



**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, MONDAY, 2 SEPTEMBER 2013 No. 162 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MOUNT MAGNET

**LOCAL PLANNING
SCHEME No. 2**

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

Shire of Mount Magnet

LOCAL PLANNING SCHEME No. 2

Ref: 853/9/5/3

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 Shire of Mount Magnet Local Planning Scheme No. 2 on 20 August 2013, the scheme text of which is published as a schedule annexed hereto.

A. W. DOWDEN Shire President.
G. P. BROOKS Chief Executive Officer.

SCHEDULE

Shire of Mount Magnet

LOCAL PLANNING SCHEME NO. 2

The Shire of Mount Magnet under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

Preamble

This Local Planning Scheme of the Shire of Mount Magnet consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the Shire.

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 that 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

APPROVED LOCAL PLANNING SCHEME

SHIRE OF MOUNT MAGNET

LOCAL PLANNING SCHEME No. 2

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- Part 7 **Heritage protection**—sets out special provisions that apply to heritage places and areas.
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PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

SHIRE OF MOUNT MAGNET

LOCAL PLANNING SCHEME No. 2**PART 1—PRELIMINARY****1.1 Citation**

1.1.1 The Shire of Mount Magnet Scheme No. 2 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following are hereby revoked—

- Shire of Mount Magnet Local Planning Scheme No. 1—Gazetted 31 May 1991.

1.2 Responsible authority

The Shire of Mount Magnet is the responsible authority for implementing the Scheme.

1.3. Scheme area

The Scheme applies to the Scheme area that covers the entire local government district of the Shire of Mount Magnet as shown on the Scheme Map.

1.4. Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (Sheets 1—12).

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 First Schedule to the *Planning and Development Act 2005*.

1.6 The aims of the Scheme

The aims of the Scheme are—

- To assist the effective implementation of regional plans and policies including the State Planning Strategy.
- To ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space.
- To assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments, as well as providing opportunities for home-based employment.
- To facilitate a diverse and integrated network of open space catering for both active and passive recreation, consistent with the needs of the community.
- To promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities.

- To protect and enhance the environmental values and natural resources of the local government area and to promote ecologically sustainable land use and development.
- To safeguard and enhance the character and amenity of the built and natural environment of the local government area.

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 2005*; 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 within Schedule 1, the Model Scheme Text 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 are no other Schemes of the Shire of Mount Magnet which apply to the Scheme area.

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme determinations to conform to 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 and endorsed under 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 Commission, forward a copy of the Policy to the 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.

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.

Objectives of the Local Reserves

Conservation Local Reserves

The objectives are—

- To ensure proper management procedures are in place to protect the biodiversity of the Reserves for the future;
- To ensure the protection and conservation of existing Crown Land regardless of the use for which the Reserve is vested.
- To prohibit any new use or development that is considered to be contrary to the continued conservation or intended conservation of the land.
- To provide for areas requiring improved environmental management measures or upgrades due to degradation or inappropriate use.

Recreation Local Reserves

The objectives are—

- To provide for formal and structured recreational activities and sporting facilities that are deemed appropriate to service the surrounding residents.
- To provide for passive recreational uses, parklands, amenities and buffer areas that are deemed appropriate for use and enjoyment by the surrounding residents.

Public Purposes Local Reserves

The objectives are—

- To provide public facilities, uses and other purposes that are required to service urban development.
- To protect land from activities considered inappropriate to the successful continued use of public purpose facilities.

Railway Local Reserves

The objectives are—

- To provide land and facilities for railway purposes and associated activities.
- To protect land from activities considered inappropriate to the successful continued operation of the railway infrastructure.

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 Local 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 Map.

4.2 Objectives of the zones**Residential zone**

The objectives are—

- To provide for predominantly residential development with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes of Western Australia.
- Non-residential uses shall be compatible in character, scale and operation with the predominant residential use.
- A non-residential use shall only be permitted if the use does not detract from the amenity of the area.
- To ensure that any moveable buildings are either finished to the Council's satisfaction, or are removed where not completed to the Council's satisfaction.

Commercial zone

The objectives are—

- To maintain a compact and accessible centre.
- To centralise commercial and service functions.
- To maintain safety and efficiency of traffic flows and provide for adequate facilities for the storage and circulation of vehicles.
- To preclude the storage of bulky and unsightly goods where they may be in public view.
- To maintain the compatibility with the general streetscape for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.
- To provide sheltered places for pedestrians.
- To reduce uses attracting large volumes of heavy vehicle traffic other than to service retail outlets.
- To provide for residential uses only where the uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level where it is impracticable or inappropriate to establish a shop or office.

