

CONSISTENT LOCAL PLANNING SCHEMES REPORT

STAKEHOLDER CONSULTATION REPORT

DRAFT

PUBLIC CONSULTATION

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Terms

Action Plan	Action Plan for Planning Reform
Department	Department of Planning Lands and Heritage
LPS	Local Planning Scheme
Regulations	Planning and Development (Local Planning Schemes) Regulations 2015
SPP	State planning policy

EXECUTIVE SUMMARY

Current planning reforms in Western Australia commenced in 2018 with the Modernising WA's Planning System: Green Paper. The Green Paper resulted in an Action Plan for Planning Reform (Action Plan).

More consistent local planning schemes was identified as initiative (C1) within the Action Plan. Initiative C1 seeks to achieve *a standardised approach to zones, land use, permissibility and development control to increase consistency, while retaining the ability for local governments and their communities to respond to local circumstances, such as heritage and character.*

To assist delivery of initiative C1 the Department of Planning, Lands and Heritage (the Department) has undertaken the consistent local planning schemes project.

The consistent local planning schemes project has utilised:

- Outcomes from an audit of local planning schemes
- Review of policy changes since the Regulations became operational
- Preliminary consultation within the Department of Planning, Lands and Heritage (DPLH) and externally with key stakeholders, to inform a recommended approach for improving the consistency of local planning schemes.

This report is the culmination of the consistent local planning scheme project and provides an overview, context and justification for proposed changes to the Regulations and a recommended approach aimed at improving the consistency of local planning schemes.

This report:

- Provides the relevant background to the project
- Explains the process undertaken to deliver the project and prepare this report
- Summarises feedback from preliminary consultation with key stakeholders
- Outlines principles and rationale for draft proposals to amend the Regulations
- Outlines a recommended approach for improving the consistency of local planning schemes

The recommended approach for improving the consistency of local planning schemes across the State includes a number of short term (1-3 years) and longer term (3 years +) actions to support proposed changes and implementation through model and deemed provisions.

In the short term it is proposed to:

- amend the model provisions of the Regulations to refine land uses, zones and reserves (state wide) and introduce a standardised zoning table for land use permissibility and primary development controls for commercial and industrial type zones (metropolitan and Peel region scheme areas).
- amend the deemed provisions of the Regulations to include provisions relating to non-conforming uses and restrictive covenants (from model provisions) and for the establishment and maintenance of a significant tree register
- investigate the elements of the model provisions that could be included in the deemed provisions and the appropriateness of a 'deemed local planning scheme' that would include combining all elements of the model and deemed provisions
- prepare local planning scheme guidelines to assist preparation and amendment of local planning schemes and improve transparency of approved variations to the model provisions
- commence preparation of a design code for industrial zones and potentially the service commercial zone

In the longer term it is proposed to:

- amend the model provisions to provide more standardised content in local planning schemes (for example standard zoning table and primary development controls for relevant zones across the State)
- amend the deemed provisions to incorporate more elements of the model provisions and subject to the findings of the investigation in relation to the appropriateness of a 'deemed scheme', consider implementation options
- release and implement a design code for industrial zones and potentially the service commercial zone

The Department is seeking comment from key stakeholders including local government, State Government agencies and industry representative groups on the options described and recommendations included in this report. Feedback received on this report will be used to further refine proposed changes to the Regulations and the recommended approach for improving the consistency of local planning schemes.

1. THE NEED FOR CONSISTENCY IN LOCAL PLANNING SCHEMES

1.1. BACKGROUND

The Planning and Development (Local Planning Schemes) Regulations (the Regulations) 2015 became operational on 19 October 2015 and replaced the Town Planning Regulations 1967 and associated Model Scheme Text. Amongst other things, the Regulations provide for the preparation, adoption and amendment of local planning schemes and the establishment of model and deemed provisions.

Local planning schemes prepared in accordance with the Regulations will generally include the following documents:

- Scheme map
- Local planning scheme text (model provisions as provided in Schedule 1 of the Regulations)
- Deemed provisions (as provided in Schedule 2 of the Regulations) which do not need to be reproduced in individual schemes as they apply automatically
- Supplemental provisions to the deemed provisions
- Any supporting material required by the Western Australian Planning Commission (WAPC)

In regard to the local planning scheme text, there continues to be variance in the zones, land uses and the land use permissibility included in local planning schemes across Western Australia. Variability in the content and format of local planning schemes is largely a consequence of the currency of local planning schemes, with only 44 out of 139 local governments having had a new local planning scheme approved since the Regulations became operational in October 2015. Additionally, there have been a number of variations to the model provisions approved to address circumstances not adequately covered by the zones, reserves and land uses contained in the model provisions.

The lack of consistency within local planning schemes increases the complexity of the planning system and hinders the preparation, interpretation, assessment and implementation of local planning schemes by both local and State Government and the wider planning and development industry. Consistency is required in order to make the Western Australian planning system more efficient and easier to understand and implement by a broad range of stakeholders.

The current planning reforms began in Western Australia in 2018 with the Modernising WA's Planning System: Green Paper. The Green Paper resulted in an Action Plan for Planning Reform (Action Plan).

The Action Plan identified three key themes for the modernisation of planning in Western Australia:

- (a) Planning Creates Great Places for People
- (b) Planning is Easier to Understand and Navigate
- (c) Planning Systems are Consistent and Efficient

More consistent local planning schemes was identified as initiative (C1) within the Action Plan. Initiative C1 seeks to achieve a *standardised approach to zones, land use, permissibility and development control to increase consistency, while retaining the ability for local governments and their communities to respond to local circumstances, such as heritage and character.*

To achieve the consistency required by initiative C1, a number of sub projects were established in order to review and rationalise local planning frameworks, these included:

- Consistent local planning schemes
- Consistent approach to the use and application of discretion
- Consistent approach to development standards for non-residential uses
- Review of the use of local planning policies and associated guidance
- Review of the use of local development plans and associated guidance.

