

IMPROVEMENT SCHEME No. 1

ELLENBROOK STATION PRECINCT

This Improvement Scheme of the Western Australian Planning Commission consists of this Scheme Text and the Scheme Map. The Improvement Scheme should be read in conjunction with the Ellenbrook Station Precinct Improvement Scheme Report.

Amendments

Amd. #	Gazettal date	Updated		Details
		When	By	

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Part 1 — Preliminary

1. Citation

This Scheme is the Ellenbrook Station Precinct Improvement Scheme.

2. Commencement

Under section 122B of the Planning and Development Act 2005, this Scheme comes into operation on the day on which it is published in the Government Gazette

3. Scheme revoked

The following planning schemes are revoked:

- City of Swan Local Planning Scheme No.17 (LPS 17) – Gazetted 18 February 2008

4. Notes do not form part of Scheme

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

Note:

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

5. Responsibility for Scheme

The Western Australian Planning Commission (Commission) is responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

6. Scheme area

This Scheme applies to the area shown on the Scheme Map.

7. Contents of Scheme

- (1) In addition to the provisions set out in this document (the Scheme Text), this Scheme includes the following:
 - a) the deemed provisions set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2); and
 - b) the Scheme Map.
- (2) This Scheme is to be read in conjunction with Ellenbrook Station Precinct Improvement Scheme Report.

8. Purposes of Scheme

The purposes of this Scheme are to:

- a) set out the Commission's planning aims and intentions for the Scheme area; and
- b) zone land within the Scheme area for the purposes defined in this Scheme; and
- c) set out procedures for the assessment and determination of development applications; and
- d) make provision for the administration and enforcement of this Scheme; and
- e) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are to:

- a) Integrate development of the Ellenbrook train station with the Scheme Area.
- b) Plan for delivery of a mix of housing, employment and community uses.
- c) Maximise development opportunities associated with Ellenbrook Station
- d) Facilitate co-ordinated infrastructure planning and delivery.
- e) Achieve high quality-built form and public place design across the Scheme Area.
- f) Encourage the implementation of best practice sustainability, water sensitive urban design, energy efficiency initiatives within the Scheme Area.
- g) Facilitate sequential land use activities that respond to the planned development of the Scheme area over time; and
- h) Facilitate opportunities for investment by, and partnership with, the private sector.

10. Relationship with local laws

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

11. Relationship with other local planning schemes

There are no other local planning schemes which apply to the Scheme Area.

12. Relationship with region planning scheme

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

Part 2 — Reserves

13. Regional Reserves

There are no regional reserves in the Scheme Area.

14. Local reserves

(1) In this clause —

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

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

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

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

Table – Reserve objectives

Reserve name	Objectives
Civic and Community	<ul style="list-style-type: none">• To provide for a range of community facilities which are compatible with surrounding development.• To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by

	organisations involved in activities for community benefit.
Public Purposes	<ul style="list-style-type: none"> To provide for a range of essential physical and community infrastructure.
Recreational	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of public recreational facilities.
Car Park	<ul style="list-style-type: none"> To set aside land required for a car park.
Railways	<ul style="list-style-type: none"> To set aside land required for passenger rail and rail freight services.
Local Road	<ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.

15. Additional uses for local reserves

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

Part 3 — Zones and use of land

16. Zones

(1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.

(2) The objectives of each zone are as follows:

Zone Name	Objectives
Mixed Use	<p>The objectives of the Mixed Use zone are to:</p> <ol style="list-style-type: none"> Provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels. Provide for a broad range of residential development, located above active uses on street level. Allow for the development of a mix of small-scale retail and hospitality which do not generate nuisances detrimental to the amenity of the area or to the health, welfare and safety of surrounding residents.