Light Industry zone

The objectives are—

- To provide for service industries and light industries that will not have a detrimental affect on nearby residential or other sensitive uses.
- To provide for home business type uses where caretakers dwellings may be permitted.
- To provide for a range of employment opportunities.
- To preclude the storage of bulky and unsightly goods where they may be in public view.
- To ensure the appropriate use of setback areas and the provision of landscaping to the Council's satisfaction.
- To allow light and service industries that are compatible with nearby uses.
- To provide areas with easy access and parking with minimal environmental impact.

General Industry zone

The objectives are—

- To provide for general industry, the storage and distribution of goods and associated uses, which by the nature of their operations may need to be separated from residential and other sensitive areas.
- To discourage non-industrial uses to minimise land use conflicts and address environmental impacts.
- To provide a location for diverse industries that would otherwise have a detrimental impact on the other uses in close vicinity.
- To encourage the provision of landscaping to ensure the industrial development is appropriately screened from the main road.
- To provide a location where separate heavy vehicular access is provided.
- To provide a location for depots, warehouses, and large vehicle parking and servicing areas.
- To provide for a range of employment opportunities.

Special Use zone

The objectives are—

- To provide an area where special uses can be operated under the specific control of the local government in order to maintain the safety, health and welfare of surrounding users.
- To enable the local government to impose specific conditions to restrict the use and operation of any development that would normally not fit within the ambit of any other zone in this Scheme.

Rural/Mining zone

The objectives are—

- To provide for a range of rural pursuits which are compatible with the capability of the land and retain the rural character and amenity of the locality.
- To protect land from urban uses that may jeopardise the future use of that land for other planned purposes that are compatible with the zoning.
- To protect the land from closer development which would detract from the rural character and amenity of the area.
- To prevent any development which may affect the viability of a holding.

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

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 local reserves and zones. The permissibility of any uses is determined by cross-reference between the list of use classes on the left-hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

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

- ‘P’ means that the use is permitted by the Scheme 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.

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.

- Note:
1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.
 2. 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.

TABLE 1—ZONING TABLE

Use Classes	Zones				
	Residential	Commercial	Light Industry	General Industry	Rural/Mining
RESIDENTIAL					
Aged or dependent persons dwelling	P	X	X	X	X
Caretaker’s dwelling	X	D	D	X	X
Grouped dwelling	P	D	X	X	X
Home business	D	D	X	X	D
Home occupation	D	D	X	X	D
Home office	D	D	X	X	D
Home store	A	D	X	X	A

Use Classes	Zones				
	Residential	Commercial	Light Industry	General Industry	Rural/Mining
Park home park	X	A	X	X	X
Residential building	A	X	X	X	X
Single house	P	A	X	X	P
Workers Accommodation	X	X	X	X	A
TOURIST AND ENTERTAINMENT					
Amusement parlour	X	D	X	A	X
Bed and breakfast	A	D	X	X	D
Short stay accommodation	X	D	X	X	A
Hotel	X	P	X	X	X
Motel	X	D	X	X	X
Tavern	X	P	X	X	X
COMMERCE					
Betting agency	X	P	X	X	X
Cinema/theatre	X	P	X	X	X
Consulting rooms	X	D	X	X	X
Convenience store	A	P	X	X	X
Fast food outlet	X	D	X	X	X
Lunch bar	X	P	X	D	X
Market	X	D	X	D	X
Medical centre	X	D	X	X	X
Motor vehicle wash	X	D	X	P	X
Motor vehicle, boat or caravan sales	X	D	X	D	X
Night club	X	D	X	X	X
Office	X	P	X	X	X
Reception centre	X	P	X	X	X
Restaurant	X	P	X	X	A
Restricted premises	X	P	X	X	X
Service station	X	D	X	P	X
Shop	X	P	X	X	X
Showroom	X	D	P	P	X
Trade display	X	D	P	P	X
OTHER					
Funeral parlour	X	A	X	P	X
Essential service utility	D	D	D	D	D
Telecommunications infrastructure	D	D	D	P	D
Veterinary centre	X	A	D	P	A
INDUSTRY					
Fuel depot	X	X	X	A	X
Industry—cottage	A	X	P	X	A
Industry—extractive	X	X	X	X	A
Industry—general	X	X	X	P	X
Industry—light	X	X	P	A	X

