



**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, FRIDAY, 27 DECEMBER 2013 No. 239 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 11.30 AM

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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MT. MARSHALL

**LOCAL PLANNING
SCHEME No. 3**

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

*Shire of Mt Marshall***LOCAL PLANNING SCHEME No. 3**

Ref: TPS/0241

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 Mt Marshall Local Planning Scheme No. 3 on 25 November 2013, the scheme text of which is published as a schedule annexed hereto.

P. A. GILLETT, Shire President.
M. GILFELLON, Chief Executive Officer.

PREAMBLE

This Local Planning Scheme of the Shire of Mt Marshall 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.

Queries regarding any aspect of the Scheme and how it may affect proposals for future development and use of land within the local government district should be directed to the Shire of Mt Marshall Administration Centre, 80 Monger Street, Bencubbin (Tel: (08) 9685 1202, Fax: (08) 9685 1299)

RESOLUTION

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

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MT MARSHALL

LOCAL PLANNING SCHEME No. 3**PART 1—PRELIMINARY****1.1 Citation**

1.1.1 The Shire of Mt Marshall Scheme No. 3 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following is hereby revoked—

- Shire of Mt Marshall Town Planning Scheme No. 2.

1.2 Responsible authority

The Shire of Mt Marshall 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 Mt Marshall 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 Town Planning Act.

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 Town Planning Act; or
- (b) if they are not defined in that Act—
 - (i) in the Dictionary of defined words and expressions in Schedule 1;
 - (ii) in the Model Scheme Text, 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 in 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 Schedule 1 prevails.

1.7.3 A copy of Schedule 1—Dictionary of defined words and expressions of the Model Scheme Text is to be kept and made available for public inspection at the offices of the local government.

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 Development Schemes

Where a provision of the Scheme is inconsistent with an existing Development Scheme, the provision of this Scheme prevails.

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme determinations to conform to Local Planning Strategy

If 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 Planning 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 Local Reserves

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

3.3 Use and development of Local Reserves

3.3.1 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.

3.3.2 In determining an application for planning approval the local government is to have due regard to—

- (a) the matters set out in Part 10 (clause 10.2 in particular);
- (b) the ultimate purpose intended for the Local Reserve;

3.3.3 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

The objectives of the zones are—

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.

Commercial zone

The objectives are—

- To maintain a coordinated, consolidated, compact and accessible centre.
- To centralise commercial, office, showroom, open air display 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 reduce uses attracting large volumes of heavy vehicle traffic other than to service retail outlets.
- To provide for residential uses only where the residential uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level or location where it is impracticable or inappropriate to establish a shop or office.

- To provide street furniture, planting and sheltered places for pedestrians.
- To encourage the provision of public art to improve the amenity and ambiance of the town centre area.

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.

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 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 Residential zone

The Objectives are—

- To encourage development for the purpose of closer settlement on land that is suitable for such a purpose, without impacting on the continued rural operation of adjoining land.
- To ensure that development maintains the rural character of the locality, maintains a high level of amenity and minimises disturbance to the landscape through construction of buildings and structures, clearing, earthworks and access roads.
- To discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone.
- To encourage rural residential subdivision where it is reasonable and economic to provide, or extend, services and facilities.
- To promote and encourage cluster subdivision and other innovative rural residential designs, having consideration for conservation values.
- To ensure the provision of community facilities and emergency services in the vicinity of rural residential developments.
- To encourage the provision of vegetation and fauna corridors and the revegetation of the land to adequately protect any areas or sites of conservation value within the design.
- To encourage rural residential subdivision by permitting a range of lot sizes in conventional subdivision subject to a general minimum lot size of 1ha with an average minimum lot size of approximately 4ha and providing greater flexibility for lots created within appropriate cluster subdivisions or by strata title subdivision, dependent upon the special demonstrated physical characteristics of the land.
- To ensure the land is appropriately serviced.

Rural zone

The objectives are—

- To provide for a range of rural pursuits that 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 that would detract from the rural character and amenity of the area.
- To prevent any development that may affect the viability of a holding.
- To encourage small scale, low impact tourist accommodation in rural locations.

