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PLANNING AND DEVELOPMENT ACT 2005

**CITY OF GREATER
GERALDTON**

**LOCAL PLANNING SCHEME
No. 2 (MULLEWA)**

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

City of Greater Geraldton

LOCAL PLANNING SCHEME No. 2 (MULLEWA)

Ref: TPS/0658

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the City of Greater Geraldton Local Planning Scheme No. 2 on 31 May 2012, the scheme text of which is published as a schedule annexed hereto.

I. W. CARPENTER, Mayor.
A. BRUN, Chief Executive Officer.

SCHEDULE

**CITY OF GREATER GERALDTON (MULLEWA)
LOCAL PLANNING SCHEME No. 2
(DISTRICT SCHEME)****Preamble**

This Local Planning Scheme of the City of Greater Geraldton consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the City of Greater Geraldton (Mullewa).

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning directions for the local government, applies State and regional planning policies and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for Local Planning Policies which set out the general policies of the Local Government on matters within the Scheme.

The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

PLANNING AND DEVELOPMENT ACT 2005

CITY OF GREATER GERALDTON

LOCAL PLANNING SCHEME No. 2 (MULLEWA)

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Responsible Authority
- 1.3 Scheme Area
- 1.4 Contents of Scheme
- 1.5 Purposes of Scheme
- 1.6 The Aims of the Scheme
- 1.7 Definitions
- 1.8 Relationship with Local Laws
- 1.9 Relationship with other Schemes

PART 2—LOCAL PLANNING POLICY FRAMEWORK

- 2.1 Scheme Determinations to Conform with Local Planning Strategy
- 2.2 Local Planning Policies
- 2.3 Relationship of Local Planning Policies to Scheme
- 2.4 Procedure for Making or Amending a Local Planning Policy
- 2.5 Revocation of Local Planning Policy

PART 3—RESERVES

- 3.1 Reserves
- 3.2 Regional Reserves
- 3.3 Local Reserves
- 3.4 Use and Development of Local Reserves

PART 4—ZONES AND THE USE OF LAND

- 4.1 Zones
- 4.2 Objectives of the Zones
- 4.3 Zoning Table
- 4.4 Interpretation of the Zoning Table
- 4.5 Additional Uses
- 4.6 Restricted Uses
- 4.7 Special Use Zones
- 4.8 Non-conforming Uses
- 4.9 Extensions and Changes to a Non-conforming Use
- 4.10 Discontinuance of Non-conforming Use
- 4.11 Termination of a Non-conforming Use
- 4.12 Destruction of Non-conforming Use Buildings

PART 5—GENERAL DEVELOPMENT REQUIREMENTS

- 5.1 Compliance with Development Standards and Requirements
- 5.2 Residential Design Codes
- 5.3 Special Application of Residential Design Codes
- 5.4 Restrictive Covenants
- 5.5 Variations to Site and Development Standards and Requirements
- 5.6 Environmental Conditions
- 5.7 Development of Lots Abutting Unconstructed Roads
- 5.8 Transported Buildings
- 5.9 Use of Setback Areas
- 5.10 Home Business and Home Occupations
- 5.11 Caretakers Dwellings
- 5.12 Site and Development Requirements
- 5.13 Residential Zone
- 5.14 Town Centre/Commercial Zone
- 5.15 Mixed Business Zone
- 5.16 Industry Zone
- 5.17 Rural Zone

- 5.18 Settlement Zone
- 5.19 Special Use Development
- 5.20 Outdoor Storage Areas
- 5.21 Maximum Building Height
- 5.22 Landscaping
- 5.23 Car Parking Requirements
- 5.24 Drainage
- 5.25 Rehabilitation of Degraded Land
- 5.26 Clearing of Native Vegetation
- 5.27 Revegetation

PART 6—SPECIAL CONTROL AREAS

- 6.1 Operation of Special Control Area

PART 7—HERITAGE PROTECTION

- 7.1 Heritage List
- 7.2 Designation of a Heritage Area
- 7.3 Heritage Agreements
- 7.4 Heritage Assessment
- 7.5 Variations to Scheme Provisions for a Heritage Place or Heritage Area

PART 8—DEVELOPMENT OF LAND

- 8.1 Requirement for Approval to Commence Development
- 8.2 Permitted Development
- 8.3 Amending or Revoking a Planning Approval
- 8.4 Unauthorized Existing Developments

PART 9—APPLICATIONS FOR PLANNING APPROVAL

- 9.1 Form of Application
- 9.2 Accompanying Material
- 9.3 Additional Material for Heritage Matters
- 9.4 Advertising of Applications

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

- 10.1 Consultation with Other Authorities
- 10.2 Matters to be Considered by Local Government
- 10.3 Determination of Applications
- 10.4 Form and Date of Determination
- 10.5 Term of Planning Approval
- 10.6 Temporary Planning Approval
- 10.7 Scope of Planning Approval
- 10.8 Approval Subject to Later Approval of Details
- 10.9 Deemed Refusal
- 10.10 Application for Review

PART 11—ENFORCEMENT AND ADMINISTRATION

- 11.1. Powers of the Local Government
- 11.2. Removal and Repair of Existing Advertisements
- 11.3. Delegation of Functions
- 11.4. Person Must Comply with Provisions of Scheme
- 11.5. Compensation
- 11.6. Purchase or Taking of Land
- 11.7. Notice for Removal of Certain Buildings

LIST OF SCHEDULES

- Schedule 1—DICTIONARY OF DEFINED WORDS AND EXPRESSIONS
 - Schedule 2—ADDITIONAL USES
 - Schedule 3—RESTRICTED USES
 - Schedule 4—SPECIAL USE ZONES
 - Schedule 5—EXEMPTED ADVERTISEMENTS
 - Schedule 6—FORM OF APPLICATION FOR PLANNING APPROVAL
 - Schedule 7—ADDITIONAL INFORMATION FOR ADVERTISEMENTS
 - Schedule 8—NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL
 - Schedule 9—NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL
 - Schedule 10—ENVIRONMENTAL CONDITIONS
 - Schedule 11—HERITAGE LIST
- Schedules 2, 3 and 10 do not apply to the Scheme*

ADOPTION

PLANNING AND DEVELOPMENT ACT 2005**CITY OF GREATER GERALDTON (MULLEWA)****LOCAL PLANNING SCHEME No. 2 (DISTRICT SCHEME)****SCHEME DETAILS**

The City of Greater Geraldton under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

PART 1—PRELIMINARY**1.1 Citation**

1.1.1 The City of Greater Geraldton (Mullewa) Local Planning Scheme No. 2 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following Scheme(s) is (are) revoked—

Shire of Mullewa Town Planning Scheme No. 1 Gazettal date: 4 May 1984

Interim Development Order No. 11 (Expired 23/08/11)

1.2 Responsible Authority

The City of Greater Geraldton is the responsible authority for implementing the Scheme.

1.3 Scheme Area

The Scheme applies to the Scheme area which covers (all or that part) of the Local Government district of the City of Greater Geraldton as shown on the Scheme Map (the former Shire of Mullewa Local Government district).

1.4 Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1-7).

The Scheme is to be read in conjunction with the Local Planning Strategy.

1.5 Purposes of Scheme

The purposes of the Scheme are to—

- (a) set out the Local Government’s planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in the Schedule 7 to the Planning and Development Act.

1.6 The Aims of the Scheme

The aims of the Scheme are—

- (a) to assist the effective implementation of the State Planning Strategy and any regional plans and policies which are relevant to the City;
- (b) to foster efficient, hospitable and aesthetic town centre to serve as residential, civic, cultural, recreational and commercial focal points for the surrounding region;
- (c) to assist commercial, industrial and business development in order to maximise business and employment opportunities and to sustain and broaden the economic base;
- (d) to accommodate infrastructure and townsite development for tourism opportunities and continued mining of minerals within the City;
- (e) to assist the sustainable and economic operation of the pastoral industry in the region;
- (f) to support housing choice in the Mullewa area with high levels of amenity responding to environmental, surveillance and safety considerations;

- (g) to support the conservation and wise use of natural resources including land, wetlands, flora, fauna and minerals;
- (h) to conserve objects and places of natural, historic and cultural significance; and
- (i) to protect routes and corridors for the effective transportation of people and goods within the region.