Use Classes	Zones				
	Residential	Commercial	Light Industry	General Industry	Rural/Mining
Industry—mining	X	X	X	X	D
Industry—rural	X	X	X	X	P
Industry—service	X	D	P	P	X
Motor vehicle repair	X	D	P	P	X
Storage	X	D	P	P	X
Warehouse	X	D	P	P	X
Winery	X	X	X	X	D
CIVIC AND COMMUNITY					
Child care premises	X	D	X	X	X
Civic use	D	D	X	D	X
Club premises	D	D	X	D	X
Community purpose	A	P	X	A	X
Educational establishment	X	P	X	A	X
Exhibition centre	X	D	D	X	X
Family day care	A	D	X	X	A
Recreation—private	D	D	D	D	D
RURAL					
Agriculture—extensive	X	X	X	X	P
Agriculture—intensive	X	X	X	X	D
Agroforestry	X	X	X	X	A
Animal establishment	X	X	X	A	A
Animal husbandry—intensive	X	X	X	A	A
Plantation	X	X	X	X	D
Rural home business	X	X	X	X	D
Rural pursuit	X	X	X	X	D

Footnote: 'Mining' covered by the *Mining Act 1978* is exempt from the requirement for planning approval and will be determined in accordance with the *Mining Act 1978*.

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—

- determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- 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
- 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.

4.6 Restricted uses

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 authorise 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.

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

4.9 Extensions and changes to a non-conforming use

4.9.1 A person must not—

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

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

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

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

4.10 Discontinuance of non-conforming use

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

4.11 Termination of a non-conforming use

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

Note: Sections 190 and 191 of the Planning and Development Act 2005 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.

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

- (a) The Residential Design Code for land zoned 'Residential' and 'Commercial' shall be R10/25 unless otherwise indicated on the Scheme Maps.
- (b) Residential development with the R10/25 code shall be permitted at the R10 density, however the Council may approve developments up to the R25 density as an 'D' use.
- (c) The Council shall not approve a residential development with a density exceeding R10 unless the Council is satisfied that an alternative sewerage disposal system can be installed and managed or is otherwise in accordance with the provisions of any Government Sewerage Policy.

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

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

5.7 Site and Development Requirements

Any development that is permitted under the provisions of Part 4 of this Scheme shall conform to the requirements for that use as specified in Table II—Development Table, or in the Residential Design Codes for residential development.

5.7.1 Development Requirements

Where development standards for a particular use are not set out in this Scheme, the development standards applicable shall be determined by the local government.

5.7.2 Combined Uses

Where 2 or more uses are combined in a single development, the development shall conform to the requirements for each use respectively, or where such requirements are inappropriate, to such requirements as the local government shall determine.

5.7.3 Industrial Development

Unsewered industrial development will be restricted to 'dry industry' type (ie. industries predicted to generate wastewater for disposal on-site of a daily rate of less than 540 litres per 1000m²).

5.7.4 Rural/Mining Zone

Notwithstanding the right to develop a single house on an existing lot, residential development in the 'Rural/Mining' Zone shall comply with the specific requirements of the Council, however these shall not be lesser than those specified for the Residential Design Code 'R2'.

TABLE II—DEVELOPMENT TABLE

Controls Use	Minimum Boundary Setback (metres)			Maximum Plot Ratio	Minimum Landscaped Area (%)	Minimum Number of on-Site Car Parking Bays
	Front	Rear (average)	Sides			
Child Care Centre	7.5	7.5	*	*	*	1 for each employee.
Club Premises	*	*	*	0.5	*	1 for every 45m ² of gross floor area.
Community Purpose	*	*	*	*	10	1 for every 4 persons whom the building is designed to accommodate.
Consulting Rooms	*	*	*		30 in Res Zone	1 for every 30m ² of gross floor area, plus 1 for each person employed.
Educational Establishment	9.0	7.5	5.0	*	30	1 per full time employee, plus bays for students as determined by the Council.
Funeral Parlour	*	*	*	*	10	As determined by the Council, (minimum 6).
Hotel/Tavern	*	*	*	*	10	1 for every bedroom plus 1 per 2m ² of bar and lounge area.
Industrial—Service	7.5	7.5	*	*	10	1 per 2 employees.
Industrial—Light	7.5	7.5	*	*	10	1 per 2 employees.
Industrial—General	7.5	7.5	*	*	15	1 per 2 employees.
Motel	9.0	7.5	3.0 per storey	1.0	30	1 per unit, plus 1 space per 25m ² of service area.
Motor Vehicle, Boat or Caravan Sales	*	*	*	*	5	1 for every 250m ² of sales area, plus 1 for every person employed on site.
Office	*	*	*	*	*	1 for every 30m ² plot ratio area.
Restaurant	*	*	*	*	*	1 for every 10m ² of gross floor area or 1 for every 4 seats provided, whichever is the greater.
Service Station	7.5	7.5	*	*	5	1 for every working bay, plus 1 for each person employed on site.
Shop	*	*	*	*	*	1 for every 15m ² of gross floor area.
Showroom	*	*	*	*	10	1 for every 100m ² of gross floor area.