- To encourage a diversification of rural activities that will reduce the dependency of the rural sector on traditional crops.
- To support mining activities where an environmental management plan has been prepared and is acceptable to the Council and Environmental Protection Authority.
- To preclude the disposal of used tyres or any other material that may be detrimental to the quality of the land.

4.3 Table 1—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.

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.*

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.

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.

4.7 Special use zones

4.7.1 Special use zones are set out in Schedule 4.

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.*

TABLE 1—ZONING TABLE

| USE CLASSES | ZONES | | | | | |
|------------------------------------|-------------|------------|----------------|------------------|-------------------|-------|
| | RESIDENTIAL | COMMERCIAL | LIGHT INDUSTRY | GENERAL INDUSTRY | RURAL RESIDENTIAL | RURAL |
| RESIDENTIAL | | | | | | |
| Aged or dependent persons dwelling | P | X | X | X | X | X |
| Caretaker's dwelling | X | D | D | X | X | X |
| Grouped dwelling | P | D | X | X | X | X |
| Home business | D | D | X | X | D | D |
| Home occupation | D | D | X | X | D | D |
| Home office | D | D | X | X | D | D |
| Home store | A | D | X | X | D | A |
| Park home park | X | A | X | X | X | X |
| Residential building | A | X | X | X | X | X |
| Single house | P | A | X | X | P | P |
| TOURIST AND ENTERTAINMENT | | | | | | |
| Amusement parlour | X | D | X | A | X | X |
| Bed and breakfast | A | D | X | X | D | D |
| Short stay accommodation | X | D | X | X | X | A |
| Hotel | X | P | X | X | X | X |
| Motel | X | D | X | X | X | X |
| Tavern | X | P | X | X | X | X |

TABLE 1—ZONING TABLE

| USE CLASSES | ZONES | | | | | |
|--------------------------------------|-------------|------------|----------------|------------------|-------------------|-------|
| | RESIDENTIAL | COMMERCIAL | LIGHT INDUSTRY | GENERAL INDUSTRY | RURAL RESIDENTIAL | RURAL |
| COMMERCE | | | | | | |
| Betting agency | X | P | X | X | X | X |
| Cinema/theatre | X | P | X | X | X | X |
| Consulting rooms | X | D | X | X | X | X |
| Convenience store | A | P | X | X | X | X |
| Fast food outlet | X | D | X | X | X | X |
| Lunch bar | X | P | X | D | X | X |
| Market | X | D | X | D | X | X |
| Medical centre | X | D | X | X | X | X |
| Motor vehicle wash | X | D | X | P | X | X |
| Motor vehicle, boat or caravan sales | X | D | X | D | X | X |
| Night club | X | D | X | X | X | X |
| Office | X | P | X | X | X | X |
| Reception centre | X | P | X | X | X | X |
| Restaurant | X | P | X | X | X | A |
| Restricted premises | X | P | X | X | X | X |
| Service station | X | D | X | P | X | X |
| Shop | X | P | X | X | X | X |
| Showroom | X | D | P | P | X | X |
| Trade display | X | D | P | P | X | X |
| | | | | | | |
| OTHER | | | | | | |
| Funeral parlour | X | A | X | P | X | X |
| Service utility | D | D | D | D | D | D |
| Telecommunications infrastructure | D | D | D | P | A | D |
| Veterinary centre | X | A | D | P | X | A |