17. Zoning table

The zoning table for this Scheme is as follows:

Use classes	Mixed Use
Abattoir	X
Agriculture – Extensive	X
Agriculture – Intensive	X

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Amusement Parlour	D
Animal Establishment	X
Animal Husbandry – Intensive	X
Art Gallery	D
Bed and Breakfast	D
Betting Agency	X
Brewery	A
Bulky Goods Showroom	X
Car Park	A
Caravan Park	X
Caretaker's Dwelling	X
Child Care Premises	A
Cinema or Theatre	A
Civic Use	A
Club Premises	X
Commercial Vehicle Parking	X
Community Purpose	D
Consulting Rooms	A
Convenience Store	D
Corrective Institution	X
Educational Establishment	X
Exhibition Centre	X
Family Day Care	A
Fast Food Outlet / Lunch Bar	X
Freeway Service Centre	X
Fuel Depot	X
Funeral Parlour	X
Garden Centre	X
Holiday Accommodation	X
Holiday House	X
Home Business	D
Home Occupation	P
Home Office	P

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Home Store	A
Hospital	X
Hotel	A
Industry	X
Industry – Extractive	X
Industry – Primary Production	X
Industry – Light	X
Liquor Store Large	X
Liquor Store Small	A
Marina	X
Marine Filling Station	X
Market	X
Medical Centre	A
Mining Operations	X
Motel	X
Motor Vehicle Repair	X
Motor Vehicle Wash	X
Motor Vehicle, Boat or Caravan Sales	X
Night Club	X
Office	D
Park Home Park	X
Place of Worship	X
Reception Centre	X
Recreation – Private	D
Resource Recovery Centre	X
Restaurant / Cafe	D
Restricted Premises	X
Roadhouse	X
Rural Home Business	X
Rural Pursuit / Hobby Farm	X
Serviced Apartment	A
Service Station	X
Shop	D

Small Bar	A
Tavern	X
Telecommunications Infrastructure	A
Tourist Development	A
Trade Display	X
Trade supplies	X
Transport Depot	X
Tree Farm	X
Veterinary Centre	X
Warehouse/Storage	X
Waste Disposal Facility	X
Waste Storage	X
Wind Farm	X
Winery	X
Workforce Accommodation	X

18. Interpreting zoning table

- (1) The permissibility of uses of land in the various zones in the Scheme Area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.
- (2) The symbols used in the zoning table have the following meanings:

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

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

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

A means that the use is not permitted unless the Commission has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions;

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

Notes for this clause:

- The development approval of the Commission may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances 1 application is made for both the carrying out of works on, and the use of, land.
- Under clause 61 of the deemed provisions, certain works and uses are exempt from the requirement for development approval.
- Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the Commission. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.

- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The Commission may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table:
- (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the Commission; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and advertise under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or
 - (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the Commission may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If the zoning table does not identify any permissible uses for land in a zone the Commission may, in considering an application for development approval for land within the zone, have due regard to any of the following reports and plans that apply to the land:
- (a) Ellenbrook Station Precinct Improvement Scheme Report;
 - (b) Any additional information requested by the Commission, consistent with Schedule 2 cl.24 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

19. Additional uses

There are no additional uses for zoned land that apply to this Scheme.

20. Restricted uses

There are no restricted uses which apply to this Scheme.

21. Special use zones

- (1) The Table sets out —
- (a) special use zones for specified land that are in addition to the zones in the zoning table; and

- (b) the classes of special use that are permissible in that zone; and
(c) the conditions that apply in respect of the special uses.