NOTES: (i) * means 'to be determined by the Council' in each particular case.

(ii) Landscaping to be generally at the street frontage.

5.8 Caretaker's Dwelling

The provisions of this clause are to apply to all caretaker's dwellings in the 'General Industry' or 'Light Industry' zone.

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

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

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

5.8.4 Open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within 100m².

5.8.5 A caravan is not permitted as a caretaker's dwelling for either permanent or temporary occupation.

5.8.6 Council will not support the subdivision and/or development of land in an industrial zone that will—

- (a) allow the dwelling to be sold separately from the industrial use of the land; or
- (b) restrict the use of the land for industrial purposes.

5.9 Moveable Buildings

Where the Council determines an application for planning approval for a moveable building within the Shire, it may impose a condition requiring the lodgement of a bond. The value of the bond may be calculated on either on the cost of completing the building so moved to its satisfaction, or the removal of the building where it is not satisfied that the building can be satisfactorily completed.

5.10 Outline Development Plan

5.10.1 The local government or the Western Australian Planning Commission may require the preparation of a structure plan prior to considering a subdivision or development proposal for any area or zone in the scheme.

5.10.2 Subdivision and development should generally be in accordance with an approved structure plan.

5.10.3 A departure from, or alteration to, a structure plan may be permitted if the local government and Western Australian Planning Commission considers the proposed departure or alteration to be minor in nature and it will not prejudice the future subdivision and development of the area.

5.10.4 Structure plan form and content

5.10.4.1 A Structure Plan is to contain such detail as, in the opinion of the local government and Western Australian Planning Commission, is required to satisfy the planning requirements for the structure plan area, and should include the following details—

- (a) a set of maps and a report describing the structure plan area and surrounding land uses;
- (b) maps are to be of a legible scale for the structure plan area;
- (c) key opportunities and constraints of the structure plan area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and services;
- (d) conservation and environmental values including bushland, wetlands, streams and water courses, foreshore reserves and setbacks, environmental policy areas and urban water management areas;
- (e) sites and features of Aboriginal and European heritage value;
- (f) transport routes, including highways, district and neighbourhood roads, public transport routes, cycle routes and railway stations;
- (g) the planning context for the structure plan including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, an indication of how the structure plan is to be integrated into the surrounding area;
- (h) proposed major land uses, in particular, residential areas, public open space, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, industrial and mixed business uses;
- (i) the proposed indicative lot pattern and general location of any major buildings;
- (j) estimates of future lots, dwellings, population, commercial and industrial floor space;
- (k) provision for major infrastructure, including water supply, main drainage, sewerage, and other key infrastructure services;
- (l) the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks;
- (m) the timeframe and staging of subdivision and development, and the method of implementation, including any proposals for funding by development contributions; and
- (n) such other information as may be required by the local government as a result of the site's characteristics.

5.10.5 Advertising and adoption of structure plans

5.10.5.1 Upon receiving a structure plan, the local government is to either—

- (a) determine that the structure plan is satisfactory for advertising;
- (b) determine that the structure plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) determine that the structure plan is not satisfactory for advertising and give reasons for this to the proponent.

5.10.5.2 When the local government has determined the structure plan to be suitable for advertising, the structure plan should be advertised for a minimum period of 21 days.

5.10.5.3 The local government shall advise affected landowners and relevant agencies in writing that the structure plan is available for public advertising.

5.10.5.4 Following advertising, the local government shall consider the public submissions made in respect of the structure plan, and either uphold or dismiss the submissions made.