TABLE 1—ZONING TABLE

| USE CLASSES | ZONES | | | | | |
|----------------------------|-------------|------------|----------------|------------------|-------------------|-------|
| | RESIDENTIAL | COMMERCIAL | LIGHT INDUSTRY | GENERAL INDUSTRY | RURAL RESIDENTIAL | RURAL |
| INDUSTRY | | | | | | |
| Fuel depot | X | X | X | A | X | X |
| Industry—cottage | A | D | X | P | A | A |
| Industry—extractive | X | X | X | X | X | D |
| Industry—general | X | X | X | D | X | X |
| Industry—light | X | X | P | P | X | X |
| Industry—mining | X | X | X | P | X | A |
| Industry—rural | X | X | A | P | X | D |
| Industry—service | X | D | P | P | X | X |
| Motor vehicle repair | X | D | P | P | X | X |
| Storage | X | D | P | P | X | X |
| Warehouse | X | D | P | P | X | X |
| Winery | X | X | X | X | X | D |
| CIVIC AND COMMUNITY | | | | | | |
| Child care premises | X | D | X | X | X | X |
| Civic use | D | D | X | D | X | X |
| Club premises | D | D | X | D | X | X |
| Community purpose | A | P | X | A | X | X |
| Educational establishment | X | P | X | A | X | X |
| Exhibition centre | X | D | D | X | X | X |
| Family day care | A | D | X | X | A | A |
| Recreation—private | D | D | D | D | D | D |
| RURAL | | | | | | |
| Agriculture—extensive | X | X | X | X | X | P |
| Agriculture—intensive | X | X | X | X | X | D |
| Agroforestry | X | X | X | X | X | A |
| Animal establishment | X | X | X | A | X | A |
| Animal husbandry—intensive | X | X | X | A | X | A |
| Plantation | X | X | X | X | X | D |
| Rural home business | X | X | X | X | D | D |
| Rural pursuit | X | X | X | X | D | D |

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 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 'Commercial' shall be R10/50 unless otherwise indicated on the Scheme Maps.
- (b) Residential development with the R10/30 code shall be permitted at the R10 density, however the Council may approve developments up to the R30 density as an 'D' use.
- (c) Residential development with the R10/50 code shall be permitted at the R10 density, however the Council may approve developments up to the R50 density as an 'D' use.
- (d) 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 to its satisfaction, and in accordance with any relevant government sewerage policy.

- (e) Notwithstanding the right to develop a single house on an existing lot, residential development in the 'Rural' 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'.

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 Part 9; 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 Part 10; 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; and
- (b) make the statements available for public inspection at the offices of the local government.

5.7 Site and Development Requirements

Any development that is permitted under the provisions of Part 3 and 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.

TABLE II—DEVELOPMENT TABLE

| Controls Use Class | Minimum Boundary Setback (metres) | | | Maximum Plot Ratio | Minimum Land- scaped Area (%) | Minimum Number of Car Parking Bays |
|---------------------------|--------------------------------------|-------------------|-------|----------------------------------|--|--|
| | Front | Rear (Average) | Sides | | | |
| Club | * | * | * | 0.5 | * | 1 for every 45m ² of gross floor area. |
| Consulting Rooms | * | * | * | 0.4 in Res Zone 0.5 elsewhere | 30 in Res Zone | 1 for every 30m ² of gross floor area, plus 1 for each person employed. |
| Day Care Centre | 7.5 | 7.5 | * | * | * | 1 for each employee. |
| 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). |

| Controls Use Class | Minimum Boundary Setback (metres) | | | Maximum Plot Ratio | Minimum Land- scaped Area (%) | Minimum Number of Car Parking Bays |
|------------------------|--------------------------------------|-------------------|-------------------|-------------------------------|--|---|
| | Front | Rear (Average) | Sides | | | |
| Hall | * | * | * | * | 10 | 1 for every 4 persons whom the building is designed to accommodate. |
| Hospital | 9.0 | 7.5 | 5.0 | 0.4 in Res Zone 0.5 elsewhere | 20 | 1 per 4 beds and 1 per employee. |
| Hostel | 7.5 | 7.5 | * | * | 30 | 1 per dwelling. |
| 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 | 11.0 | 7.5 | 3.0 per storey | 1.0 | 30 | 1 per unit, plus 1 space per 25m ² of service area. |
| Office | * | * | * | * | * | 1 for every 30m ² plot ratio area. |
| Professional Office | * | * | * | 0.5 | * | 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 | 11.0 | 7.5 | 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. |
| Vehicle Sales | * | * | * | * | 5 | 1 for every 250m ² of sales area, plus 1 for every person employed on site. |

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

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

5.7.1 Development Requirements

Where requirements for a particular use are not set out in this Scheme, the development shall conform to the provisions for the predominant use of the zone in which it is situated, as determined by the local government. Where such provisions are inappropriate, development shall conform to such requirements as the local government shall determine. For the purposes of this Clause, the predominant uses in zones and local reserves shall be deemed to be as outlined in their respective objectives.

