X	X		X	X	X	X	X	X	X	X				
Industry - Cottage	X	P	P	D	X		X	D	D	D	D	D	D	X				
Industry - Extractive	X	X	X	X	X		X	X	A	A	P	A	D	X				
Industry - General	X	X	X	P	X		X	X	X	X	X	X	X	X				

ZONES USE CLASSES	Strategic Centre	Commercial/ Industrial					Residential			Rural					Other		
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Industry - Light	Development and use of land is to be in accordance with the Midland Strategic Regional Centre zoning table – refer to Schedule 15.	X	D	P	D	Development and use of land is to be in accordance with an approved Structure Plan	X		X	X	Refer to Schedule 11	X	X	X	X	X	X
Industry - Mining		X	X	X	X		X		X	X		A	A	D	A	D	X
Industry – Noxious		X	X	X	X		X		X	X		X	X	X	X	X	X
Industry - Rural		X	X	X	D		X		X	X		D	X	D	X	D	X
Industry - Service		X	P	P	D		X		X	X		X	X	X	X	X	X
Lunch Bar		P	X	D	D		X		X	X		X	X	X	X	X	X
Marine Filling Station		X	X	D	D		X		X	X		X	X	X	X	X	X
Market		D	X	X	X		X		X	X		A	X	X	X	X	A
Medical Centre		P	D	X	X		X		X	X		X	X	X	X	X	X
Motel		X	X	X	X		X		X	X		A	X	X	X	X	X
Motor Vehicle Repair		X	X	D	P		X		X	X		X	X	X	X	X	X
Motor Vehicle Wash		P	P	P	P		X		X	X		X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales		P	P	P	P		X		X	X		X	X	X	X	X	X
Multiple Dwelling		X	X	X	X		D		X	X		X	X	X	X	X	D
Night Club		P	X	X	X		X		X	X		X	X	X	X	X	X
Office		P	X	X	X		X		X	X		X	X	X	X	X	D
Place of Assembly		D	X	X	D		X		X	X		D	D	X	X	D	D
Place of Worship		X	X	D	D		D		X	D		D	D	X	X	D	D
Radio & TV Installation Private		P	P	P	P		P		P	P		P	P	P	P	P	P
Reception Centre		P	X	X	X		X		X	X		A	X	X	A	X	A
Recreation - Private		D	D	D	D		X		X	D		D	D	X	X	D	D
Recreation - Public		P	P	P	P		D		X	D		D	P	A	X	P	P
Residential Building		X	X	X	X		A		X	X		X	D	X	X	X	X
Restaurant		P	X	X	X		X		X	A		D	A	X	A	D	A
Restricted Premises		A	X	X	X		X		X	X		X	X	X	X	X	X
Roadhouse		X	X	X	X		X		X	X		A	X	X	X	D	
Rural Pursuit		X	X	X	X		X		X	D		D	D	P	A	P	X
Service Station		A	A	X	X		X		X	X		X	X	X	X	X	X
Shop		P	X	X	X		X		X	X		X	X	X	X	X	X
Showroom		P	P	X	X		X		X	X		X	X	X	X	X	X
Single Bedroom Dwelling		X	X	X	X		D		X	X		X	X	X	X	X	X
Single House		X	X	X	X		P		P	P		P	P	P	P	P	P
Storage		D	D	P	P		X		X	X		X	X	X	X	X	X
Tavern		A	A	A	A		X		X	X		A	X	X	X	X	X
Telecommunications Infrastructure	D	D	D	D	X		X	D	D	D	D	D	D	D			
Tourist Facilities	A	X	X	X	X		X	A	A	A	X	A	A	A			
Trade Display	D	P	P	P	X		X	X	X	X	X	X	D	X			
Transport Depot	D	D	X	P	X		X	X	X	X	A	X	X	X			
Vehicle Wrecking	X	X	X	P	X		X	X	X	X	X	X	X	X			
Veterinary Centre	D	D	D	P	X		X	D	A	D	X	X	D	X			
Warehouse	P	P	P	P	X		X	X	X	X	X	X	X	X			
Winery	X	X	X	A	X		X	A	A	A	X	A	A	A			

* - Denotes that Part 5A - Structure Planning Areas applies to land in these zones.

- Note:
1. Where a structure plan applies to the land the determination of applications involving the exercise of discretion in the Residential Development and Industrial Development Zones is subject to the provisions of Clause 5A.1.3.1.
 2. Prior to a structure plan coming into effect applications for development in the Residential Development and Industrial Development Zones are subject to the provisions of Clause 5A.1.4.2.
 3. Notwithstanding that a use may be designated as a permitted use, where land is located within a Special Control Area, the provisions of Part 6 of the scheme may result in the use being subject to the discretion of the local government.

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

4.3.2 The symbols used in the cross-reference in the Zoning Table have the following meanings –

“**P**” means that the use is permitted by the Scheme provided the use complies with the relevant development standards and the requirements of the Scheme;

“**D**” means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;

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

“**X**” means a use that is not permitted by the Scheme.

4.3.3. Notwithstanding any provisions to the contrary under the scheme, a change in the use of land from one use to another is permitted without any requirement for planning approval, if:

(a) the change is to a use within the same use class which is designated with the symbol “P” in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and requirements applicable under the Scheme including any requirements applicable under any current planning approval pertaining to the land and the change of use is not accompanied by and does not involve any building or other development work; or

(b) the change is to an incidental use that does not change the predominant use of the land, and complies with all the relevant development standards and requirements applicable under the Scheme including any requirements applicable under any current planning approval pertaining to the land.

4.3.4 A proposal to commence or carry out development involving a “P” use which is not a proposal for a change in the use of land under the preceding clause requires planning approval: where an application is made for planning approval of any development involving a “P” use, the local government shall not refuse the application by reason of the unsuitability of that use, but notwithstanding that the local government may in its discretion impose conditions upon the approval to commence or carry out the use, and if the application proposes or necessarily involves any building or other work the local government upon considering that building or other work may exercise its discretion as to the approval or refusal and the conditions to be attached to the proposed development.

Note: 1. *The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*

2. *In considering a “D” or “A” use, the local government will have regard to the matters set out in clause 10.2.*
3. *The local government must refuse to approve any ‘X’ use of land.*

4.4. Interpretation of the Zoning Table

4.4.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

4.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use class the local government may –

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 Additional Uses

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

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

4.6 Restricted Uses

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

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

4.7 Special Use Zones

4.7.1 Special Use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

4.7.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

- Note:*
1. Special Use zones apply to special categories of land use that do not comfortably sit within any other zone in the Scheme.
 2. The provisions of Part 5A - Structure Planning Areas apply to those Special Use Zones for which a structure plan is required as a condition of subdivision or development.

4.8 Non-conforming Uses

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent –

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorize the development to be carried out, were duly obtained and are current but where use of the land for the permitted purpose had not commenced prior to the gazettal date; or
- (c) subject to clause 11.2.2, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

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

4.9 Extensions and Changes to a Non-conforming Use

4.9.1. A person must not –

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

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

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

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

4.10 Discontinuance of Non-conforming Use

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

4.11 Termination of a Non-conforming Use

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

Note: Part 11, Division 4 of the Planning Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

4.12 Destruction of Non-conforming Use Buildings

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