The consistent local planning schemes project has utilised:

- Outcomes from an audit of local planning schemes
- Review of policy changes since the Regulations became operational
- Preliminary consultation within the Department of Planning, Lands and Heritage (the Department) and externally with key stakeholders, to inform a recommended approach for improving the consistency of local planning schemes.

1.2. PURPOSE

The purpose of this report is to provide an opportunity for further consultation with key stakeholders by providing an overview, context and justification for proposed changes to the Regulations and a recommended approach aimed at improving the consistency of local planning schemes. The key stakeholders targeted for consultation on this draft report include local government, State Government agencies and industry representative groups.

The report:

- Provides the relevant background to the project
- Explains the process undertaken to deliver the project and prepare this report
- Summarises feedback from preliminary consultation with key stakeholders
- Outlines principles and rationale for draft proposals to amend the Regulations
- Outlines a recommended approach for improving the consistency of local planning schemes

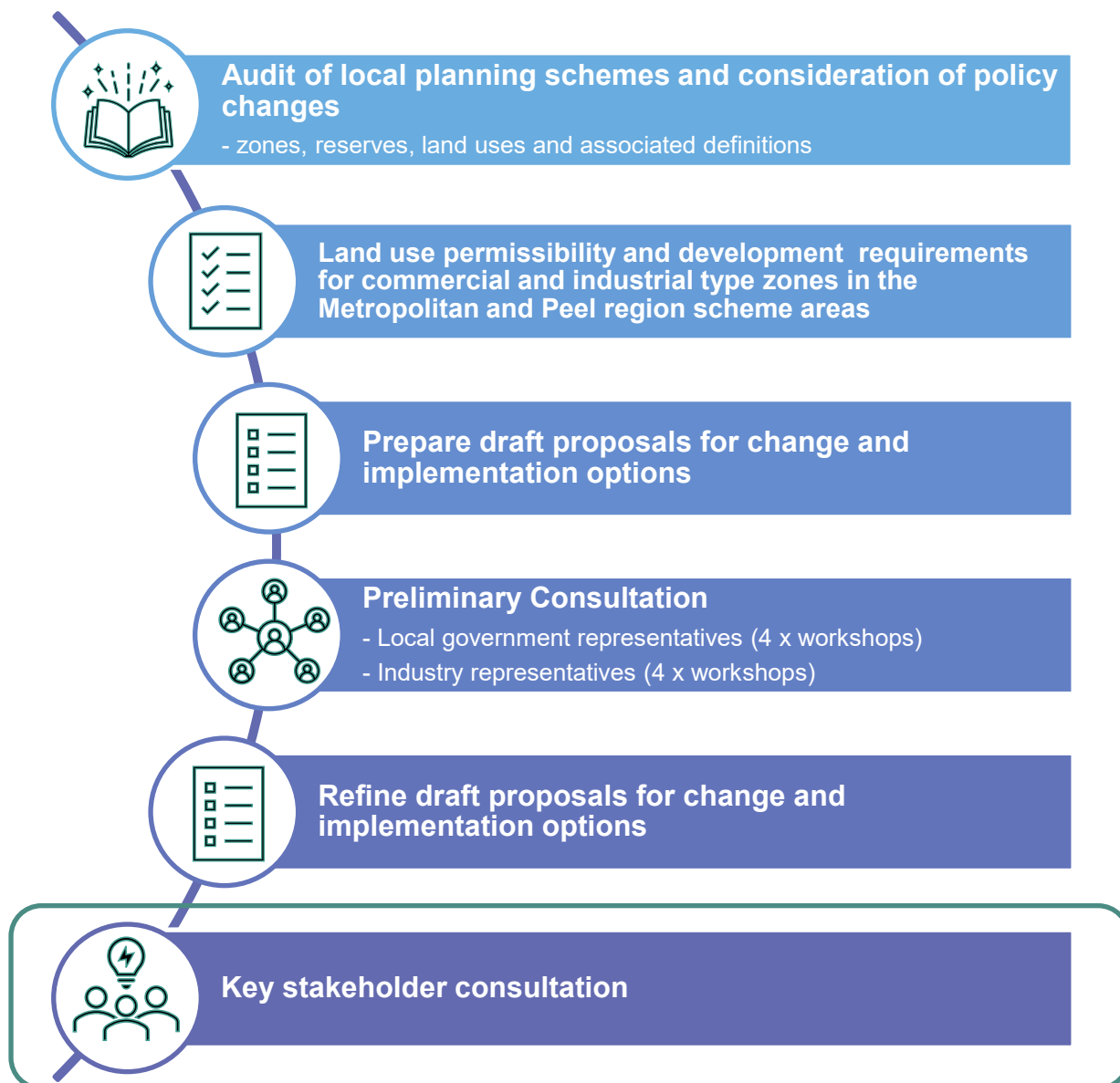
Feedback received on this report will be used to further refine proposed changes to the Regulations and the recommended approach for improving the consistency of local planning schemes.

2. PROJECT PROCESS



Delivery of the project has been undertaken consistent with the process outlined in Figure 1 and in more detail below.

Figure 1 - Project Process



The project is currently within the key stakeholder consultation phase. Further information relating to the path forward is set out in Section 5 of this report.

2.1. LOCAL PLANNING SCHEMES AUDIT

To assist the identification of potential changes to zones listed under clause 16(2) of the model provisions, and land use terms defined under clause 38 of the model provisions, an audit of local planning schemes was undertaken by the Department.

Any land use listed in a zoning table of a current local planning scheme that did not use wording identical to a land use term listed in the model provisions, was recorded as a non-model land use. For example, the model provisions include the land use term 'rural pursuit/hobby farm', so where a land use in a zoning table was 'rural pursuit' it was recorded as a non-model land use.