5.10.5.5 The local government may require modifications to the structure plan prior to adoption.

5.10.5.6 When the local government is satisfied with the structure plan, it is to adopt the structure plan and forward the Council's resolution, the adopted structure plan, and schedule of public submissions is to be forwarded to the Western Australian Planning Commission for final approval.

5.10.5.7 The Western Australian Planning Commission shall then either approve the structure plan, approve the structure plan with modifications or refuse the structure plan.

5.10.6 Operation of Structure Plan

5.10.6.1 A structure plan commences operation when it is adopted by the local government and approved by the Western Australian Planning Commission.

5.10.6.2 If a structure plan imposes a classification on the land included in it by reference to reserves, zones, or Residential Design Codes then—

- (a) the provisions of the structure plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and
- (b) provisions in the Scheme applicable to land in those classifications under the Scheme apply to the structure plan area;
- (c) where there is conflict between the provisions of a zone, reserve or provision in a structure plan or a scheme, the scheme shall prevail.

5.10.6.3 If the zones and reserves in a structure plan are inconsistent with the scheme, they must be incorporated into the scheme via an amendment or a scheme review.

5.10.7 Right of Review

5.10.7.1 The proponent of a structure plan required by this Scheme may make application for review under Part 14 of the *Planning and Development Act 2005* on the following grounds—

- (a) The failure of the local government to make a determination on the content and requirement of a structure plan (or an amendment to a structure plan) within 120 days of the structure plan being lodged;
- (b) A decision by the local government not to endorse an structure plan (or an amendment to a structure plan); and
- (c) Conditions of approval of the structure plan (or an amendment to a structure plan).

5.10.7.2 In considering other procedural matters involved with structure plans, the local government and proponent will be guided by policies of the Western Australian Planning Commission.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of special control areas

6.1.1 The following Special Control Areas (SCA) apply to the Scheme as shown on the Scheme Map.

- SCA1 Rubbish Tip
- SCA2 Mount Magnet Airfield
- SCA3 Wastewater Treatment Plant
- SCA4 Wastewater Treatment Plant
- SCA5 Quarry
- SCA6 Quarry
- SCA7 Priority 1 Water Protection Area
- SCA8 Priority 1 Water Protection Area

6.1.2. In respect of a SCA shown on a Scheme Map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

6.2 SCA 1 Rubbish Tip

6.2.1 Purpose

The purpose of Special Control Area 1 is to provide guidance for land use and development within the area shown on the Scheme Maps as SCA 1.

6.2.2 Objectives

The objectives for the SCA 1 are to—

- (a) identify land which may be affected by the Rubbish tip;
- (b) ensure that the use and development of land is compatible; and
- (c) minimise impacts on residential and other sensitive uses.

6.2.3 Application Requirements

Despite any other provision of the Scheme planning approval is required for all use and development including a single house.

6.2.4 Development Requirements

In addition to other provisions of the Scheme, all development shall be determined by the Council based on advice received from the Environmental Protection Authority and any other relevant agencies.

6.2.5 Referral of Applications

All development shall be referred to the Environmental Protection Authority, and any other relevant agencies, for advice.

6.3 SCA 2 Mount Magnet Airfield

6.3.1 Purpose

The purpose of Special Control Area 2 is to provide guidance for land use and development within the area shown on the Scheme Maps as SCA 2.

6.3.2 Objectives

The objectives for the SCA 2 are to—

- (a) identify land which may be affected by the Mount Magnet airfield;
- (b) ensure that the use and development of land is compatible;
- (c) minimise impacts on residential and other sensitive uses; and
- (d) protect the operational airspace of the airfield.

6.3.3 Application Requirements

Despite any other provision of the Scheme planning approval is required for all use and development including a single house.

6.3.4 Development Requirements

In addition to other provisions of the Scheme, all development shall be determined by the Council based on advice received from the Environmental Protection Authority and any other relevant agencies.

6.3.5 Referral of Applications

All development shall be referred to the Environmental Protection Authority, and any other relevant agencies, for advice.

6.4 SCAs 3 and 4 Wastewater treatment plants

6.4.1 Purpose

The purpose of Special Control Areas 3 and 4 is to provide guidance for land use and development within the areas shown on the Scheme Maps as SCAs 3 and 4.