1.7 Definitions

1.7.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have—

- (a) in the Planning and Development Act; or
- (b) if they are not defined in that Act—
 - (i) in the Dictionary of defined words and expressions in Schedule 1; or
 - (ii) in the Residential Design Codes.

1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes—

- (a) in the case of a residential development, the definition in the Residential Design Codes prevails; and
- (b) in any other case the definition in the Dictionary prevails.

1.7.3 Notes, and instructions printed in italics, are not part of the Scheme.

1.8 Relationship with Local Laws

Where a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails.

1.9 Relationship with other Schemes

There is no other Scheme of the City of Greater Geraldton which apply to the Scheme area.

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme Determinations to Conform with Local Planning Strategy

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the Local Government under the Scheme are to be consistent with the Local Planning Strategy.

(A Local Planning Strategy has been prepared in accordance with the Town Planning Regulations 1967.)

2.2 Local Planning Policies

The Local Government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply—

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the Scheme area or in one or more parts of the Scheme area,

and may amend or add to or rescind the Policy.

2.3 Relationship of Local Planning Policies to Scheme

2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for planning approval but the Local Government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Note: Local Planning Policies are guidelines used to assist the Local Government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.

2.4 Procedure for Making or Amending a Local Planning Policy

2.4.1 If a Local Government resolves to prepare a Local Planning Policy, the Local Government—

- (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of—
 - (i) where the draft Policy may be inspected;
 - (ii) the subject and nature of the draft Policy; and
 - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the Local Government considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the Local Government is to—

- (a) review the proposed Policy in the light of any submissions made; and
- (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

2.4.3 If the Local Government resolves to adopt the Policy, the Local Government is to—

- (a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
- (b) if, in the opinion of the Local Government, the Policy affects the interests of the Western Australian Planning Commission, forward a copy of the Policy to the Western Australian Planning Commission.

2.4.4 A Policy has effect on publication of a notice under clause 2.4.3(a).

2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the Local Government.

2.4.6 Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

2.5 Revocation of Local Planning Policy

A Local Planning Policy may be revoked by—

- (a) the adoption by a Local Government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
- (b) publication of a notice of revocation by the Local Government once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

PART 3—RESERVES

3.1 Reserves

Certain lands within the Scheme area are classified as Local Reserves—

- Conservation,
- Local Road,
- Major Road,
- Parks and Recreation,
- Public Purpose; and
- Railway.

3.2 Regional Reserves

There are no regional reserves in the Scheme Area.

3.3 Local Reserves

“Local Reserves” are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

3.4 Use and Development of Local Reserves

3.4.1 A person must not—

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve, without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the Local Government is to have due regard to—

- (a) the matters set out in clause 10.2; and
- (b) the ultimate purpose intended for the Reserve.

3.4.3 In the case of land reserved for the purposes of a public authority, the Local Government is to consult with that authority before determining an application for planning approval.

PART 4—ZONES AND THE USE OF LAND

4.1 Zones

4.1.1 The Scheme area is classified into the zones shown on the Scheme Map.

4.1.2 The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Maps.

4.2 Objectives of the Zones

The objectives of the zones are—

Residential Zone—

- To retain the single house as the predominant form of residential development in the townsite.
- To provide a variety of housing to meet the needs of different household types.
- To provide for diversity of lifestyle choice with a range of residential densities where adequately serviced.
- To allow for the establishment of non-residential uses which are compatible with the predominant residential use subject to local amenities not being adversely affected.

Town Centre Zone—

- To ensure that the town centre remains the principal place for business and administration within the District.
- To encourage a high standard of development including buildings, landscaping and car parking.
- To allow for a wider range of uses such as may be part of a rural town.
- To make the town centre an attractive place to work and to conduct business.

Mixed Business Zone—

- To provide for light and service industries and associated uses which are compatible with, and acceptable in close proximity to, residential uses.
- To encourage a high standard of development including buildings, landscaping and car parking.

Industry Zone—

- To encourage industrial development with diverse employment opportunities.
- To provide for general industry to support development in the District.
- To avoid non-industry related uses establishing in industrial areas which may constrain industrial activity.
- To optimise location adjacent to the railway and major roads servicing the District and the Region.

Rural Townsite Zone—

- To allow for a wide range of land uses such as may be found in a small townsite but subject to preservation of local amenities.

Rural Zone—

- To ensure the continuation of pastoral/broad-hectare farming as the principal land use in the District and encouraging where appropriate the retention and expansion of agricultural activities.
- To consider non-rural uses where they can be shown to be of benefit to the District and not detrimental to the natural resources or the environment.
- To allow for facilities for tourists and travellers, and for recreation uses.
- To provide for a range of rural and mining pursuits which are compatible with the capability of the land whilst acknowledging the significance of mining operations and the extraction of basic raw materials.

Special Use Zone—

- To provide for special categories of land use which are not fully compatible with other zones in the Scheme.

Settlement Zone—

- To provide for comprehensive planning of Aboriginal settlement.

4.3 Zoning Table

4.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table (Table 1).

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

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

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

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

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

(A symbol must appear in the cross-reference of a use class against all the zones in the Zoning Table.)

4.3.3 A change in the use of land from one use to another is permitted if—

- (a) the Local Government has exercised its discretion by granting planning approval;
- (b) the change is to a use which is designated with the symbol “P” in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.

Notes—

1. *The planning approval of the Local Government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*
2. *The Local Government will not refuse a “P” use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*
3. *In considering a “D” or “A” use, the Local Government will have regard to the matters set out in clause 10.2.*
4. *The Local Government must refuse to approve any “X” use of land. Approval to an “X” use of land may only proceed by way of an amendment to the Scheme.*

4.4 Interpretation of the Zoning Table

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

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

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

4.5 Additional Uses

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

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

There are no additional uses which apply to the Scheme.

4.6 Restricted Uses

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

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

There are no restricted uses which apply to the Scheme.

4.7 Special Use Zones

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

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

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

4.8 Non-conforming Uses

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

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorize the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

4.9 Extensions and Changes to a Non-conforming Use

4.9.1 A person must not—

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use, without first having applied for and obtained planning approval under the Scheme.

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

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

4.10 Discontinuance of Non-conforming Use

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

4.11 Termination of a Non-conforming Use

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

Note: Sections 190 and 191 Planning and Development Act enables the Local Government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

4.12 Destruction of Non-conforming Use Buildings

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

TABLE 1: ZONING TABLE

P—Permitted D—Discretionary A—Special Notice X—Not Permitted

Use Classes	Zones						
	Residential	Town Centre	Mixed Business	Industry	Rural Townsite	Rural	Special Use
1 Abattoir	X	X	X	X	X	A	*
3 Agriculture—Extensive	X	X	X	X	X	P	*
4 Agriculture—Intensive	X	X	X	X	X	D	*
5 Agroforestry	X	X	X	X	X	P	*
6 Amusement Parlour	X	D	D	D	D	X	*
7 Animal Establishment	X	X	X	X	X	P	*
8 Animal Husbandry—Intensive	X	X	X	X	X	D	*
9 Bed and Breakfast	D	D	X	X	D	D	*
10 Betting Agency	X	P	D	X	D	X	*
11 Caretakers Dwelling	X	D	D	D	D	D	*
12 Car Park	X	D	D	D	D	X	*
13 Child Care Premises	A	A	A	X	A	X	*
14 Cinema/Theatre	X	P	X	X	D	X	*
15 Civic Use	X	D	A	X	D	X	*
16 Club Premises	X	D	D	D	D	D	*
17 Community Purpose	X	D	A	X	D	D	*
18 Consulting Room(s)	A	P	D	X	D	X	*
19 Convenience Store	A	D	X	X	D	X	*
20 Corrective Institution	X	X	X	X	X	A	*
21 Educational Establishment	D	D	D	A	D	A	*
22 Exhibition Centre	X	P	D	X	X	D	*
23 Family Day Care	A	A	X	X	D	A	*
24 Farmworkers Accommodation	X	X	X	X	X	D	*
25 Fast Food Outlet	X	D	D	X	D	X	*
26 Fuel Depot	X	X	X	D	X	A	*
27 Funeral Parlour	X	D	D	D	D	X	*
28 Home Business	A	D	X	X	A	A	*
28 Home Occupation	A	P	X	X	A	A	*
30 Home Office	P	P	X	X	P	P	*
31 Home Store	A	D	X	X	D	A	*

