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PLANNING AND DEVELOPMENT ACT 2005

**ADVERTISEMENT OF APPROVED
LOCAL PLANNING SCHEME**

Shire of Jerramungup

Local Planning Scheme No. 2

PLANNING AND DEVELOPMENT ACT 2005

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Shire of Jerramungup

Local Planning Scheme No. 2

Preamble

This Local Planning Scheme of the Shire of Jerramungup 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, which set out the general policies of the local government on matters within the Scheme.

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

SCHEME TEXT

The Shire of Jerramungup, under the powers conferred by the *Planning and Development Act 2005* makes the following local planning scheme.

CONTENTS**PART 1—PRELIMINARY**

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

PART 2—LOCAL PLANNING POLICY FRAMEWORK

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

PART 3—RESERVES

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

PART 4—ZONES AND THE USE OF LAND

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

PART 5—GENERAL DEVELOPMENT REQUIREMENTS

- 5.1 Compliance with Development Standards and Requirements
- 5.2 Residential Design Codes
- 5.3 Special Application of Residential Design Codes
- 5.4 Restrictive Covenants
- 5.5 Variations to Site and Development Standards and Requirements
- 5.6 Environmental Conditions
- 5.7 Site and Development Requirements
- 5.8 Landscaping
- 5.9 Car Parking
- 5.10 Transported Buildings
- 5.11 Telecommunication Facilities
- 5.12 Development on Land Subject to Dampness or Flooding
- 5.13 Appearance of Buildings
- 5.14 Visual Impact of Land Use and Development near the Coast or Along Major Tourist Routes
- 5.15 Aquaculture
- 5.16 Home Business or Home Occupation or Rural Home Business
- 5.17 Caretaker's Dwellings
- 5.18 Tourist Related Uses
- 5.19 Residential Zone
- 5.20 Townsite Zone
- 5.21 Town Centre Zone
- 5.22 Service Commercial Zone
- 5.23 Light Industry Zone
- 5.24 General Industry Zone
- 5.25 Rural Residential Zone
- 5.26 Rural Zone

PART 6—SPECIAL CONTROL AREAS

- 6.1 Operation of Special Control Areas
- 6.2 Public Drinking Water Source Area—PDWSA
- 6.3 Special Design Area

PART 7—HERITAGE PROTECTION

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

PART 8—DEVELOPMENT OF LAND

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

PART 9—APPLICATIONS FOR PLANNING APPROVAL

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

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

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

PART 11—ENFORCEMENT AND ADMINISTRATION

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

SCHEDULES

- 1 Dictionary of Defined Words and Expressions
- 2 Additional Uses
- 3 Restricted Uses
- 4 Special Use Zones
- 5 Exempted Advertisements
- 6 Form of Application for Planning Approval
- 7 Additional Information for Advertisements
- 8 Notice of Public Advertisement of Planning Proposal
- 9 Notice of Determination on Application for Planning Approval
- 10 Environmental Conditions
- 11 Rural-Residential Zone

PLANNING AND DEVELOPMENT ACT 2005
ADVERTISEMENT OF APPROVED LOCAL PLANNING SCHEME

Shire of Jerramungup

Local Planning Scheme No. 2

PART 1—PRELIMINARY

1.1 Citation

1.1.1 The Shire of Jerramungup Local Planning Scheme No. 2 (“the Scheme”) comes into operation on its gazettal date.

1.1.2 The Shire of Jerramungup Town Planning Scheme No. 1 published in the *Government Gazette* of 20 July 1990 and all amendments thereto is hereby repealed.

1.2 Responsible Authority

The Shire of Jerramungup is the responsible authority for implementing the Scheme.

1.3 Scheme Area

The Scheme applies to the Scheme Area which covers all of the local government district of the Shire of Jerramungup as shown on the Scheme Map.

1.4 Contents of the Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (sheets numbers 1 to 6 inclusive);

The Scheme Text 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 contained in Schedule 7 to the Planning and Development Act.