6.4.2 Objectives

The objectives for the SCAs 3 and 4 are to—

- (a) identify land which may be affected by the wastewater treatment plant;
- (b) ensure that the use and development of land is compatible; and
- (c) minimise impacts on residential and other sensitive uses.

6.4.3 Application Requirements

Despite any other provision of the Scheme planning approval is required for all use and development including a single house.

6.4.4 Development Requirements

In addition to other provisions of the Scheme, all development shall be determined by the Council based on advice received from the Environmental Protection Authority and any other relevant agencies.

6.4.5 Referral of Applications

All development shall be referred to the Environmental Protection Authority, and any other relevant agencies, for advice.

6.5 SCAs 5 and 6 Quarry

6.5.1 Purpose

The purpose of Special Control Areas 5 and 6 is to provide guidance for land use and development within the area shown on the Scheme Maps as SCAs 5 and 6.

6.5.2 Objectives

The objectives for the SCAs 5 and 6 are to—

- (a) identify land which may be affected by a quarry;
- (b) ensure that the use and development of land is compatible; and
- (c) minimise impacts on residential and other sensitive uses.

6.5.3 Application Requirements

Despite any other provision of the Scheme planning approval is required for all use and development including a single house.

6.5.4 Development Requirements

In addition to other provisions of the Scheme, all development shall be determined by the Council based on advice received from the Environmental Protection Authority and any other relevant agencies.

6.5.5 Referral of Applications

All development shall be referred to the Environmental Protection Authority, and any other relevant agencies, for advice.

6.6 SCAs 7 and 8 Priority 1 Source Protection Areas

6.6.1 Purpose

The purpose of Special Control Areas 7 and 8 is to provide guidance for land use and development within the area shown on the Scheme Maps as SCAs 7 and 8.

6.6.2 Objectives

The objectives for the SCAs 7 and 8 are to—

- (a) identify land which may be affected by the Priority 1 source protection areas;
- (b) ensure that the use and development of land is compatible; and
- (c) minimise impacts of uses on the water sources.

6.6.3 Application Requirements

Despite any other provision of the Scheme planning approval is required for all use and development including a single house.

6.6.4 Development Requirements

In addition to other provisions of the Scheme, all development shall be determined by the Council based on advice received from the Environmental Protection Authority and any other relevant agencies.

6.6.5 Referral of Applications

All development shall be referred to the Environmental Protection Authority, and any other relevant agencies, for advice.

PART 7—HERITAGE PROTECTION

The provisions of part 7 of the Model Scheme Text as current including any amendments apply.

There are no heritage provisions which apply to the Scheme.

PART 8—DEVELOPMENT OF LAND

The provisions of part 8 of the Model Scheme Text as current including any amendments apply. In addition to the model scheme text the following clause shall apply.

8.5 Requirement for consultation to commence mining

In considering proposals to commercially extract minerals, Council may exercise its discretion to inform the Minister for Mines and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of the Scheme and the Local Planning Strategy.

PART 9—APPLICATIONS FOR PLANNING APPROVAL

The provisions of part 9 of the Model Scheme Text as current including any amendments apply.

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

The provisions of part 10 of the Model Scheme Text as current including any amendments apply.

PART 11—ENFORCEMENT AND ADMINISTRATION

The provisions of part 11 of the Model Scheme Text as current including any amendments apply.

Schedule 1—Dictionary of defined words and expressions

The general definitions and land use definitions in Schedule 1 of the Model Scheme Text as current including any amendments apply.

‘Essential service utility’—means any work or undertaking constructed or maintained by a service agency as may be required to provide water, sewerage, electricity, gas, drainage or other similar essential services.

‘Short Stay Accommodation’—means a building or group of buildings forming a complex, designed for the accommodation of short-stay guests and which provides on-site facilities for the convenience of guests and for management of the development, where continuance occupation by any person is limited to a maximum of 3 months in any 12-month period and excludes those uses more specifically defined elsewhere.

‘Workers’ Accommodation’—means dwellings or buildings used or designed for use wholly or principally for the exclusive accommodation of staff employed by an organisation or business and may include incidental facilities such as swimming pools, sporting facilities, dining facilities, a shop and recreational facilities for the exclusive use of staff only.

Schedule 2—Additional uses

No.	Description of Land	Additional Use	Conditions
A1	Lot 580 Moses Street, Mount Magnet	Caretaker's Dwelling	The use, subdivision and/or development of the land is to be in accordance with clause 5.8 of this scheme.
A2	Lot 581 Moses Street, Mount Magnet	Caretaker's Dwelling	The use, subdivision and/or development of the land is to be in accordance with clause 5.8 of this scheme.