The audit of local planning schemes identified the following key findings:

- Approximately 800 different land use terms are used within Western Australian local planning schemes
- Many land use terms constitute variations of similar land uses, for example *child care*; *child care centre*; *child care premises*; *child care service*; *child day care centre*; *child family care centre*; *child family day care*; *child minding centre*; *childcare centre*
- 269 differing zones are used within Western Australian local planning schemes
- Many of the zones constitute variations of similar zones and have some alignment with those within the model provisions
- Since the introduction of the model provisions in 2015 the following have been inserted into new schemes:
 - 11 new or modified reserves,
 - 24 new or modified zones and
 - 90 new or modified land uses

To narrow down the scope of work, those non-model land use terms (around 90) that have been included in local planning schemes gazetted since 2015 were further investigated for compatibility with the land use terms in the model provisions, with the outcomes contributing to potential changes to land uses that were further considered by key stakeholders during preliminary consultation.

2.1.1. CONSIDERATION OF POLICY CHANGES

Since the Regulations became operational in October 2015 a number of State planning policies and position statements have either been prepared, or reviewed, that have implications for model zones and land uses and the associated objectives and definitions. The following State planning policies and position statements proposed new or modified land uses and zones, and consideration was given to them in identifying potential changes to land uses and zones in the model provisions:

- State Planning Policy 2.5 Rural planning
- Draft State Planning Policy 4.2 Activity centres
- Planning Position Statement: Special residential zone
- Planning Position Statement: Residential accommodation for ageing persons
- Planning Position Statement: Renewable energy facilities
- Draft Position Statement: Planning for Tourism

2.2. LAND USE PERMISSIBILITY & DEVELOPMENT REQUIREMENTS FOR COMMERCIAL & INDUSTRIAL TYPE ZONES IN THE METROPOLITAN REGION & PEEL REGION SCHEME AREAS



Land use permissibility and development requirements form a substantial part of local planning schemes. Currently the model provisions provide only limited direction on the standardisation of the content of land use permissibility and development requirements. Given the vastness and diversity of issues across WA, a staged approach to achieving more consistent land use permissibility and development requirements in local planning schemes is considered appropriate.

Commercial and industrial type zones in the Metropolitan and Peel region scheme areas were identified as a priority for improving the consistency of land use permissibility and development requirements in the relevant local planning schemes.

A recommended approach, supporting information and guidance to improve consistency of land use permissibility and development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas has been developed.

To inform this, a review of local planning schemes in the metropolitan and Peel region scheme areas. Key findings of their review included:

- 183 different zones across 33 local authorities in the Metropolitan and Peel region scheme areas, including:
 - 31 centre zones,
 - 17 industrial zones
 - 15 commercial zones.
- It is noted that there is increased consistency in zoning within local planning schemes which have recently been reviewed or a new Scheme prepared.
- The need to rationalise the zones, inclusive of consistent naming conventions is evident from the review.

A wide range of land use permissibilities for commercial and industrial type zones were identified along with significant variation in the development requirements for these types of zones.

Without a consistent approach to zoning conventions, the introduction of standardised permissibilities and development requirements for these zones will be difficult to achieve.

Further detail can be found in a Background Report included at **Appendix D**.



2.3. PRELIMINARY CONSULTATION

The Department undertook a series of workshops with key stakeholder reference groups during September and October 2022 in order to:

- Confirm the benefits of improved consistency of local planning schemes
- Understand why there is variability in local planning schemes and how the consistency of local planning schemes could be improved
- Review potential changes to zones, reserves and land uses and associated objectives and definitions
- Review a recommended zoning table for commercial and industrial type zones in the Metropolitan and Peel region scheme areas
- Review and discuss principles for guiding more consistent development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas
- Identify and discuss potential changes to the Regulations
- Identify and discuss aspects of the preparation and implementation of local planning schemes that require guidance.

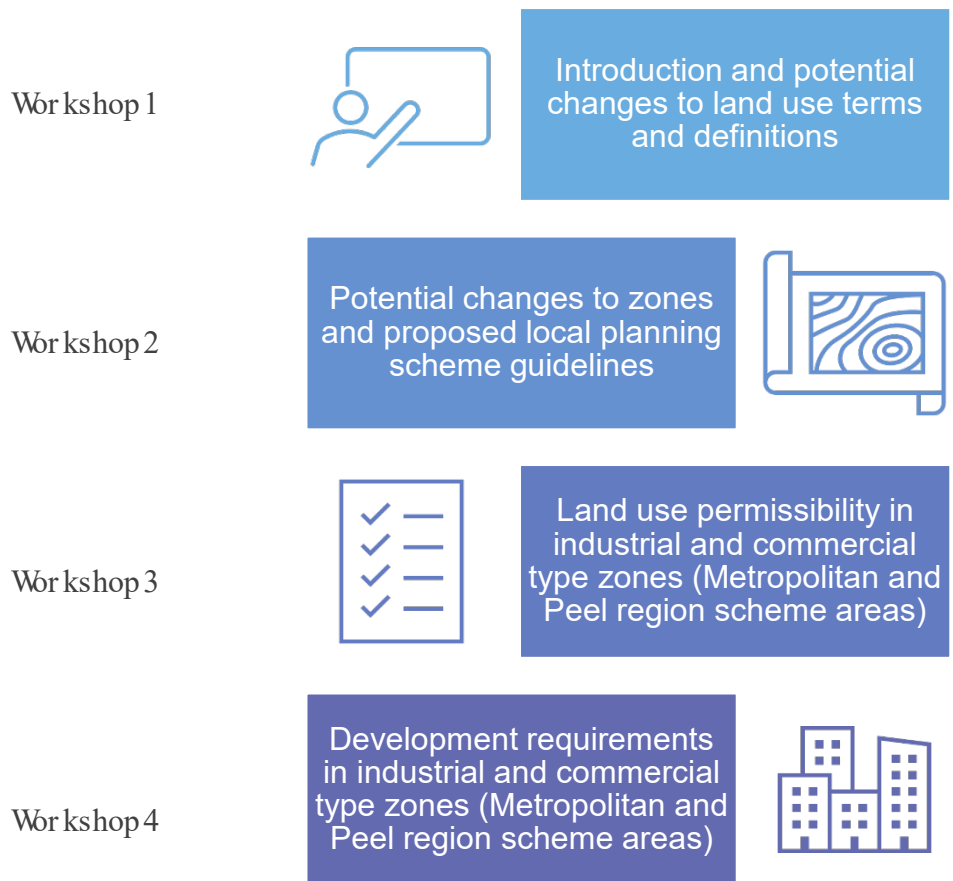
Two stakeholder reference groups (local government and industry) were established by the Department based on nominations received from local governments and industry.