1.6 The Aims of the Scheme

The aims of the Scheme are—

- (a) to assist the effective implementation of regional plans and policies including the State Planning Strategy;
- (b) to protect areas of agricultural significance for sustainable production;
- (c) to encourage economic growth in rural areas by facilitating the more intensive and diversified use of rural land in appropriate areas for high value products which are compatible with surrounding farm practices, encouraging processing and value adding industries, and by promoting tourism;
- (d) to provide opportunities for planned, contained and sustainable settlements in locations with access to services and infrastructure;
- (e) to provide for a range of rural lifestyle opportunities and ensuring rural residential development is managed to minimise impacts on rural land uses, to protect and enhance rural landscapes and environmental values, and to ensure good accessibility to services and facilities;
- (f) to protect the natural environment and biodiversity while ensuring appropriate development opportunities realised;
- (g) to promote the sustainable management of natural resources including energy, water, land, minerals, and basic raw materials by preventing land degradation and integrating land and catchment management with land use planning.

1.7 Definitions

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

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

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

- (a) in the case of 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 Jerramungup, which apply to the Scheme Area.

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme Determinations to Conform with Local Planning Strategy

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

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 a Policy so prepared.

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 determinations 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 Procedures 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 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 draft 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 the 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 Region Schemes which apply to the Scheme Area.

3.3 Local Reserves

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

3.4 Use and Development of Local Reserves

3.4.1 A person must not—

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve

without first having obtained planning approval under Part 9 of the Scheme.

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

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

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

PART 4—ZONES AND THE USE OF LAND**4.1 Zones**

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

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

4.2 Objectives of the Zones

The Objectives of the Zones are—

- **Residential Zone**
 - To retain the single house as the predominant form of residential development in a town.
 - To provide for lifestyle choice in and around a town with a range of residential densities.
 - To allow for the establishment of non-residential uses subject to local amenities not being adversely affected.
- **Townsite Zone**
 - To allow for a wide range of uses such as may be found in small townsites but subject to preservation of local amenities.
- **Town Centre Zone**
 - To ensure the Jerramungup town centre remains the principal place for business and administration within the district, whilst allowing flexibility for non-commercial uses.
 - To encourage a high standard of development including buildings, landscaping, and car parking.
 - To encourage development of the town centre as an attractive place and varied area to conduct business and reside.
- **Service Commercial Zone**
 - To provide for light and service industries and commercial uses.
 - To encourage a high standard of development including buildings, landscaping, and car parking.
 - To encourage development of an attractive place to work and to conduct business.
- **Light Industry Zone**
 - To accommodate wholesaling, retail warehouses, showrooms, trade centres, and professional services that provide for the needs of the community but due to their nature are generally not appropriate, or cannot be accommodated, in the Town Centre Zone.
 - To provide a location for light and service industries, which operate as an integral part of the function of a town.
- **General Industry Zone**
 - To encourage industrial development with diverse employment opportunities.
 - To provide for industry to support development in the district.
 - To provide land for uses which by the nature of their potential impacts require separation from sensitive land uses.

- **Rural Residential Zone**

- To select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, and rural-residential retreats.
- To make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.
- To locate Rural Residential zones generally within 5 km of the towns of Jerramungup and Bremer Bay so that residents have convenient access to services and facilities without a drain on resources of the wider community.
- To encourage the use of cluster development in areas of natural beauty to minimise the overall impact of development on the land.

- **Rural Zone**

- To ensure the continuation of broad-hectare farming as the principal land use in the district and encouraging where appropriate the retention and expansion of agricultural activities where the land is capable of such development.
- To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.
- To allow for facilities for tourists and travellers, and for recreation uses.
- To help protect rural land from land degradation and further loss of biodiversity by—
 - minimising clearing of remnant vegetation
 - encouraging retention and protection of remnant vegetation
 - encouraging development and protection of vegetation corridors
 - encouraging development of sustainable surface and sub-surface drainage works
 - encouraging rehabilitation of salt-affected land
 - encouraging soil conservation through land management measures
 - encouraging identification and protection of wetlands
- To promote the sustainable management of natural resources, and the prevention of land degradation.

4.3 Zoning Table

4.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones. The permissibility of any uses is determined by cross-reference between the list of uses 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 requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of a 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 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 proposed use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 Additional Uses

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

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

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

There are no Restricted Uses which apply to the Scheme.