Use Classes	Zones							Special Use
	Residential	Town Centre	Mixed Business	Industry	Rural Townsite	Rural		
32 Hotel/Tavern	X	A	X	X	A	X	*	
33 Industry—Cottage	A	P	X	X	A	P	*	
34 Industry—Extractive	X	X	X	X	X	D	*	
35 Industry—General	X	X	X	D	X	X	*	
36 Industry—Light	X	X	A	P	A	X	*	
37 Industry—Mining	X	X	X	A	X	A	*	
38 Industry—Rural	X	X	X	D	A	D	*	
39 Industry—Service	X	A	D	P	A	D	*	
40 Laundromat	X	P	P	P	D	X	*	
41 Lunch Bar	X	P	D	D	D	X	*	
42 Market	X	D	D	D	D	D	*	
43 Medical Centre	A	P	X	X	D	X	*	
44 Motel	X	A	D	X	D	X	*	
45 Motor Vehicle, Boat or Caravan Sales	X	D	D	D	D	X	*	
46 Motor Vehicle Repairs	X	A	P	P	D	X	*	
47 Motor Vehicle Wrecking	X	X	D	D	D	X	*	
48 Office	X	P	D	X	D	X	*	
49 Place of Worship	A	D	D	X	D	A	*	
50 Plant Nursery	X	D	D	D	D	D	*	
51 Plantation	X	X	X	X	X	D	*	
52 Public Utility	D	D	D	D	D	D	*	
53 Reception Centre	A	D	D	X	X	X	*	
54 Recreation—Private	X	P	D	D	A	A	*	
55 Recreation—Public	X	P	D	D	A	A	*	
56 Residential—								
Aged and Dependent Persons Dwelling	D	A	X	X	D	X	*	
Grouped Dwelling	D	D	X	X	D	X	*	
Multiple Dwelling	D	D	X	X	D	X	*	
Single House	P	D	X	X	P	P	*	
57 Restaurant	X	P	X	X	D	X	*	
58 Restricted Premises	X	D	D	D	A	X	*	
59 Rural Pursuit	X	X	X	X	D	P	*	
60 Salvage Yard	X	X	X	D	X	X	*	
61 Sawmill	X	X	X	A	X	D	*	
62 Service Station	X	A	A	D	D	X	*	
63 Shop	X	P	D	X	D	X	*	
64 Showroom	X	D	D	D	D	X	*	
65 Telecommunications Infrastructure	A	D	D	D	D	D	*	
66 Tourist Accommodation	X	D	X	X	D	D		
67 Trade Display	X	P	P	P	D	X	*	
68 Transport Depot	X	X	X	A	D	D#	*	
69 Veterinary Centre	X	D	D	D	D	D	*	
70 Warehouse	X	X	P	P	D	X	*	
71 Winery	X	X	X	D	A	D	*	

* Special Use: Use in accordance with the conditions specified in Schedule 4.

Subject to the specific requirements of clause 5.16.

PART 5—GENERAL DEVELOPMENT REQUIREMENTS**5.1 Compliance with Development Standards and Requirements**

Any development of land is to comply with the provisions of the Scheme.

5.2 Residential Design Codes

5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the Local Government.

5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.

5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Design Code density, as being contained within the area defined by the centre-line of those borders.

5.3 Special Application of Residential Design Codes

For land with a dual density code of R10/30 the Local Government may permit a variation to the R10 density up to a maximum of R30 subject to—

- (a) any increase in density above R10 being conditional upon the development being connected to reticulated sewerage;
- (b) development at a density higher than R10 being located close to services and facilities to the satisfaction of the Local Government; and
- (c) any proposal involving an increase in density above R10 being advertised in accordance with clause 7.4 and the Local Government being satisfied the proposal, if implemented, will not have an adverse impact on local amenities.

5.4 Restrictive Covenants

5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.4.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant the Local Government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been dealt with as an “A” use and has complied with all of the advertising requirements of clause 9.4.

5.5 Variations to Site and Development Standards and Requirements

5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Local Government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the Local Government thinks fit.

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

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and
- (b) have regard to any expressed views prior to making its determination to grant the variation.

5.5.3 The power conferred by this clause may only be exercised if the Local Government is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

5.6 Environmental Conditions

5.6.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 10 of the Scheme.

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

5.6.3 The Local Government is to—

- (a) maintain a register of all relevant statements published under sections 48F and 48G of the *Environmental Protection Act 1986*; and
- (b) make the statements available for public inspection at the offices of the Local Government.

There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme.

Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the Environmental Protection Act 1986.

5.7 Development of Lots Abutting Unconstructed Roads

5.7.1 Despite anything elsewhere appearing in the Scheme, planning approval is required for development of land abutting an unconstructed road or a lot which does not have frontage to a constructed road. In considering such an application the Local Government is to either—

- (a) refuse the application until the road has been constructed or access by means of a constructed road is provided as the case may be;
- (b) grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof and any conditions it thinks fit to impose; or
- (c) require such other arrangements are made for permanent access to the satisfaction of the Local Government.

5.8 Transported Buildings

5.8.1 A person is not to transport a building and place it on land in the Scheme Area and use it as a dwelling unless planning approval has been granted by the Local Government. The Local Government is not to grant planning approval if the land is within a Heritage Area designated in accordance with clause 7.2.

5.8.2 Planning approval may be granted by the Local Government under clause 5.8.1 only if the transported building—

- (a) complies with the provisions of the Scheme, the Residential Design Codes, and any Local Laws applicable both to the transported building and the land on which it is to be situated; and
- (b) is, in the opinion of the Local Government, in a satisfactory condition and will not detrimentally affect the amenity of the locality.

5.9 Use of Setback Areas

5.9.1 The land between a street alignment and the distance that buildings are required to be setback from such street alignment is not to be used for any purpose other than one or more of the following—

- (a) a means of access;
- (b) the daily parking of vehicles;
- (c) the loading and unloading of vehicles;
- (d) landscaping; and
- (e) an awning, pergola, or similar structure for alfresco dining in front of a fast food outlet or restaurant in the Town Centre zone subject to planning approval of the Local Government.

5.9.2 The setback area is not to be used for the parking of vehicles which are being wrecked or repaired, nor for the stacking or storage of fuel, raw materials, products or by-products, or waste of manufacture.

5.10 Home Business and Home Occupations

5.10.1 An approval to conduct a home business or home occupation is issued to a specific occupier of a particular parcel of land. It shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier of the land in respect of which a home business or home occupation approval is issued the approval is cancelled.

5.10.2 If, in the opinion of the Local Government, a home business or home occupation is having a negative impact on the character or amenity of a locality or is causing a nuisance or annoyance to owners or occupiers of land in the locality the Local Government may rescind the approval.

5.10.3 Where the conditions of approval to conduct a home business or home occupation are breached the Local Government may revoke the approval.

5.11 Caretakers' Dwellings

5.11.1 A caretaker's dwelling should be incidental to the predominant industrial use of the site.

5.11.2 Only 1 caretaker's dwelling is permitted on a lot and that dwelling should be on the same lot as the associated industrial use.

5.11.3 A caretaker's dwelling is to have a total floor area that does not exceed 100m² measured from the external face of walls.

5.11.4 Open verandahs must not be enclosed by any means unless the total floor area remains within the 100m² referred to at Clause 5.11.3

5.11.5 The use of a caravan as a caretakers dwelling is not permitted.

5.11.6 A caretakers dwelling shall not be occupied by any person other than the owner or manager or an employee of the use established on the land.

5.11.7 The Local Government will not support the subdivision or development of land that will—

- (a) allow a caretaker's dwelling to be sold separately from the predominant use of the land; or
- (b) restrict the future potential use of the land.

5.12. Site and Development Requirements

5.12.1 The site and development requirements for the various zones within the Scheme area are set out in Table 2 which may be supplemented by the Local Government's specific requirements.