A summary of the workshop content and key outcomes are set out below.

2.3.1. WORKSHOP CONTENT

Four workshop sessions with each of the stakeholder reference groups were facilitated by Shape Urban (a total of 8 sessions) to cover the following aspects of the project:

Figure 2 – Key Stakeholder Reference Group Workshops



The outcomes of the workshops have informed the refinement of the identified changes and draft proposals for amendments to the deemed and/or model scheme provisions.

2.3.2. KEY WORKSHOP OUTCOMES

A summary of the key outcomes of the workshops as compiled by Shape Urban are set out below:

Table 1 - Key Workshop Outcomes

Areas of general agreement	Areas of varying views
<ul style="list-style-type: none"> • Benefits of improving consistency within local planning schemes • Land uses, zones and associated definitions and objectives need to be less prescriptive and more general • Support for the proposed: <ul style="list-style-type: none"> • deletion of commercial and special residential zones • new and modified zones (local centre, neighbourhood centre, centre, mixed use, rural enterprise, priority agriculture and cultural and natural resource use zones) • That zones and objectives need to be more contemporary and provide additional clarity • Review the impact of proposed changes creating non-conforming use rights • A need for local planning scheme guidance on the manner and form provisions, transitioning between the current and new system, land use interpretations and discretionary provision test examples • Consideration of car parking implications from the proposed changes • Review and reconsider bulky goods, showroom, supermarket, office and shop definitions and permissibility • Review the definition, size, scale and functionality of alcohol based uses • The limitations of applicability outside Perth and Peel need to be considered • Standardisation should be balanced with local context 	<ul style="list-style-type: none"> • The industry stakeholder reference group had a clear preference for a standardised zoning table to be included in the deemed provisions along with land use definitions • Opinion on the implementation of a standardised zoning table was more varied amongst local government stakeholders, however there was general agreement that local context needed to be accounted for in implementation of any standardised zoning table • The local government stakeholder reference group expressed hesitancy about the implementation of development requirements through either model or deemed provisions, instead preferring that improved consistency in development requirements be facilitated through guidelines • Conversely the industry stakeholder reference group indicated a preference for development requirements be addressed through a mix of deemed and model provisions • The role of local planning policies was viewed differently by the local government and industry stakeholders reference groups

Other aspects raised include:

- Increased transparency in decision making conditions to ensure that previous approvals could be recognised as they were originally intended when contemplated in a future time frame (even if land use descriptions and definitions change over time).
- The need for guidance to be provided to assist local government to transition from current use of local planning schemes to the recommended approach for more consistent local planning schemes.

3. PROPOSED CHANGES TO LOCAL PLANNING SCHEME REGULATIONS



The audit of local planning schemes, review of land use permissibility and development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas and preliminary consultation with key stakeholders has resulted in a consolidation of draft proposals aimed at improving the consistency of local planning schemes.

This section provides a summary of proposals and the principles including justification for the proposals. More specific detail on the draft proposals is provided in **Appendices A, B and C**. **Appendix D** provides further background and context for land use permissibility and development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas.

3.1. LAND USE TERMS & DEFINITIONS – SUMMARY OF DRAFT PROPOSALS

The review process identified that the more specific or prescriptive land uses and associated definitions become, the more likely it is that more land uses and definitions will need to be added to the Regulations, creating additional levels of complexity. The primary principle forming the basis of proposed changes to land use terms and definitions, is the preference to have land uses and associated definitions to be less prescriptive.

The proposed changes to land use definitions can be separated into four key categories:

- Modifications to land uses terms and/or definitions
- Deletion of land use terms and definitions
- Replacement of land use terms and/or definitions
- Addition of land use terms and definitions

The proposed change to land uses are set out in Table 2 below including a summary of the draft proposals and discussion on the principles for change. A detailed rationale for each proposed change to land use term/definition is provided in **Appendix A**.

Table 2 - Land Use Definitions – Summary of Proposals

Proposed Change	Land Uses	Principles behind the draft proposals
Modify	Animal husbandry – intensive Bulky Goods Showroom Caravan Park Community Purpose Freeway Service Centre and Roadhouse Home business Hotel Liquor Store – large Liquor Store – small Small Bar Tavern Market Motel Nightclub Office Park Home Park	It is proposed the definitions associated with these land use terms be modified. The audit of land use terms and definitions identified that these terms and/or definitions could be better defined to become less prescriptive/more flexible and to reflect similar definitions in state planning policies, position statements and other relevant legislation where applicable. Aspects that have been taken into account in reviewing the definitions / suggested modification include: <ul style="list-style-type: none"> ▪ Achieving consistency across schemes (review of varying definitions to achieve optimal definition)

	Recreation - private Restaurant / Café Rural Home Business Service Station Tourist Accommodation Veterinary Centre Warehouse / Storage	<ul style="list-style-type: none"> ▪ Achieving consistency with State Planning Policies ▪ Achieving consistency with relevant Legislation ▪ Providing greater flexibility and improved implementation of terms and definitions ▪ Recognising changes in the way land uses operate ▪ Providing for ongoing technological and business improvements ▪ Addressing bugbears seen in land use definitions by local government and industry
Delete	Bed and breakfast	It is proposed these land uses are deleted.
Replace	Amusement Parlour (recreation private) Brewery (liquor production facility) Family Day Care (home business) Fast Food Outlet / Lunch Bar (food outlet) Home Occupation (home business) Home Office (home business) Home Store (home business) Industry – Primary Production (industry rural) Motor Vehicle Repair (vehicle repair/wash) Motor Vehicle Wash (vehicle repair/wash) Shop (shop – small, shop – large) Winery (liquor production facility) Wind Farm (renewable energy facility)	<p>It is proposed these land uses and their definitions are replaced with alternative terms.</p> <p>The audit of land use terms and definitions identified that these terms and/or definitions contained similarities with other terms or with definitions within State policy.</p> <p>The proposed replacement land use term is included in brackets.</p>
Add	Aerodrome Aircraft Landing Area Food Outlet Food Outlet with Drive Through Facility Independent Living Complex Industry rural Liquor Production Facility Renewable Energy Facility Repurposed Dwelling Residential Care Facility Second Hand Dwelling Shop – small Shop – large Vehicle repair/wash	<p>It is proposed these land uses be added to the list of land use terms.</p> <p>The audit of land use terms and definitions identified that these terms and/or definitions (or variations of) were included in a number of local planning schemes prepared since 2015 or has a basis established through recent policy reviews.</p> <p>The addition of these terms and associated definitions will provide greater consistency across schemes.</p>