Table**Special use zones in Scheme area**

No.	Description of land	Special Use	Conditions																												
1	All land contained within the 'Special Use' zone	<p>The objectives of the Special Use zone are to:</p> <ul style="list-style-type: none"> a) Provide for a broad range of community infrastructure, including an aquatic and leisure facility (and complementary land uses), and to ensure compatibility with adjacent development. b) Provide for a range of compatible residential and mixed-use development, located on land not required for community infrastructure. c) Provide for a wide variety of active uses on street level which are compatible with community infrastructure and residential/mixed use development. d) Allow for the development of a mix of small-scale retail and hospitality uses which are compatible with community infrastructure and residential/mixed use development <table border="1" data-bbox="485 1205 1114 1984"> <thead> <tr> <th data-bbox="485 1205 906 1267">Use classes</th> <th data-bbox="906 1205 1114 1267">Permissibility</th> </tr> </thead> <tbody> <tr><td data-bbox="485 1267 906 1323">Art Gallery</td><td data-bbox="906 1267 1114 1323">D</td></tr> <tr><td data-bbox="485 1323 906 1379">Bed and Breakfast</td><td data-bbox="906 1323 1114 1379">D</td></tr> <tr><td data-bbox="485 1379 906 1435">Brewery</td><td data-bbox="906 1379 1114 1435">A</td></tr> <tr><td data-bbox="485 1435 906 1491">Car Park</td><td data-bbox="906 1435 1114 1491">D</td></tr> <tr><td data-bbox="485 1491 906 1547">Child Care Premises</td><td data-bbox="906 1491 1114 1547">A</td></tr> <tr><td data-bbox="485 1547 906 1603">Cinema or Theatre</td><td data-bbox="906 1547 1114 1603">A</td></tr> <tr><td data-bbox="485 1603 906 1659">Civic Use</td><td data-bbox="906 1603 1114 1659">D</td></tr> <tr><td data-bbox="485 1659 906 1715">Club Premises</td><td data-bbox="906 1659 1114 1715">D</td></tr> <tr><td data-bbox="485 1715 906 1771">Community Purpose</td><td data-bbox="906 1715 1114 1771">D</td></tr> <tr><td data-bbox="485 1771 906 1827">Consulting Rooms</td><td data-bbox="906 1771 1114 1827">D</td></tr> <tr><td data-bbox="485 1827 906 1883">Convenience Store</td><td data-bbox="906 1827 1114 1883">D</td></tr> <tr><td data-bbox="485 1883 906 1939">Exhibition Centre</td><td data-bbox="906 1883 1114 1939">D</td></tr> <tr><td data-bbox="485 1939 906 1984">Family Day Care</td><td data-bbox="906 1939 1114 1984">D</td></tr> </tbody> </table>	Use classes	Permissibility	Art Gallery	D	Bed and Breakfast	D	Brewery	A	Car Park	D	Child Care Premises	A	Cinema or Theatre	A	Civic Use	D	Club Premises	D	Community Purpose	D	Consulting Rooms	D	Convenience Store	D	Exhibition Centre	D	Family Day Care	D	N/A
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		Home Business	D			
		Home Occupation	P			
		Home Office	P			
		Home Store	A			
		Hotel	A			
		Medical Centre	A			
		Office	D			
		Restaurant / Cafe	D			
		Serviced Apartment	A			
		Shop	D			
		Small Bar	A			
		Tavern	A			
		Telecommunications Infrastructure	A			
		Tourist Development	A			
		All other uses are X (use is not permitted) within the 'Special Use' zone.				

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

Note:

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

22. Non-conforming uses

- (1) Unless specifically provided, this Scheme does not prevent —
- a. the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
 - b. the carrying out of development on land if —
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if —
- a. the non-conforming use of the land is discontinued; and
 - b. a period of 6 months, or a longer period approved by the Commission, has elapsed since the discontinuance of the non-conforming use.

- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the Commission —
- a. purchases the land; or
 - b. pays compensation to the owner of the land in relation to the non-conforming use.

23. Changes to non-conforming use

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

24. Register of non-conforming uses

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

Part 4 — General development requirements

25. R-Codes

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The Commission must ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.

- (2A) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if —
- (a) the area has a coding number superimposed on it in accordance with subclause (3);
 - or
 - (b) a provision of this Scheme provides that the R-Codes apply to the area.

26. Modification of R-Codes

There are no modifications to the R-Codes.

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

- (1) State Planning Policy 3.6 — Development Contributions for Infrastructure, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The Commission must ensure that State Planning Policy 3.6 is published in accordance with clause 87 of the deemed provisions.
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

28. Modification of State Planning Policy 3.6

There are no modifications to State Planning Policy 3.6.

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

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

30. Modification of State planning policies

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

31. Environmental conditions

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

32. Additional site and development requirements

There are no additional site and development requirements that apply to this Scheme.

33. Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan

There are no additional requirements that apply to this Scheme.

34. Variations to site and development requirements

There are no additional requirements that apply to this Scheme.

35. Restrictive covenants

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may

be constructed is less than the number that could be constructed on the land under this Scheme.

(2) If subclause (1) operates to extinguish or vary a restrictive covenant —

- (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
- (b) the local government must not grant development approval for the construction of the residential dwelling unless it advertises the application for development approval in accordance with clause 64 of the deemed provisions.