5.12.2 The Local Government, in determining applications for any development, may require such development to comply generally with the standards required for the various zones as required in Table 2 to ensure that the scale, nature, design, general appearance and impact of any use/s is compatible with the objectives of the zone in which the development is proposed and the general purposes and aims of the Scheme.

5.12.3 The site and development requirements for development within any zone not referred to in Table 2 shall be in accordance with the Local Government's specific requirements in each particular case.

TABLE 2: SITE AND DEVELOPMENT REQUIREMENTS TABLE

Zone	Minimum Boundary Setback (m)			Minimum Lot Area (m ²)	Minimum Effective Frontage (m)	Maximum Plot Ratio	Minimum Landscape Area (%)
	Front	Rear	Sides				
Residential	In accordance with the Residential Design Codes.						
Town Centre	Nil	Nil	Nil	1,000	5	1.5	10
Mixed Business/	5	5	3 on one side	1,500	20	0.5	10
Industry	5	5	5 on one side	2,000	20	0.5	10
Rural	15	5	5 on one side		*	n/a	n/a
Special Use	*	*	*	*	*	*	*

Notes: This table is intended as a guideline and may be varied at the discretion of the Local Government.

** means to be determined by the Local Government in each particular case.*

*** excluding homestead lots where the minimum lot size permitted is 40,000m² (i.e. 4.0 ha).*

Φ Landscaping to be generally at street frontage.

5.13 Residential Zone

5.13.1 Site Requirements—

In accordance with the Residential Design Codes.

5.14 Town Centre/Commercial Zone

5.14.1 Site Requirements—

In accordance with Table 2.

5.14.2 Development Requirements—

- (a) development is not to exceed 2 storeys in height except where the Local Government is of the opinion that—
 - (i) particular circumstances warrant an exception being made;
 - (ii) the objectives of the zone are not compromised; and
 - (iii) the amenity of the area in which the development is to be located will not be adversely affected.
- (b) in considering an application for planning approval for a proposed development (including additions and alterations to existing development) the Local Government is to have regard to the following—
 - (i) the colour and texture of external building materials. The Local Government may require the building facade and side walls to a building depth of 3m to be constructed in masonry;
 - (ii) building size, height, bulk, roof pitch;
 - (iii) setback and location of the building on its lot;
 - (iv) architectural style and design details of the building;
 - (v) function of the building;
 - (vi) relationship to surrounding development; and
 - (vii) other characteristics considered by the Local Government to be relevant;
- (c) landscaping is to be provided to complement the appearance of the proposed development and its setting; and
- (d) the layout of car parking is to have regard for traffic circulation in existing parking areas and is to be integrated with any existing and adjoining parking area.

5.15 Mixed Business Zone**5.15.1 Site Requirements—**

In accordance with Table 2.

5.15.2 Development Requirements—

- (a) the first 5m of the front setback on any lot is to be landscaped to the satisfaction of the Local Government. Where a lot has frontage to 2 streets the Local Government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced is to be landscaped to the satisfaction of the Local Government;
- (b) in addition to other requirements of the Scheme, an application for planning approval for an industry is to demonstrate compliance with the buffer distance separation from dwellings in accordance with guidelines of the Environmental Protection Authority;
- (c) in determining an application for planning approval for an industry, the Local Government may impose conditions to control industrial liquid, solid or gaseous wastes in accordance with Environmental Protection Authority guidelines and advice from the Department of Environmental Protection;
- (d) where a proposed industry would generate industrial liquid, solid, or gaseous wastes such wastes are to be treated and disposed of in accordance with Department of Environmental Protection advice/guidelines.

5.16 Industry Zone**5.16.1 Site Requirements—**

In accordance with Table 2.

5.16.2 Development Requirements—

- (a) the first 5m of the front setback on any lot is to be landscaped to the satisfaction of the Local Government. Where a lot has frontage to 2 streets the Local Government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced is to be landscaped to the satisfaction of the Local Government;
- (b) in addition to other requirements of the Scheme, an application for planning approval for an industry is to demonstrate compliance with the buffer distance separation from dwellings in accordance with guidelines of the Environmental Protection Authority;
- (c) in determining an application for planning approval for an industry, the Local Government may impose conditions to control industrial liquid, solid or gaseous wastes in accordance with Environmental Protection Authority guidelines and advice from the Department of Environmental Protection;
- (d) where a proposed industry would generate industrial liquid, solid, or gaseous wastes such wastes are to be treated and disposed of in accordance with Department of Environmental Protection advice/guidelines.

5.17 Rural Zone**5.17.1 Site Requirements—**

In accordance with Table 2.

5.17.2 General Development Requirements

In considering an application for planning approval the Local Government will have due regard for the following—

- (a) any sensitive or incompatible uses which may require buffer separation from the proposed use;
- (b) evidence of a sustainable water supply that does not rely on catchment outside the lot, or damming of a stream that will impact on the water availability for another lot or lots;
- (c) existing vegetation and any measures proposed (such as fencing to exclude livestock) to protect it;
- (d) the potential for erosion of soil by wind, water, salinity, or flooding, and measures proposed to address such land degradation
- (e) soil conditions, slope, soil type, rock, potential for water logging, foundation stability, and how the application has addressed these site characteristics; and
- (f) proposals for treatment and disposal of waste products.

5.17.3 Additional Dwellings

The development of a second dwelling on a lot will not be approved unless the additional dwelling complies with the following;

- (a) It provides accommodation for workers employed for agricultural activities on that lot (including accommodation for family members involved in the operation of the agricultural enterprise);
- (b) The dwellings are clustered in one location to avoid future subdivision pressure and minimize constraints on adjoining uses; and
- (c) All services to the dwelling from the lot boundary (including access roads) are shared where practicable.

5.17.4 Subdivision

When preparing recommendations to the Western Australian Planning Commission in response to referral of applications for subdivision the Local Government will have due regard for the following—

- (a) the potential impact on continuation of existing uses on adjoining lots;
- (b) the settlement pattern in the district;
- (c) the relationship of the land to services including (but not limited to) water supply (where appropriate), telecommunications, electricity, and community services and facilities;
- (d) the objectives of the Local Planning Strategy;
- (e) evidence of a sustainable water supply that does not rely on catchment outside the proposed lot or lots, or the damming of a stream that will impact on the water availability for another lot or lots; and
- (f) whether effluent disposal systems can be set back 100m (conventional septic system) or 50m (alternative system) from any stream (the buffer distances may be reduced depending on the size and nature of the stream and the soil types).

5.18 Settlement Zone

5.18.1 Development should be in general accordance with a Community Layout Plan.

5.19 Special Use Development

5.19.1 In controlling development within a Special Use zone the Local Government may at its discretion specify conditions relating to lot area, minimum effective frontage, development type and style, plot ratio, car parking, landscaping, setbacks and any other provision affecting the development of a Special Use zoned lot, for the purpose permitted and set against that land in Schedule 4.

5.20 Outdoor Storage Areas

5.20.1 Any open storage area, drying area or any other space used in connection with a commercial or industrial use which, by virtue of its location and use is likely to detract from the visual amenity of the surrounding area, shall be screened from public view by a closed wall or fence no less than 1.8m in height, or screen landscaping approved by the Local Government.

5.21 Maximum Building Height

5.21.1 No site shall be developed or building constructed to contain more than 2 storeys or exceed 10m in height measured to the highest proportion of the building from mean natural ground level, or such other ground level, as may be determined by the Local Government.

5.21.2 The Local Government may vary this requirement if it can be satisfied the development can comply with the development standards and—

- (a) Will not restrict light, sunshine and natural ventilation enjoyed by surrounding properties;
- (b) Will not intrude upon the privacy enjoyed by surrounding properties by virtue of overview;
- (c) Will not diminish views or outlook available from surrounding properties; and
- (d) Is sympathetic with the scale and character of the surrounding built environment.

5.22 Landscaping

5.22.1 The landscaping requirement specified in Table 2 or generally referred to in the Scheme means an open area designed, developed and maintained as garden planting and areas for pedestrian use. At the discretion of the Local Government, natural bushland, swimming pools and areas under covered walkways may be included within the landscaping requirement, however garbage collection and handling spaces, and other open storage areas shall not be included.