Generally, land uses that appear in a zoning table are predominantly defined under clause 38 of the model provisions, however some land uses that have been included in the zoning tables of some local planning schemes (for example ancillary dwelling, container deposit recycling centre, grouped dwelling, multiple dwelling, and single house) are defined under clause 1 of the deemed provisions (terms used).

To enable better differentiation between land uses included in a zoning table and their definitions and other terms as defined in the Regulations, it is suggested that land use terms that are included in the deemed provisions be separated from other terms defined in the deemed provisions.

3.2. ZONES & RESERVES – SUMMARY OF DRAFT PROPOSALS

The primary principles behind the changes to zones and reserves is that zone names and associated objectives be less prescriptive and more general. The more specific or prescriptive zones and associated objectives become then the more likely it is that more zones and objectives will need to be added to the Regulations.

The objectives of some zones refer to specific State planning policy. It is suggested that any reference to State planning policy refer to 'applicable state planning policy', rather than the specific number and or name of the State planning policy.

The proposed changes to zones and reserves can be separated into four key categories:

- Modifications to zones and reserves
- Deletion of zones and reserves
- Addition of zones and reserves
- Rationalisation of zones and reserves

The zones and reserves identified for change are set out in Table 3 and Table 4 below. A summary of the draft proposals and discussion on the principles for change are provided. A detailed rationale for each proposed change to zones and reserves is provided in **Appendix B**.

Table 3 – Zones – summary of proposals

Proposed Change	Zones	Principles behind the draft proposals
Modify	Centre Mixed Use Urban Development Residential Rural residential Rural small holdings Service commercial Strategic industry Rural Townsite Special Use	<p>It is proposed the objectives associated with these zones be modified.</p> <p>The audit of zones and their objectives identified there was a need to provide a greater ability for zones to guide the appropriateness of the land use and development within the respective zone.</p> <p>Modifying the zone objectives will allow for improved application of zones and in turn provide consistency in application across local planning schemes.</p> <ul style="list-style-type: none"> ▪ Aspects that have been taken into account in making the suggested modifications include: ▪ Achieving consistency across schemes ▪ Achieving consistency with State Planning Policies ▪ Achieving consistency with relevant Legislation ▪ Providing greater flexibility and improved implementation of zones and their objectives ▪ Addressing concerns raised ▪ Implementing best practise across all zones ▪ Recognising changes in the way land uses operate and how zones need to guide these ▪ Administrative edits (i.e removing the “zone” after Rural Townsite and Special Use)
Delete	Commercial Special Residential	<p>It is proposed these land uses are deleted.</p> <p>The audit of zones and objectives identified that these uses have been made redundant by either the proposed addition of new zones (i.e Commercial to be replaced by widened Centre zones) or through State directives (i.e Special Residential zone).</p>

Add	Local Centre Neighbourhood Centre Priority Agriculture Rural enterprise Cultural and Natural Resource	<p>The audit of local planning schemes identified a number of these zones being included in local planning schemes following the Regulations becoming operational in October 2015. It is proposed these zones and associated objectives be added to the list of zones in the model provisions.</p> <p>Consistency with State Planning Policies such as SPP 2.5 Rural Planning and SPP 4.2 Activity Centres has further guided the recommendation to add these zones and associated objectives. For example it is proposed to include new zones for local centre and neighbourhood centre and expand objectives of the centre zone to implement the activity centre hierarchy established in SPP 4.2.</p>
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Table 4 – Reserves – summary of proposals

Proposed Change	Reserves	Principles behind the draft proposals
Rationalisation	Social Care Facilities (civic and community) Cultural Facilities (civic and community) Medical Services (public purposes) Education (public purposes) Emergency Services (public purposes) Heritage (public purposes) Government Services (public purposes) Recreational (public purposes)	<p>It is proposed these reserves be rationalised to provide for improved application of public purposes. The reserve that is proposed to cover the rationalised reserve is included in brackets.</p> <p>The audit of reserves identified that a number of reserves were highly prescriptive and restricted the ability for these to be readily used.</p> <p>The rationalisation / grouping of various reserves will allow for greater flexibility and application in the reserve purpose.</p>
Add	Foreshore	<p>It is proposed this reserve be added to the list of reserves.</p> <p>The need for a specific foreshore reserve has been identified to assist with the implementation of SPP 2.6 Coastal Planning.</p>
Modify	Infrastructure Services	<p>It is proposed this reserve be modified as a result of feedback from the stakeholder reference groups to provide a more overarching objective to ensure consistency.</p>

3.3. LAND USE PERMISSIBILITY & DEVELOPMENT REQUIREMENTS FOR COMMERCIAL & INDUSTRIAL TYPE ZONES IN THE METROPOLITAN REGION & PEEL REGION SCHEME AREAS – SUMMARY OF DRAFT PROPOSALS

The review undertaken on commercial and industrial type zones in Metropolitan and Peel region scheme areas resulted in:

- A proposed zoning table
- Guidance on addressing development requirements
- A number of supporting actions.

Proposals recommended were presented and discussed during the preliminary consultation undertaken with stakeholder reference groups in workshops 3 and 4. Following preliminary consultation, refinements were made to the proposals, with a summary of those proposals provided below and specific detail provided in **Appendix C**.