5.7.2 Combined Uses

Where two 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 Car Parking

Car parking requirements for each use are set out in Table II—Development Table and the relevant Local Planning Policy.

5.7.5 Landscaping

Landscaping requirements for each use are set out in Table II—Development Table and the relevant Local Planning Policy.

5.8 Caretaker's dwelling

The provisions of this clause apply to caretakers' dwellings in the Light Industry zone.

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

5.8.2 Only a single caretaker's dwelling shall be permitted on each lot and it shall be located at the rear of a lot zoned 'Industrial'.

5.8.3 The Council will not support the subdivision or development of land in an industrial zone that will—

- allow the dwelling to be sold separately from the industrial use of the land;
- restrict the use of the land for industrial purposes.

5.8.4 A caretaker's dwelling shall contain only 1 bedroom.

5.8.5 A caretaker's dwelling shall have a maximum floor area of 100m² measured from the external face of the walls.

5.8.6 Open verandahs may be permitted but are not to be enclosed by any means unless the total floor area remains less than 100m².

5.9 Rural Zone

Large lots may be subdivided to create lots which are—

- consistent with the size of rural properties (may comprise multiple lots) used for rural land uses in the locality; and
- 200ha or greater in size; and
- Allow for continued rural land uses.

5.10 Structure 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 or reserves proposed by a structure plan are inconsistent with the scheme, they must be incorporated into the scheme via a scheme amendment prior to the local government advertising or adopting the structure plan.

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 an 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 an structure plan); and
- (c) Conditions of approval of the structure plan (or an amendment to an 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

There are no Special Control Areas.

PART 7—HERITAGE PROTECTION

The provisions detailed in Part 7 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) relating to heritage protection shall form part of this Scheme, except as varied below.

There are no variations to Part 7 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

PART 8—DEVELOPMENT OF LAND

The provisions detailed in Part 8 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) relating to the development of land are deemed to form part of this Scheme, except as varied below.

In addition to the provisions of Part 8 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) a new sub-clause 8.2 (b) (iii) is added to ensure that the following development requires the planning approval of the local government;

- (iii) the Council deems the development to be inappropriate or inadequate in any way including, the use of materials, landscaping, aesthetics or any other aspect that the Council considers appropriate to impose a planning condition.

8.5 Requirement for consultation to commence mining

In considering proposals to commercially extract minerals, the 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 detailed in Part 9 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) relating to applications for planning approval are deemed to form part of this Scheme, except as varied below.

There are no variations to Part 9 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

The provisions detailed in Part 10 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) relating to the procedure for dealing with applications are deemed to form part of this Scheme, except as varied below.

There are no variations to Part 10 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

PART 11—ENFORCEMENT AND ADMINISTRATION

The provisions detailed in Part 11 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) relating to enforcement and administration are deemed to form part of this Scheme, except as varied below.

There are no variations to Part 11 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

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 | Rural Residential Zones |

SCHEDULE 1—DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

Unless listed below the words and expressions used in the Scheme have the same meaning as the general definitions and land use definitions contained in Schedule 1 of the *Town Planning Amendment Regulations 1999* (the Model Scheme text). Where a definition is listed below and there is a conflict of interpretation of words the meaning of the word or term, the definition listed below shall prevail, unless the word or expression applies to residential development (Clause 1.7 refers).