5.22.2 Landscaping required pursuant to this Scheme or pursuant to a conditional planning consent shall be carried out at the time of the development or at such other time as may be agreed in writing between the developer and the Local Government and shall thereafter be permanently maintained to the satisfaction of the Local Government.

5.22.3 Landscaping shall generally be located in such positions on a site or sites so as to enhance the appearance of the streetscape and screen from view or soften the impact of parking areas, open storage areas, drying areas and any other space which, by virtue of its use, is likely to detract from the visual amenity of the townscape.

5.23 Car Parking Requirements

5.23.1 A person shall not develop or use any land or erect, use or adapt any building unless a suitable number of car parking spaces are provided in accordance with the requirements specified in Table 3.

5.23.2 Except for car parking spaces required for residential purposes, car parking shall be laid out and constructed to the satisfaction of the Local Government.

5.23.3 All driveways and parking areas shall be constructed and maintained to the specifications and satisfaction of the Local Government with appropriate measures for drainage and disposal of surface water.

5.23.4 The layout of car parking shall have regard for traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining car park.

5.23.5 Where the developer can demonstrate to the satisfaction of the Local Government that there is not the demand for the number of parking spaces specified in the Scheme, landscaping may be provided in lieu of car parking spaces not constructed and the said landscaping shall be included in calculations as car parking but not as landscaping.

5.23.6 The Local Government at its discretion may accept the payment of cash in lieu of car parking spaces.

TABLE 3: CAR PARKING GUIDELINES

Use	Minimum Parking Spaces Required
Amusement Parlour	1/4 patrons
Betting Agency	1/15m ²
Civic Use	1/30m ²
Club Premises	1/50m ²
Club (Licensed)	1/5m ² bar and other activity area
Consulting Rooms	5/practitioner
Day/Family Care Centre	1/staff member + 4
Dry Cleaning/Laundry	1/30m ² GFA
Fast Food Outlet	1/4 seated patrons
Fish Shop	1/15m ² GFA
Funeral Parlour	6 spaces
Garden Centre	1/100m ² GFA
Health Studio	1/50m ² GFA
Hire Service	1/50m ² GFA
Hotel	1/5m ² public area + 1/bedroom
Industry—General	1/100m ² GFA
Industry—Light and Service	1/50m ² GFA
Laundromat	1/2 machines installed
Liquor Store	1/25m ² GFA
Medical Centre	5/practitioner
Motel	1/unit + 1/25m ² service area
Motor Vehicles/Marine Sales	1/100m ² GFA
Night Club	1/4 patrons
Office	1/40m ² GFA
Professional Office	1/40m ² GFA
Public Amusement	1/4 seats provided
Public Worship	1/4 seats provided
Reception Centre	1/4 patrons
Recreation Active—Squash Courts	3/court
Recreation Active—Bowling Alley	3/lane
Recreation Active—Tennis Courts	3/court
Recreation Active—Indoor Cricket	1/4 players
Residential	As per the Residential Design Codes
Restaurant	1/4 patrons
Restricted Premises	1/25m ² GFA
Service Station	1/200m ² gross site area
Shop	1/20m ² GFA
Showroom	1/75m ² GFA
Tavern	1/5m ² public area
Veterinary Consulting	4/practitioner
Video Sales/Hire	1/15m ² GFA
Warehouse	1/100m ² GFA
Other Uses Not Listed	As determined by the local government after consideration of the parking needs generated by the use

Note—

- (a) In determining its decision in respect to the provision and construction of car parking requirements, the local government will have regard to any Parking Policies adopted under the provisions of the Scheme.
- (b) For the purposes of interpreting Table 3, gross floor area (GFA) is defined as the total floor area of a building measured to the outer face of external walls, but does not include areas occupied by lift, lift motor or plant rooms, car parking spaces or loading bays or internal access thereto, nor public arcades or toilets.

5.24 Drainage

5.24.1 Prior to issuing planning approval for the development of a lot, the Local Government may require satisfactory evidence that the drainage conditions of the locality will not be impaired or contribute to rising groundwater or increased salinity.

5.24.2 In order to ensure effective and efficient stormwater drainage, the Local Government may require, as a condition of subdivision or development approval, preparation of a suitable drainage management plan, tree planting and/or the carrying out of appropriate site work to the Local Government's satisfaction.

5.24.3 The Local Government may require that any development in or immediately adjacent to townsite areas that increases the area of impermeable surfaces incorporate water sensitive urban design principles to improve the quality of stormwater runoff.

5.25 Rehabilitation of Degraded Land

5.25.1 Where, in the opinion of the Local Government, and with the advice of the Department of Agriculture and Food and/or the Department of Environment and Conservation, land the subject of an application to commence development, is degraded, the Local Government may require the land owner, as a condition of development approval, to undertake such measures to rehabilitate the land to a satisfactory standard and to protect it from further degradation.

5.25.2 Where, in the opinion of the Local Government, and with the advice of the Department of Agriculture and Food and/or the Department of Environment and Conservation, land the subject of an application to subdivide is degraded, the Local Government may request the Western Australian Planning Commission require the land owner, as a condition of subdivision approval, to undertake such measures to rehabilitate the land to a satisfactory standard and to protect it from further degradation.

5.25.3 Where land is degraded as a result of development and use, the Local Government may require the landowner to implement soil conservation measures in accordance with the requirements and specifications of the Local Government in the interests of preventing further land degradation.

5.25.4 With the intention of preventing soil erosion, salinity, flooding or any other land degradation, the Local Government may, with the advice of the Department of Agriculture and Food and/or the Department of Environment and Conservation, take any soil conservation action necessary to reduce or eliminate the adverse affects of any land use or development on the environment, and any costs incurred by the Local Government in taking such action shall be recoverable by the Local Government from the landowner.

For the purposes of this Clause "Land Degradation" means—

- (a) Wind and water erosion of soil, salinity and flooding; and
- (b) The removal or deterioration of natural and introduced vegetation that may be detrimental to the present or future.

"Soil Conservation" means the application to land of cultural vegetation and land management measures, either individually or in combination, to attain and maintain an appropriate level of land use and stability of that land in perpetuity and includes the use of measures to prevent or mitigate the effects of land degradation.

5.26 Clearing of Native Vegetation

5.26.1 The clearing of any native vegetation within the Scheme Area is not permitted unless a clearing permit is obtained from the Department of Environment and Conservation under the provisions of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* or the clearing is of a type that does not require a permit (i.e. the clearing is for an exempt purpose as prescribed in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*).

5.27 Revegetation

5.27.1 In considering any application to commence development, the Local Government may require, as a condition of development approval, the planting of additional endemic native tree species in areas the Local Government considers to be deficient in tree cover. Such revegetation areas shall be maintained to the satisfaction of the Local Government for a minimum of 2 years.

5.27.2 In considering any application to subdivide land, the Local Government may request the Western Australian Planning Commission to require, as a condition of subdivision approval, the planting of additional endemic native tree species in areas the Local Government considers to be deficient in tree cover. Such revegetation areas shall be maintained to the satisfaction of the Local Government for a minimum of 2 years.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of Special Control Area

6.1.1 There are no Special Control Areas which apply to the Scheme.

PART 7—HERITAGE PROTECTION

7.1 Heritage List

7.1.1 The Local Government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2 In the preparation of the Heritage List the Local Government is to—

- (a) have regard to the municipal inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

7.1.3 The Heritage List includes those places which are included in Schedule 11, which were identified as Places of Heritage Value under the repealed Shire of Mullewa Town Planning Scheme No. 1.

7.1.4 In considering a proposal to include a place on the Heritage List the Local Government is to—

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

7.1.5 Where a place is included on the Heritage List, the Local Government is to give notice of the inclusion to the Western Australian Planning Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

7.1.6 The Local Government is to keep a copy of the Heritage List with the Scheme documents for public inspection.

7.1.7 The Local Government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.4.

7.1.8 The Local Government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.4 and in addition, where the place is also included in Schedule 11, amending the Scheme.