Schedule 3—Restricted uses

There are no restricted uses that apply to the Scheme.

No.	Description of land	Restricted use	Conditions

Schedule 4—Special Use zones

No.	Description of land	Special use	Map Notation	Conditions
1	Ptn Lots 362, 590, 593 and VCL Naughton St, Mount Magnet	Workers' Accommodation	WA	As determined by the Council
2	Lot 550 Scott Close, Mount Magnet	Short Stay Accommodation	SSA	As determined by the Council
3	Lots 1, 4, 6 and 7 Scott Close, and Lots 3, 5, and 7 Thurkle Cove, and lot 2 Priestley St, Mount Magnet	Short Stay Accommodation	SSA	As determined by the Council
4	Lot 553 Priestley St, Mount Magnet	Short Stay Accommodation	SSA	As determined by the Council
5	Lot 554 Priestley St, Mount Magnet	Short Stay Accommodation	SSA	As determined by the Council
6	Lot 400 Watson St, Mount Magnet	Short Stay Accommodation	SSA	As determined by the Council
7	Lot 595 off heavy haulage route, Mount Magnet	Structure Plan	SP	Preparation of a structure plan in accordance with clause 5.10 of the scheme is required prior to subdivision and/or development of the land.
8	Lot 555 Priestley St, Mount Magnet	Structure Plan	SP	
9	Lots 89, 397, 470, 502, 508 and 621 Hepburn St, Mount Magnet	Caravan Park	CP	As determined by the Council
10	Lot 186 Attwood St, Mount Magnet	Place of Worship	W	As determined by the Council
11	Lots 67 and 68 Attwood St, Mount Magnet	Place of Worship	W	As determined by the Council
12	Ptn Lots 51 and 52, Attwood St, Mount Magnet	Place of Worship	W	As determined by the Council
13	Lot 141 Great Northern Highway, Mount Magnet	Airfield	Air	As determined by the Council
14	Lot 599 Hepburn St, Mount Magnet	Roadhouse	RH	As determined by the Council

Schedule 5—Exempted advertisements

Land Use and/or Development	Exempted Sign ¹	Maximum Size
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 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. A maximum of 2 free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements, shall not exceed 15m. 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 and non-illuminated) relating to the functions of government a public authority or local government of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and (b) Advertisement signs (illuminated and 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 local government of a local government, and	N/A N/A

¹ Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated.

Land Use and/or Development	Exempted Sign ¹	Maximum Size
	(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made 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.
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

¹ Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated.

Schedule 6—Form of application for planning approval

The form of application for planning approval in schedule 6 of the Model Scheme Text as current including any amendments applies.

Schedule 7—Additional information for advertisements

The form of additional information for advertising in schedule 7 of the Model Scheme Text as current including any amendments applies.

Schedule 8—Notice of public advertisement of planning proposal

The form of public advertisement of planning proposal in schedule 8 of the Model Scheme Text as current including any amendments applies.

Schedule 9—Notice of determination on application for planning approval

The notice of determination on application for planning approval in schedule 9 of the Model Scheme Text as current including any amendments applies.

Schedule 10—Environmental conditions

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

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

ADOPTION

PLANNING AND DEVELOPMENT ACT 2005

*Shire of Mount Magnet***LOCAL PLANNING SCHEME No. 2**

Adopted by resolution of the Council of the Shire of Mount Magnet at the Ordinary Meeting of the Council held on the 18th day of February 2011.

G. R. SCOTT, A/Shire President.

Date: 2 August 2013.

G. BROOKS, Chief Executive Officer.

Date: 2 August 2013.

FINAL APPROVAL

Adopted for final approval of the Shire of Mount Magnet at the meeting of Council held on the 14th day of December 2012 and the Common Seal of the Shire of Mount Magnet was hereunto affixed by the authority of a resolution of the Council in the presence of—

G. R. SCOTT, A/Shire President.

Date: 2 August 2013.

G. BROOKS, Chief Executive Officer.

Date: 2 August 2013.

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

J. GILDENHUYS, Delegated under S.16 of PD Act 2005.

Date: 12 August 2013.

FINAL APPROVAL GRANTED

J. DAY, Minister for Planning.

Date: 20 August 2013.