Part 5 — Special control areas

36. Special control areas

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

Part 6 — Terms referred to in Scheme

Division 1 — General definitions used in Scheme

37. Terms used

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

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

building height, in relation to a building —

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

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

- (a) an individual unit other than a chalet; and
- (b) designed to provide short-term accommodation for guests;

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

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

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

commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including —

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

floor area has meaning given in the Building Code;

frontage, in relation to a building —

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

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

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

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

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

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

plot ratio means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;

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

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

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

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest

accommodated for periods totalling more than 3 months in any 12 month period;

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

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

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

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

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

Division 2 — Land use terms used in Scheme

38. Land use terms used

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —

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

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

agriculture — intensive means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following —

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);
- (d) aquaculture;

amusement parlour means premises —

- (a) that are open to the public; and
- (b) that are used predominantly for amusement by means of amusement machines including computers; and
- (c) where there are 2 or more amusement machines;

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

animal husbandry — intensive means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;

art gallery means premises —

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

bed and breakfast means a dwelling —

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms;

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

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

bulky goods showroom means premises —

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes:
 - (i) automotive parts and accessories;
 - (ii) camping, outdoor and recreation goods;
 - (iii) electric light fittings;
 - (iv) animal supplies including equestrian and pet goods;
 - (v) floor and window coverings;
 - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;
 - (ix) office equipment and supplies;
 - (x) babies' and childrens' goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools; or
- (b) used to sell by retail goods and accessories by retail if —
 - (i) a large area is required for the handling, display or storage of the goods; or
 - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods;

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

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

car park means premises used primarily for parking vehicles whether open to the public or not but does not include —

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) any premises in which cars are displayed for sale;

child care premises means premises where —

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

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

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

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

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

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

community purpose means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;

consulting rooms means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

convenience store means premises —

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and
- (b) operated during hours which include, but may extend beyond, normal trading hours; and
- (c) the floor area of which does not exceed 300 m² net lettable area;

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

educational establishment means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;

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

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

fast food outlet/lunch bar means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten —

- (a) without further preparation; and
- (b) primarily off the premises;

freeway service centre means premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services —

- (a) service station facilities;
- (b) emergency breakdown repair for vehicles;
- (c) charging points for electric vehicles;
- (d) facilities for cyclists;
- (e) restaurant, cafe or fast food services;
- (f) take-away food retailing;
- (g) public ablution facilities, including provision for disabled access and infant changing rooms;
- (h) parking for passenger and freight vehicles;
- (i) outdoor rest stop facilities such as picnic tables and shade areas;

fuel depot means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used —

- (a) as a service station; or
- (b) for the sale of fuel by retail into a vehicle for use by the vehicle;

funeral parlour means premises used —

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

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

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

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

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

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m²; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

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

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20 m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (f) does not —
- (g) require a greater number of parking spaces than normally required for a single dwelling; or
- (h) result in an increase in traffic volume in the neighbourhood; and
- (i) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and

- (j) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (k) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

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

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

home store means a shop attached to a dwelling that —

- (a) has a net lettable area not exceeding 100 m²; and
- (b) is operated by a person residing in the dwelling;

hospital means premises used as a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1);

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

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

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

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

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

industry — light means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;

industry — primary production means premises used —

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

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

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

marina means —

- (a) premises used for providing mooring, fuelling, servicing, repairing, storage and other facilities for boats, including the associated sale of any boating gear or equipment; and
- (b) all jetties, piers, embankments, quays, moorings, offices and storerooms used in connection with the provision of those services;

marine filling station means premises used for the storage and supply of liquid fuels and lubricants for marine craft;

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

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

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

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

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

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

motor vehicle repair means premises used for or in connection with —

- (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or
- (b) repairs to tyres other than recapping or re-treading of tyres;

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

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

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

park home park means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997* Schedule 8;

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

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

recreation — private means premises that are —

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

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

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

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

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

road house means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) short-term accommodation for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;

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

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

rural pursuit/hobby farm means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household —

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

serviced apartment means a group of units or apartments providing —

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

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

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

shop means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

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

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

telecommunications infrastructure means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

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

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

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

trade supplies means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises —

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government;

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

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

tree farm means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;

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

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

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

waste disposal facility means premises used —

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

waste storage facility means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

wind farm means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use;

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

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

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