Notes—

1. *The purpose and intent of the heritage provisions are—*
 - (a) *to facilitate the conservation of places of heritage value; and*
 - (b) *to ensure as far as possible that development occurs with due regard to heritage values.*
2. *A “place” is defined in Schedule 1 and may include works, buildings and contents of buildings.*

7.2 Designation of a Heritage Area

7.2.1 If, in the opinion of the Local Government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the Local Government may, by resolution, designate that area as a heritage area.

7.2.2 The Local Government is to—

- (a) adopt for each heritage area a Local Planning Policy which is to comprise—
 - (i) a map showing the boundaries of the heritage area;
 - (ii) a record of places of heritage significance; and
 - (iii) objectives and guidelines for the conservation of the heritage area; and
- (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.

7.2.3 If a Local Government proposes to designate an area as a heritage area, the Local Government is to—

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) advertise the proposal by—
 - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) such other methods as the Local Government considers appropriate to ensure widespread notice of the proposal; and
- (c) carry out such other consultation as the Local Government considers appropriate.

7.2.4 Notice of a proposal under clause 7.2.3(b) is to specify—

- (a) the area subject of the proposed designation;
- (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
- (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.

7.2.5 After the expiry of the period within which submissions may be made, the Local Government is to—

- (a) review the proposed designation in the light of any submissions made; and
- (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.

7.2.6 If the Local Government resolves to adopt the designation, the Local Government is to forward a copy of the designation to the Heritage Council of Western Australia, the Western Australian Planning Commission and each owner of land affected by the designation.

7.2.7 The Local Government may modify or revoke a designation of a heritage area.

7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

7.3 Heritage Agreements

The Local Government may, in accordance with the *Heritage of Western Australia Act 1990*, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.

Note—

- 1 *A heritage agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.*
- 2 *Detailed provisions relating to heritage agreements are set out in the Heritage of Western Australia Act 1990.*

7.4 Heritage Assessment

Despite any existing assessment on record, the Local Government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List.

7.5 Variations to Scheme Provisions for a Heritage Place or Heritage Area

Where desirable to—

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1,

the Local Government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.5.2.

PART 8—DEVELOPMENT OF LAND

8.1 Requirement for Approval to Commence Development

Subject to clause 8.2, all development on land zoned and reserved under the Scheme requires the prior approval of the Local Government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the Local Government under Part 9.

Note—

- 1 *The planning approval of the Local Government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).*
- 2 *Development includes the erection, placement and display of any advertisements.*

8.2 Permitted Development

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of Local Government—

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
 - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where—
 - (i) the proposal requires the exercise of a discretion by the Local Government under the Scheme to vary the provisions of the Residential Design Codes; or
 - (ii) the development will be located in a heritage area designated under the Scheme;
 - (iii) the proposal requires access from a un-constructed road;
 - (iv) the development utilises transported and transportable buildings.
- (c) the demolition of any building or structure except where the building or structure is—
 - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
 - (iii) included on the Heritage List under clause 7.1 of the Scheme; or
 - (iv) located within a heritage area designated under the Scheme;
- (d) a home office;

- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the Local Government agrees;
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area;
- (g) the erection, construction, maintenance, improvement or alteration of a rural boundary fence or wall, or other means of boundary enclosure;
- (h) the erection of windmills, the sinking of bores and wells and associated water tanks in the Rural zone; and
- (i) the installation of service ducts, cables, pipes, conduits, for domestic or rural purposes.

Note: Development carried out in accordance with a subdivision approval granted by the Western Australian Planning Commission is exempt under section 157 of the Planning and Development Act.

8.3 Amending or Revoking a Planning Approval

The Local Government may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.

8.4 Unauthorized Existing Developments

8.4.1 The Local Government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development, which was unlawfully commenced, is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

Note—

1. *Applications for approval to an existing development are made under Part 9.*
2. *The approval by the Local Government of an existing development does not affect the power of the Local Government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.*

PART 9—APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of Application

9.1.1 An application for approval for one or more of the following—

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a “P” use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
- (c) commencement of a “D” use or an “A” use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

is, subject to clause 9.1.2, to be made in the form prescribed in Schedule 6 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

9.1.2 An application for the erection, placement or display of an advertisement is to be accompanied by the additional information set out in the form prescribed in Schedule 7.

9.2 Accompanying Material

Unless the Local Government waives any particular requirement every application for planning approval is to be accompanied by—

- (a) a plan or plans to a scale of not less than 1:500 showing—
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;

- (v) the location, number, dimensions and layout of all car parking spaces intended to be provided;
- (vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
- (vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
- (viii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) any specialist studies that Local Government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the Local Government may require to enable the application to be determined.

9.3 Additional Material for Heritage Matters

Where an application relates to a place entered on the Heritage List or within a heritage area, the Local Government may require an applicant to provide one or more of the following to assist the Local Government in its determination of the application—

- (a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Local Government exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

9.4 Advertising of Applications

9.4.1 Where an application is made for planning approval to commence a use or commence or carry out development which involves a use which is—

- (a) an “A” use as referred to in clause 4.3.2; or
- (b) a use not listed in the Zoning Table,

the Local Government is not to grant approval to that application unless notice is given in accordance with clause 9.4.3.

9.4.2 Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the Local Government may require notice to be given in accordance with clause 9.4.3.

9.4.3 The Local Government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways—

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the Local Government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the Local Government by a specified date being not less than 14 days from the day the notice is served;
- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the Local Government by a specified date being not less than 14 days from the day the notice is published;
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

9.4.4 The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the Local Government.

9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the Local Government.

9.4.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the Local Government is to consider and determine the application.

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with Other Authorities

10.1.1 In considering an application for planning approval the Local Government may consult with any other statutory, public or planning authority it considers appropriate.

10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Local Government is to consult that authority before making its determination.

10.2 Matters to be Considered by Local Government

The Local Government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application—

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area;

- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Western Australian Planning Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Western Australian Planning Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any other planning consideration the Local Government considers relevant.

10.3 Determination of Applications

In determining an application for planning approval the Local Government may—

- (a) grant its approval with or without conditions; or
- (b) refuse to grant its approval.

10.4 Form and Date of Determination

10.4.1 As soon as practicable after making a determination in relation to the application, the Local Government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the Local Government's determination.

10.4.2 Where the Local Government refuses an application for planning approval the Local Government is to give reasons for its refusal.

10.5 Term of Planning Approval

10.5.1. Where the Local Government grants planning approval for the development of land—

- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.

10.5.2 A written request may be made to the Local Government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.

10.6 Temporary Planning Approval

Where the Local Government grants planning approval, the Local Government may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the Local Government grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

10.7 Scope of Planning Approval

Planning approval may be granted—

- (a) for the use or development for which the approval is sought;
- (b) for that use or development, except for a specified part or aspect of that use or development; or
- (c) for a specified part or aspect of that use or development.

10.8 Approval Subject to Later Approval of Details

10.8.1 Where an application is for a development that includes the carrying out of any building or works, the Local Government may grant approval subject to matters requiring the subsequent planning approval of the Local Government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the Local Government thinks fit.

10.8.2 In respect of an approval requiring subsequent planning approval, the Local Government may require such further details as it thinks fit prior to considering the application.

10.8.3 Where the Local Government has granted approval subject to matters requiring the later planning approval of the Local Government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

10.9 Deemed Refusal

10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the Local Government within 60 days of the receipt of the application by the Local Government, or within such further time as is agreed in writing between the applicant and the Local Government.

10.9.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the Local Government within 90 days of the receipt of the application by the Local Government, or within such further time as is agreed in writing between the applicant and the Local Government.

10.9.3. Despite an application for planning approval being deemed to have been refused, the Local Government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.9.1 or 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

10.10 Application for Review

An applicant aggrieved by a determination of the Local Government in respect of the exercise of a discretionary power under the Scheme may make application for review under Part 14 of the Planning and Development Act.

PART 11—ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the Local Government

11.1.1 The Local Government in implementing the Scheme has the power to—

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the Planning and Development Act; and
- (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the Planning and Development Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

11.1.2 An employee of the Local Government authorised by the Local Government may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

11.2 Removal and Repair of Existing Advertisements

11.2.1 Where an existing advertisement at, or at any time after, the coming into force of the Scheme, is, in the opinion of the Local Government, in conflict with the amenity of the locality, the Local Government may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertisement.