3.3.1. LAND USE PERMISSIBILITY

The permissibility of land uses in each zone is generally set out in the form of a zoning table, which lists land uses against zones and assigns a permissibility to each land use within a zone. Based on work undertaken a standardised zoning table for commercial and industrial type zones in the Metropolitan and Peel region scheme areas is recommended in **Appendix C**.

In preparing the recommended zoning table the following assumptions were used:

- Given the importance of the objectives of each zone, it is desirable that each land use be first considered against the objectives of the zone
- The process for preparing a zoning table is consistent with the process outlined in section 5.4.3 of **Appendix D**
- Potential changes to land uses and zones proposed in appendices A and B were considered in assigning permissibility to land uses in the zoning table
- An incidental use is not a separate and distinct use in its own right, but rather is a related component of the predominant use and therefore the designation of incidental uses is not incorporated in the recommended zoning table. Given that both ancillary accommodation and caretakers dwelling are both land uses that in all circumstances are incidental to the predominant use, it is appropriate that they be excluded from the zoning table.

In support of the recommended zoning table and in recognition of the importance of the zone objectives in determining the permissibility of land uses, it is recommended that the permissibility definitions contained in the model (clause 18(2)) and deemed (clause 1) provisions be updated as follows:

class A use, in relation to a zone,

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

class D use, in relation to a zone,

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

class P use, in relation to a zone,

- (a) means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is consistent with the zone Objectives and does not require approval consistent with cl 61(2) of the Deemed Provisions;

class X use, in relation to a zone,

- (a) means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone;

3.3.2. DEVELOPMENT REQUIREMENTS

The audit of development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas found significant variation for each local authority. It is highlighted that the location of the development requirements can vary between local governments, with some being located within the scheme and others being outlined in local planning policies, local development plans and/or guidelines.

Ideally development requirements for industrial type zones and potentially the service commercial zone will be addressed through an industrial design code. The development of an industrial design code similar to the R-Codes, would enable provisions and/or acceptable outcomes to be developed consistent with development requirement principles specified in a design code. This would ensure an overall consistency whilst also accommodating those localities or developments that might need a different approach.

In the interim it is recommended that a combination of provisions in the local planning scheme and local planning policy be used. It is suggested that the following primary controls be introduced to local planning schemes under part 4 – general development requirements of the model provisions:

- Lot sizes;
- Setbacks;
- Building height (if applicable)

It is also suggested that a local planning policy is used to address discretion in relation to the above primary controls and other elements of design not included in the local planning scheme, consistent with the following:

- General Matters
 - Precinct structure plan references
 - Other Guidance Document references (For example - EPA separation guidelines)
 - Design intent
- Site Layout and Building
 - Building orientation
 - Materials
 - Setbacks (guidance on the application of discretion)
 - Transition to other zones
- Community Spaces, Landscaping and Verges
 - Community spaces
 - Landscaping
 - Verge appearance and infrastructure
- Parking and Access
 - Parking provision (refer to relevant provision(s)), location and materials
 - Crossovers

- Bicycle parking
- End of trip facilities
- Loading and waste
 - Refuse and storage areas
 - Waste
 - Stormwater
 - Waste disposal
- Other matters
 - Lighting
 - Fencing
 - ESD
 - Acoustic considerations

It is recommended that the above guidance and more detail provided in section 4.3.5 of the document included at **Appendix D** be formalised through inclusion in the proposed local planning scheme guidelines.

3.3.3. OTHER MATTERS

During discussion regarding land use permissibility it was suggested that the definition of the approved land use(s) be included with the development approval to avoid any dispute or need for another approval should the land use definition change in the future.

It is recommended that clause 68 of the deemed provisions be amended to include a sub-clause as outlined below to require the decision maker to include the definition of the approved land use as an advice note to the approval/decision letter:

- (b) If development approval is granted under clause 68, the local government is to include a list of the approved land use(s) together with the applicable land use definition(s) as approved.

3.4. SUPPLEMENTAL PROVISIONS – SUMMARY OF DRAFT PROPOSALS

In addition to the model and deemed provisions, section 73(2A) of the *Planning and Development Act 2005* allows for a scheme to include supplemental provisions, provided those supplemental provisions are consistent with or not already covered by the Regulations.

There are some supplemental provisions commonly included in local planning schemes that may warrant broader application and standardisation in local planning schemes.

It is proposed that provisions relating to the establishment and maintenance of a significant tree register be included in the model or deemed provisions to address the following principles:

- Local governments can choose to establish or not establish a significant tree register
- The manner and form of the significant tree register
- Availability of the published significant tree register for inspection
- Process for inclusion or removal of a tree from the significant tree register
- Process and requirements relating to the cutting, pruning or removal of a tree included on the significant tree register
- Exemptions relating to the cutting, pruning or removal of a tree included on the significant tree register to be addressed through a local planning policy or supplemental provisions rather than the deemed provisions
- Recognition of a significant tree register established under a local planning scheme



4. IMPLEMENTATION OPTIONS

The implementation options for improving the consistency of local planning schemes across the State and for implementing the recommended zoning table and development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas are explained below and summarised generally as:

- Deemed provisions
- Model provisions
- Mixture of model and deemed provisions

4.1. DEEMED PROVISIONS

This option involves the expansion of the deemed provisions to incorporate more elements of the model provisions into the deemed provisions. Potentially all elements of the model provisions except the scheme map, schedules of special use zones, environmental conditions, special uses, additional uses and restricted uses, additional site development requirements, special control areas and supplemental provisions (provisions that deal with special circumstances for which adequate provisions are not provided in the deemed provisions) could eventually be included in the deemed provisions. Additional work would be required to be undertaken by the Department to first update and standardise more of the content of model provisions (for example standard zoning table and primary development controls for relevant zones).

A logical extension of the expansion of the deemed provisions could be to introduce a 'standardised deemed local planning scheme'. A standardised deemed local planning scheme could involve combining all elements of both the deemed provisions and the model provisions as one consolidated standardised scheme (currently a local planning scheme consists of two documents the deemed provisions and a local planning scheme generally consistent with the model provisions). In addition to improving consistency of local planning schemes a consolidated and standardised deemed local planning scheme would reduce the complexity associated with having both deemed provisions and a local planning scheme (consisting of model provisions, variations to model provisions and supplemental provisions).