Service utility—means any work or undertaking constructed or maintained by a service authority or the Council as may be required to provide water, sewerage, electricity, gas, drainage, waste, communications or other similar services;

SCHEDULE 2—ADDITIONAL USES

There are no additional uses that apply to the Scheme.

| No. | Description of land | Additional use | Conditions |
|-----|---------------------|----------------|------------|
| | | | |

SCHEDULE 3—RESTRICTED USES

There are no restricted uses that apply to the Scheme.

| No. | Description of land | Restricted use | Reason for Restriction | Map Label |
|-----|---------------------|----------------|------------------------|-----------|
| | | | | |

SCHEDULE 4—SPECIAL USE ZONES

The following special use zones apply to the Scheme.

| No. | Description of land | Special use | Conditions | Map Label |
|-----|---|---|--------------------------------------|-----------|
| 1 | Lot 41 Rowlands Street, Beacon | Motor Vehicle Repairs | Compliance with Council requirements | MVR |
| 2 | Lots 102-103 and Lots 52-56 Lucas Street, Beacon | Garage and Rural Supplies | Compliance with Council requirements | GRS |
| 3 | Lot 201 Grant and Powell Street, Bencubbin | Caravan Park | Compliance with Council requirements | CP |
| 4 | Lots 60, 61, 62, 63 and 64 Lucas Street, Beacon | Country Club and associated sporting facilities | Compliance with Council requirements | CC |

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 | Total area of any such advertisements, shall not exceed 15m. |

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 |
|--|--|--|
| | <p>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.</p> <p>A maximum of 2 free-standing advertisement signs not exceeding 5m in height above ground level.</p> | 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 | <p>(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</p> <p>(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</p> <p>(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.</p> | <p>N/A</p> <p>N/A</p> <p>N/A</p> |
| 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 as shown in Schedule 6 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) shall apply to this Scheme, except as varied below.

There are no variations to the form as shown in Schedule 6 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

SCHEDULE 7—ADDITIONAL INFORMATION FOR ADVERTISEMENTS

The Form for additional information for advertisements as shown in Schedule 7 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) shall apply to this Scheme, except as varied below.

There are no variations to the form as shown in Schedule 7 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

SCHEDULE 8—NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

The notice of public advertisement of planning proposal as shown in Schedule 8 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) shall apply to this Scheme, except as varied below.

There are no variations to the notice as shown in Schedule 8 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

SCHEDULE 9—NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

The notice of determination on application for planning approval as shown in Schedule 9 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text) shall apply to this Scheme, except as varied below.

There are no variations to the notice as shown in Schedule 9 of the *Town Planning Amendment Regulations 1999* (Appendix B—Model Scheme Text).

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 |
|--------------------------------|----------------------|---------------------------------|
| | | |

SCHEDULE 11—RURAL RESIDENTIAL ZONES

| Land Description | Rural Residential No. | Special Conditions |
|---|------------------------------|---|
| VCL Gluyas Street, Bencubbin | RR 1 | Uses shall be permitted in accordance with Table 1—Zoning Table. |
| Lots 106-109 Gluyas Street and Lots 110-113 Nabawa Street, Bencubbin | RR 2 | Subdivision shall only occur in accordance with the adopted Structure Plan. |
| Lots 114-117 Nabawa Street and Lots 119-123 Canberra Street, Bencubbin | RR 3 | Residential development shall comply with R2 general site requirements. |
| Lots 68, 69 and 71 Cook Street and Lot 70 Blight Street, Beacon | RR 4 | No more than 1 residence shall be permitted on each lot. |

| Land Description | Rural Residential No. | Special Conditions |
|---|-----------------------|--------------------|
| Lot 72 Blight Street and Lots 73-76 Cook Street, Beacon | RR 5 | |
| Lot 189 Kirby Street, Beacon | RR 6 | |

ADOPTION

Adopted by resolution of the Council of the Shire of Mt Marshall at the Ordinary Meeting of the Council held on the 18th day of August 2010.

P. A. GILLETT, Shire President.

Date: 24 July 2013.

M. GILFELLON, Chief Executive Officer.

Date: 29 July 2013.

FINAL APPROVAL

Adopted for final approval of the Shire of Mt Marshall at the meeting of Council held on the 17th day of October 2012 and the seal of the Municipality was pursuant to that resolution affixed in the presence of—

P. A. GILLETT, Shire President.

Date: 24 July 2013.

M. GILFELLON, Chief Executive Officer.

Date: 29 July 2013.

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

C. MEAGHAN, Delegated under S.16 of PD Act 2005.

Date: 5 September 2013.

FINAL APPROVAL GRANTED

J. H. D. DAY, Minister for Planning.

Date: 25 November 2013.