11.2.2 Where, in the opinion of the Local Government, an advertisement has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the Local Government may by written notice require the advertiser to—

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the Local Government in the notice; or
- (b) remove the advertisement.

11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify—

- (a) the advertisement the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, being not less than 60 days from the date of the Local Government's determination, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may apply for review under Part 14 of the Planning and Development Act against the determination of the Local Government.

11.3 Delegation of Functions

11.3.1 The Local Government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

11.3.2 The CEO may delegate to any employee of the Local Government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.

11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.

11.4 Person Must Comply with Provisions of Scheme

A person must not—

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area—
 - (i) otherwise than in accordance with the Scheme;
 - (ii) unless all approvals required by the Scheme have been granted and issued;
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Note: Section 223 of the Planning and Development Act provides that a person who commits an offence under this Act is liable to a penalty of \$50,000 and, in the case of a continuing offence, a further fine of \$5,000 for each day during which day the offence continues.

11.5 Compensation

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Part 11 of the Planning and Development Act—

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and—
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
 - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,not later than 6 months after the application is refused or the permission granted.

11.5.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 11.5.1.

Note: A claim for compensation under Part 11 of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the Town Planning Regulations 1967.

11.6 Purchase or Taking of Land

11.6.1 If, where compensation for injurious affection is claimed under the Planning and Development Act, the Local Government elects to purchase or take the land compulsorily the Local Government is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

11.6.2 The Local Government may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used, and preserved, for a use compatible with the purpose for which it is reserved.

Note: Part 11 Planning and Development Act empowers the Local Government to purchase or compulsorily acquire land comprised in a scheme.

11.7 Notice for Removal of Certain Buildings

11.7.1 Under Part 13 of the Planning and Development Act, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The Local Government may recover expenses under Part 13 of the Planning and Development Act in a court of competent jurisdiction.

SCHEDULES

Schedule 1	Dictionary of defined words and expressions General definitions Land use definitions
Schedule 2	Additional uses
Schedule 3	Restricted uses
Schedule 4	Special use zones
Schedule 5	Exempted advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	Environmental conditions
Schedule 11	Heritage List

Schedules 2, 3 and 10 do not apply to the Scheme

SCHEDULE 1
DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

[cl. 1.7]

1. General definitions

In the Scheme—

“advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising;

“amenity” means all those factors which combine to form the character of an area and include the present and likely future amenity;

“building envelope” means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;

“conservation” has the same meaning as in the *Heritage of Western Australia Act 1990*;

“cultural heritage significance” has the same meaning as in the *Heritage of Western Australia Act 1990*;

“floor area” has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;

“frontage”, when used in relation to a building that is used for—

- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;

“Gazettal date”, in relation to a Scheme, means the date on which the Scheme is published in the *Government Gazette* under section 87 of the *Planning and Development Act 2005*;

“height” when used in relation to a building that is used for—

- (a) residential purposes, has the same meaning as in the Residential Design Codes; or
- (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;

“incidental use” means a use of premises which is ancillary and subordinate to the predominant use;

“Land” has the same meaning as in the *Planning and Development Act 2005* and includes houses, buildings and other works and structures.

- “**local government**” means the City of Greater Geraldton;
- “**Local Planning Strategy**” means the Local Planning Strategy in respect of the Scheme, as endorsed by the Western Australian Planning Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;
- “**lot**” has the same meaning as in the *Planning and Development Act 2005* but does not include a strata or survey strata lot;
- “**minerals**” has the same meaning as in the *Mining Act 1978*;
- “**net lettable area (nla)**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—
- (a) all 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 such facilities are not for the exclusive use of occupiers of the floor or building;
- “**non-conforming use**” has the same meaning as it has in section 174 of the *Planning and Development Act*;
- “**owner**”, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity—
- (a) is entitled to the land for an estate in fee simple in possession;
 - (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
 - (c) is a lessor or licensee from the Crown; or
 - (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;
- “**place**”, in Part 7 (*Heritage Protection*) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;
- “**Planning and Development Act**” means *Planning and Development Act 2005*;
- “**plot ratio**”, in the case of residential dwellings has the same meaning as in the Residential Design Codes;
- “**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 subordinate, incidental or ancillary;
- “**premises**” means land or buildings;
- “**Residential Design Codes**” means the Residential Design Codes of Western Australia in Appendix 2 to the Western Australian Planning Commission’s State Planning Policy (Variation No. 2), as amended from time to time;
- “**retail**” means the sale or hire of goods or services to the public;
- “**substantially commenced**” means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;
- “**wholesale**” means the sale of goods or materials to be sold by others;
- “**zone**” means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include a reserve or special control area.

2. Land use definitions

In the Scheme—

- “**abattoir**” means land and buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products;
- “**agriculture—extensive**” means premises used for the raising of stock or crops but does not include agriculture—intensive or animal husbandry intensive;
- “**agriculture—intensive**” means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with 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); or
 - (d) aquaculture;
- “**agroforestry**” means land used commercially for tree production and agriculture where trees are planted in blocks of more than 1 hectare;

- “**amusement parlour**” means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;
- “**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) and other livestock in feedlots;
- “**bed and breakfast**” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;
- “**betting agency**” means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;
- “**caravan park**” has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;
- “**caretaker’s dwelling**” means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;
- “**carpark**” means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;
- “**child care premises**” has the same meaning as in the *Child Care Services Act 2007*;
- “**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 Crown, 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;
- “**community purpose**” means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations involved in activities for community benefit;
- “**consulting rooms**” means premises used by no more than 2 health consultants 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, or the retail sale of petrol and those convenience goods;
 - (b) operated during hours which include, but may extend beyond, normal trading hours;
 - (c) which provide associated parking; and
 - (d) the floor area of which does not exceed 300m² 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 education and includes a school, tertiary institution, business college, academy or other educational centre;
- “**exhibition centre**” means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;
- “**family day care**” means premises used to provide family day care within the meaning of the *Child Care Services Act 2007*;
- “**farmworkers accommodation**” means a single house or residential building providing accommodation for workers employed for agricultural activities on that lot (including accommodation for family members involved in the operation of the agricultural enterprise).
- “**fast food outlet**” means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;
- “**fuel depot**” means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;
- “**funeral parlour**” means premises used to prepare and store bodies for burial or cremation;
- “**home business**” means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—
- (a) does not employ more than 2 people not members of the occupier’s household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 50m²;
 - (d) does not involve the retail sale, display or hire of goods of any nature;

- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5t tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

“home occupation” means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

- (a) does not employ any person not a member of the occupier’s household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20m²;
- (d) does not display a sign exceeding 0.2m²;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2t tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

“home office” means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not—

- (a) entail clients or customers traveling to and from the dwelling;
- (b) involve any advertising signs on the premises; or
- (c) require any external change to the appearance of the dwelling;

“home store” means any shop with a net lettable area not exceeding 100m² attached to a dwelling and which is operated by a person resident in the dwelling;

“hospital” means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;

“hotel” means premises providing accommodation the subject of a hotel licence under the *Liquor Control Act 1988 (as amended)*, and may include a betting agency on those premises, but does not include a tavern or motel;

“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 premises on the same land used for—

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail; or
- (d) the provision of amenities for employees, incidental to any of those industrial operations;

“industry—cottage” means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which—

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier’s household;
- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50m²; and
- (e) does not display a sign exceeding 0.2m² in area;

“industry—extractive” means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry—mining;

“industry—general” means an industry other than a cottage, extractive, light, mining, rural or service industry;

“industry—light” means an industry—

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

“industry—mining” means land used commercially to extract minerals from the land;

“industry—rural” means—

- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes;

“industry—service” means—

- (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

“laundromat” means a building, open to the public, in which coin-operated or other washing machines, with or without supervision for drying clothes are available for use;

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

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

“medical centre” means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

“motel” means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Control Act 1988*;

“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; or
- (b) repairs to tyres, but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;

“motor vehicle wash” means premises where the primary use is the washing of motor vehicles;