4.2. MODEL PROVISIONS

An incremental and staged approach to achieving more consistent local planning schemes is through introducing more standardised content to local planning schemes (for example standard zoning table and primary development controls for relevant zones) through inclusion of that content in the model provisions. As acknowledged earlier, based on past uptake of the model provisions it may take a number of years for local governments to appropriately amend their schemes to be consistent with any new standardised content introduced into the model provisions.

To expediate the currency and consistency of the inclusion of the model provisions into local planning schemes, a timeframe for amending local planning schemes to be consistent with the model provisions could be specified. The Minister for Planning could potentially use powers under section 76 of the *Planning and Development Act 2005* to order local governments to amend their local planning scheme to be consistent with the model provisions within a specified timeframe. Prior to specifying a timeframe and ordering local governments to amend their schemes it is expected that the model provisions would have been adequately updated to include the changes proposed in this report and future changes relating to a standardised zoning table and primary development control for all zones.

4.3. MIXTURE OF MODEL & DEEMED PROVISIONS

The option of utilising both the model and deemed provisions allows for a balance between consistency and flexibility in local planning scheme provisions. This would require the interrogation of the draft proposals to the Regulations to determine which are best suited under the model provisions and which can be readily incorporated into the deemed provisions. Essentially the recommended approach for improving the overall consistency of local planning schemes across the State and for implementing the recommended zoning table and development requirements for commercial and industrial type zones in the Metropolitan and Peel region scheme areas (as outlined in section 1.2) uses a mixture of model and deemed provisions.

Table 5 – Implementation Options Pros and Cons

Pros	Cons
Model Provisions	
<ul style="list-style-type: none"> ▪ Provides for flexibility in the application of changes where relevant ▪ Allows for new / unique terms and definitions to be incorporated into schemes where deemed appropriate by the WAPC/Minister 	<ul style="list-style-type: none"> ▪ Reliant on local governments to amend or review local planning schemes. ▪ Potentially will take a lot longer than the deemed provisions for local planning schemes to become more consistent and contemporary unless Minister utilises powers under 76 of the Planning and Development Act to require updates to schemes ▪ Flexibility for variations may be counterproductive to achieving more consistent local planning schemes.
Deemed Provisions	
<ul style="list-style-type: none"> ▪ Ability to ensure ongoing consistency in land use terms and definitions ▪ Expedited efficiency of including the provisions in local planning schemes ▪ Changes or updates to land use terms, zone and reserve names and their associated definitions and objectives if included within the deemed provisions can be automatically updated in local planning schemes when the deemed provisions are amended. ▪ Changes to the content of the deemed provisions require amendments to the Regulations so are unlikely to be frequent and thus contributing to greater consistency. 	<ul style="list-style-type: none"> ▪ May result in non-conforming uses arising ▪ May still require elements of the local planning scheme to be amended (for example scheme map, additional uses, special control areas etc) when the deemed provisions are updated. ▪ Effect on other aspects of the scheme and local planning framework. ▪ Assuming land uses and zones are included in the deemed provisions, any new or specific land uses or zones would require amendment to the Regulations to become deemed. ▪ The majority of model provisions needs to be included in the deemed provisions at the same time as if it is staged there is potential to contribute to reduced readability and usability of the local planning scheme as scheme information will be split between deemed provisions and the local planning scheme. ▪ Requires ongoing amendments to the Regulations to stay current.
Mixture of Model and Deemed Provisions	
<ul style="list-style-type: none"> ▪ Scheme content can be standardised and texted through model provisions ▪ Ability to ensure ongoing consistency in planning aspects ▪ Allows for separation of provisions where required 	<ul style="list-style-type: none"> ▪ Some aspects of change still reliant on local governments to amend or review local planning schemes.

4.4. RECOMMENDED APPROACH

4.4.1. SHORT TO MID TERM ACTIONS (1 - 3 YEARS)

MODEL PROVISIONS

1. Update the model provisions to include:
 - (a) proposed changes identified in Appendix A for zones, reserves and land uses and associated definition and objectives
 - (b) recommended zoning table and primary development controls for commercial and industrial type zones in the model provisions (Appendix C) with recognition that it only applies to those local governments located in the Metropolitan and Peel region scheme areas.
 - (c) modified use class definitions for P, D, A and X to recognise consistency with zone objectives
2. Prepare a standardised zoning table and primary development controls (similar to work undertaken for the commercial and industrial type zones in the Metropolitan and Peel region scheme areas), for all other model zones (existing model zones – residential, urban development, settlement, special residential, rural, rural residential, rural smallholdings, rural townsite, environmental conservation, tourism, private clubs, institutions and places of worship; and proposed model zones – priority agriculture, cultural and natural resource use).
3. Undertake a review of supplemental provisions included in local planning schemes (gazetted after 19 October 2015) to identify those that might have broader application to other local governments (for example significant tree register) through inclusion in either model or deemed provisions.
4. Local governments located in the Metropolitan and Peel region scheme areas to commence amending their schemes to:
 - (a) be consistent with the updated model provisions
 - (b) incorporate development provisions for commercial and industrial type zones consistent with guidance provided in the local planning scheme guidelines

DEEMED PROVISIONS

5. Update the deemed provisions to include:
 - (a) model provisions relating to non-conforming uses and restrictive covenants
 - (b) provisions for the establishment and maintenance of a significant tree register
 - (c) separation of land use terms in the deemed provisions from other terms defined in the deemed provisions
 - (d) a requirement for the decision maker of an Application for Development Approval to include the land use definition(s) of all approved land use(s) as an advice note on a decision
6. Investigate the elements of the model provisions that could be included in the deemed provisions and the appropriateness of a 'deemed local planning scheme' that would include combining all elements of the model and deemed provisions