“motor vehicle wrecking” means land and buildings used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts;

“night club” means premises—

- (a) used for entertainment with or without eating facilities; and
- (b) licensed under the *Liquor Control Act 1988*;

“office” means premises used for administration, clerical, technical, professional or other like business activities;

“park home park” has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

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

“plantation” has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;

“public utility” means any work or undertaking constructed or maintained by a public authority as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services;

“reception centre” means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;

“recreation—private” means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;

“residential building” has the same meaning as in the Residential Design Codes of WA;

“restaurant” means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*;

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

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;

“rural pursuit” means any premises used for—

- (a) the rearing or agistment of animals;
- (b) the stabling, agistment or training of horses;
- (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (d) the sale of produce grown solely on the lot, but does not include agriculture—extensive or agriculture—intensive;

“**salvage yard**” means land and buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but not limiting the generality of the foregoing) buildings, machinery, vehicles and boats;

“**sawmill**” means land and buildings where logs or large pieces of timber are sawn therein;

“**service station**” means premises used for—

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

“**shop**” means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

“**showroom**” means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;

“**storage**” means premises used for the storage of goods, equipment, plant or materials;

“**tavern**” means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;

“**telecommunications infrastructure**” means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;

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

“**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**” means premises used to store or display goods and may include sale by wholesale;

“**winery**” means premises used for the production of viticultural produce and may include sale of the produce.

SCHEDULE 2 ADDITIONAL USES

[cl. 4.5]

No.	Description of land	Additional use	Conditions

SCHEDULE 3 RESTRICTED USES

[cl. 4.6]

No.	Description of land	Restricted use	Conditions

SCHEDULE 4 SPECIAL USE ZONES

[cl. 4.7.1]

No.	Description of land	Special use	Conditions
1	Caravan Park Lot 1 Pt AA Lot 23	Caravan Park	As determined by Council

**SCHEDULE 5
EXEMPTED ADVERTISEMENTS**

[cl. 8.2(f)]

Land Use and/or Development Requiring Advertisement	Exempted Sign Type and Number (Includes the change of Posters on Poster Signs and applies to Non-Illuminated Signs unless otherwise stated)	Maximum Area of Exempted Sign
Dwellings	One professional name plate as appropriate	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed	Each advertisement sign not to exceed 5m ²
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5m from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building.	Total area of any such advertisements shall not exceed 15m ²
	A maximum of 2 free-standing advertisement signs not exceeding 5m in height above ground level.	Maximum permissible total area shall not exceed 10m ² and individual advertisement signs shall not exceed 6m ² .
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	N/A
Public Places and Reserves	(a) Advertisement signs (illuminated or non-illuminated) relating to the functions of government, a public authority or council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	N/A
	(b) Advertisement signs (illuminated or non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the council of a municipality, and	N/A
	(c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m ² in area

Land Use and/or Development Requiring Advertisement	Exempted Sign Type and Number (Includes the change of Posters on Poster Signs and applies to Non-Illuminated Signs unless otherwise stated)	Maximum Area of Exempted Sign
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m ²
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows)— (i) Dwellings (ii) Multiple Dwellings, Shops, Commercial and Industrial projects (iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work. One sign as for (i) above. One sign as for (i) above. One additional sign showing the name of the project builder.	2m ² 5m ² 10m ² 5m ²
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m ²
Property Transactions Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows— (a) Dwellings (b) Multiple dwellings, shops, Commercial and Industrial Properties (c) Large properties comprised of shopping centres, buildings in excess of 4 storeys and rural properties in excess of 5ha	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed. One sign as for (a) above. One sign as for (a) above.	Each sign shall not exceed an area of 2m ² Each sign shall not exceed an area of 2m ² Each sign shall not exceed an area of 10m ²

SCHEDULE 6
FORM OF APPLICATION FOR PLANNING APPROVAL

[cl. 9.1.1]

Application for Planning Approval

Owner details	
Name:	
Address:	
Postcode:	
Phone: (home)	Fax:
(work)	E-mail:
(mobile)	

Contact person:	
Signature:	Date:
Signature:	Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature.	

Applicant details	
Name:	
Address:	
Postcode:	
Phone: (home)	Fax:
(work):	E-mail:
(mobile):	
Contact person for correspondence:	
Signature—	Date—

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants)—		
Street name:		Suburb:
Nearest street intersection:		

Existing building/land use:
Description of proposed development and/or use:
Nature of any existing buildings and/or use:
Approximate cost of proposed development:
Estimated time of completion:

OFFICE USE ONLY	
Acceptance Officer's initials:	Date received:
Local government reference no:	
(The content of the form of application must conform to Schedule 6 but minor variations may be permitted to the format.)	

**SCHEDULE 7
ADDITIONAL INFORMATION FOR ADVERTISEMENTS**

[cl. 9.1.2]

Note: to be completed in addition to the Application for Planning Approval form

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:
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2.	Details of proposed sign— (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): (b) Height:..... Width:..... Depth:..... (c) Colours to be used: (d) Height above ground level— (to top of advertisement): (to underside): (e) Materials to be used: Illuminated: Yes/No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:
3.	Period of time for which advertisement is required:
4.	Details of signs (if any) to be removed if this application is approved:
Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.	
Signature of advertiser(s) (if different from land owners)—	
Date:	

SCHEDULE 8
NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

[cl. 9.4.4]

Planning and Development Act 2005
City of Greater Geraldton
 Local Planning Scheme No. 2 District Scheme (Mullewa)
Notice of public advertisement of planning proposal

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No.:	Street:	Suburb:
Proposal:		

Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the..... day of.....
Signed—
Dated:
for and on behalf of the City/Town/Shire of:

SCHEDULE 9
NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

[cl. 10.4.1]

Planning and Development Act 2005
City of Greater Geraldton
 Local Planning Scheme No. 2 District Scheme (Mullewa)
Determination on application for planning approval

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development:	
.....	
The application for planning approval is:	
<input type="checkbox"/>	granted subject to the following conditions:
<input type="checkbox"/>	refused for the following reasons(s):
Conditions/reasons for refusal:	
.....	
.....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant is aggrieved by this determination there is a right of review under Part 14 of the Planning and Development Act. An application for review must be lodged within 60 days of the determination.
Signed:	

Dated:
for and on behalf of the City/Town/Shire of:
(The content of the determination notice must conform to Schedule 9 but minor variations may be permitted to the format.)

SCHEDULE 10
ENVIRONMENTAL CONDITIONS

[cl. 5.6.1]

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

SCHEDULE 11
HERITAGE LIST

[cl. 7.1.3]

No.	Name of Place	Location	Description
1	Roman Catholic Priest house designed and built by Rt Rev Mons J.C. Hawes	Lot 11 and Pt Lot 12 Doney Street, Mullewa	Priest House
2	Roman Catholic Church designed and built by Rt Rev Mons J.C. Hawes	Pt Lot 12, Lot 13 and Lot 14 Doney Street, Mullewa	Church
3	Anglican Church	Lots 8013 and 23 Padbury/Keeffe Streets, Mullewa	Church
4	Historic Site	Lot 85 (Reserve 2497)	Early grave-site
5	Historic Site	Lcn 6934	Rock Altar constructed by Rt Rev Mons J.C. Hawes
6	Mullewa Railway Station	Ptn Reserve 24735	Railway Station buildings and platform

Adoption

Adopted by resolution of the Council of the Shire of Mullewa at the meeting of the Council held on the 26th day of March 2008.

A. J. MESSINA, Shire President.

Dated: 9/10/2009.

T. A. HARTMAN, Chief Executive Officer.

Dated: 9/10/2009.

Final Approval

1. Adopted for final approval by resolution of the Shire of Mullewa at the meeting of the Council held on the 16th day of March 2011, and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of—

I. W. CARPENTER, Mayor.
ANTHONY BRUN, Chief Executive Officer.

2. Submitted and recommended for final approval by the Western Australian Planning Commission.

JOHAN GILDENHUYS, delegated under S.16 of the P&D Act.

Dated: 16/5/2012.

3. Final approval granted

JOHN DAY, Minister for Planning and Infrastructure.

Dated: 31/5/2012.