SUPPORTING IMPLEMENTATION ACTIONS

7. Prepare local planning scheme guidelines to provide:
 - (a) guidance on the process of preparing and amending a local planning scheme
 - (b) greater transparency on the process for varying model provisions and for sharing information on approved variations to the model provisions
 - (c) translation and alignment of non-model land uses, zones and reserves with those contained in the model provisions
 - (d) guidance for the preparation of development provisions for industrial and commercial type zones

- (e) improved guidance on the inclusion in schemes of additional uses, restricted uses, special use zones, non-conforming uses and special control areas
 - (f) improved guidance and updated manner and form for undertaking reports of review and amendments to local planning schemes
8. Commence the preparation of a design code for industrial zones, and potentially the service commercial zone
 9. Preparation and assessment of local planning schemes and amendments to be consistent with local planning scheme guidelines
 10. Publish approved variations to the model provisions, along with justification for their approval and applicability to other local governments

4.4.2. LONG TERM ACTIONS (3 YEARS+)

MODEL PROVISIONS

11. Update the model provisions to include a standardised zoning table and primary development controls for all model zones, to be applied statewide (with consideration of regional variations)

DEEMED PROVISIONS

12. Update the deemed provisions to include relevant elements from the model provisions
13. Subject to the findings of the investigation in relation to the appropriateness of a 'deemed scheme', the WAPC to consider implementation options

SUPPORTING IMPLEMENTATION ACTIONS

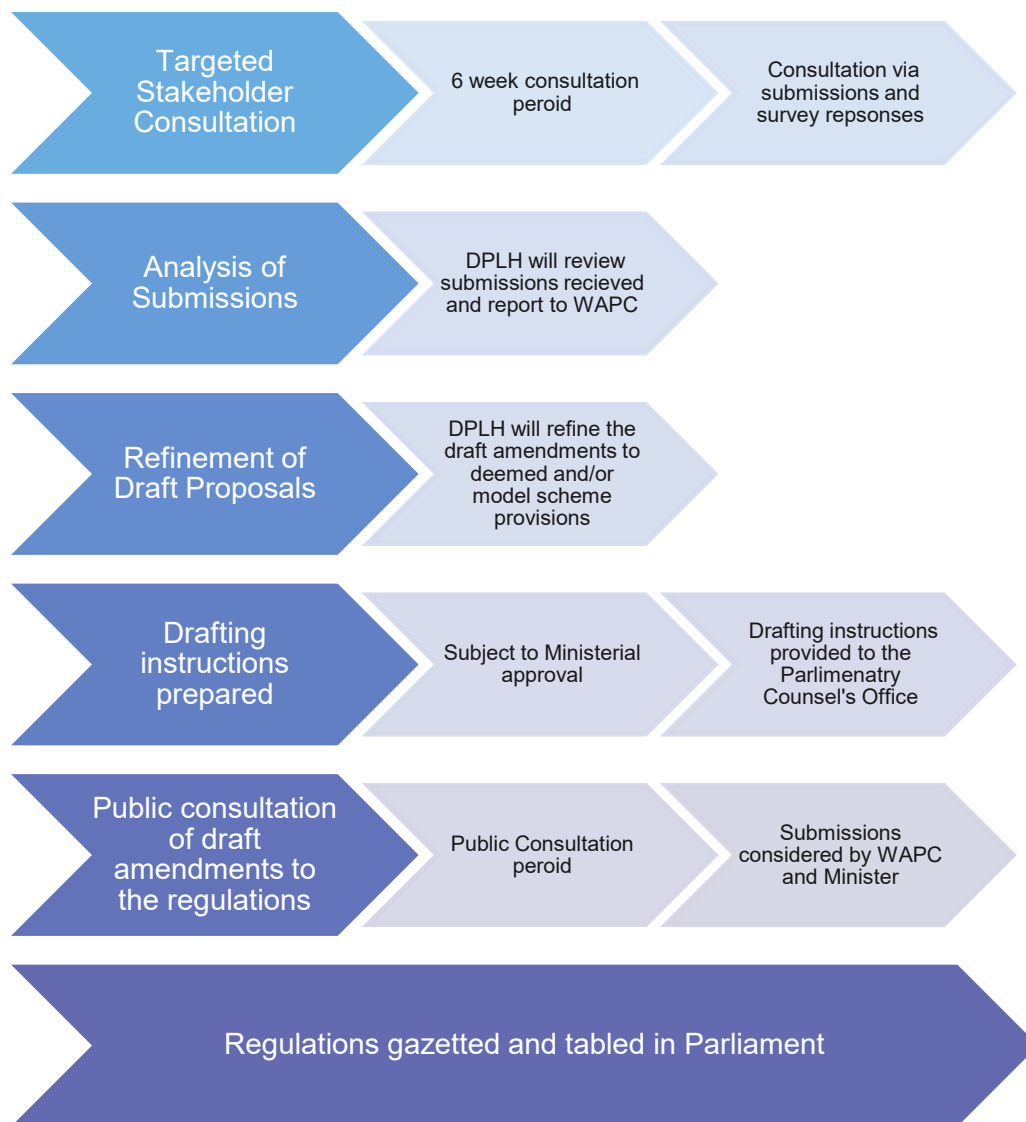
14. Release and implement a design code for industrial zones and potentially the service commercial zone
15. Conduct an ongoing review of the implementation of the standardised zoning objectives and table for the industrial and commercial zones



5. PATH FORWARD

Key stakeholder consultation is the next step for the Department in further progressing consistent local planning schemes project and potential changes to the Regulations. The remaining steps of this process are set out in Figure 3 below:

Figure 3 - Consistent Local Planning Schemes Project - Path Forward



5.1. TRANSITIONAL ARRANGEMENTS

The proposed changes contemplated in the draft consistent local planning schemes report are not expected to be integrated into the preparation of new local planning schemes or the amendment of existing local planning schemes until the proposed changes have been incorporated into drafting instructions for changes to the Regulations and or guidance for the preparation or amendment of local planning schemes.

At this stage those new local planning schemes or amendments to existing schemes that have been given consent to advertise prior to proposed changes to the Regulations being incorporated into drafting instructions and or finalisation of guidance for the preparation or amendment of local planning schemes, will not be required to be consistent with those proposed changes.