4.7 Special Use Zones

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

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

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

4.8 Non-conforming Uses

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

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to 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 or buildings has been discontinued for a period of 6 months such land or building 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 the occupier or to both the owner and the 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 enable the local government to purchase, or with the consent of the Governor, compulsorily acquire land for the purpose of a Local 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

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

TABLE 1
ZONING TABLE

USES		ZONES							
		RESIDENTIAL	TOWNSITE	TOWN CENTRE	SERVICE COMMERCIAL	LIGHT INDUSTRY	GENERAL INDUSTRY	RURAL RESIDENTIAL	RURAL
1	aged or dependent persons dwelling	A	D	D	X	X	X	X	X
2	agriculture-extensive	X	X	X	X	X	X	X	P
3	agriculture-intensive	X	X	X	X	X	X	X	D
4	agroforestry	X	X	X	X	X	X	X	D
5	ancillary accommodation	D	D	D	X	X	X	D	D
6	animal establishment	X	X	X	X	X	X	A	D
7	animal husbandry—intensive	X	X	X	X	X	X	X	A
8	aquaculture	X	A	X	X	D	D	X	D
9	bed and breakfast	D	D	D	X	X	X	D	D
10	caretaker's dwelling	X	D	D	D	A	A	X	D
11	civic use	D	P	P	A	A	A	D	D
12	club premises	A	D	D	D	D	X	A	A
13	educational establishment	A	D	D	X	A	X	X	A
14	fast food outlet	X	D	D	A	X	X	X	X
15	fuel depot	X	A	X	X	D	D	X	A
16	grouped dwelling	D	D	D	X	X	X	X	X
17	home business	D	D	D	X	X	X	D	P
18	home occupation	D	D	D	X	X	X	D	P
19	hotel	X	A	A	X	X	X	X	X
20	industry—cottage	D	D	D	X	X	X	A	D
21	industry—extractive	X	X	X	X	X	X	X	P
22	industry—general	X	X	X	X	X	P	X	X
23	industry—light	X	A	X	D	P	P	X	X
24	industry—rural	X	A	X	X	A	D	X	A
25	industry—service	X	A	X	D	X	X	X	X
26	motel	X	D	P	X	X	X	X	X
27	motor vehicle repair	X	D	X	D	P	P	X	X
28	multiple dwelling	D	D	D	X	X	X	X	X
29	office	X	D	P	D	X	X	X	X
30	place of worship	D	D	D	X	X	X	A	D
31	plantation	X	X	X	X	X	X	X	D
32	plant nursery	X	D	D	D	P	P	X	D
33	recreation—private	X	A	A	A	D	X	X	X
34	residential building	D	X	D	X	X	X	X	X
35	restaurant	A	D	P	D	X	X	X	A
36	rural home business	X	X	X	X	X	X	X	D
37	rural pursuit	X	X	X	X	X	X	X	P
38	service station	X	D	D	D	P	P	X	X
39	shop	X	P	P	P	X	X	X	X
40	single house	P	P	D	X	X	X	P	P
41	tavern	X	A	A	D	X	X	X	X
42	tourist accommodation	D	D	D	X	X	X	X	D
43	transport depot	X	A	X	X	D	D	X	X
44	veterinary centre	X	A	A	A	D	D	X	D
45	warehouse	X	X	X	A	P	P	X	X

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 Code density applicable to land within the Scheme Area is to be determined by reference to the Residential Design Code 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

The following variations to the Residential Design Codes apply in the Scheme area—

- (a) In the Residential zone with R15/30 density code the local government may permit an increase from R15 up to a maximum of R30 to allow development of more than 1 dwelling on a lot where—
 - (i) adequate connection to reticulated sewerage is available;
 - (ii) in the opinion of the local government the lot is suitably located close to services and facilities;
 - (iii) the local government after following the advertising procedures in clause 9.4 is satisfied there will not be adverse impacts on local amenities;
 - (iv) the local government considers the design of the development will enhance the amenity of the area; and
- (v) the development is compatible with the surrounding land uses and development.
- (b) In the Town Centre zone the local government may permit an increase from R15 up to a maximum of R20 subject to a detailed landscaping plan being implemented for the land. This increase in residential density is not to apply where an outside trade display is provided on the lot.
- (c) Land in the Residential zone in the Bremer Bay townsite with R2/R15 density code is not to be developed to a density greater than R2 unless reticulated sewerage is provided to the land in which case development may be permitted up to a maximum of R15.
- (d) Where planning approval is required for a dwelling that is more than 5 metres above natural ground level the local government may consult with adjoining owners likely to be affected and the local government is to take into consideration any submissions when determining an application for planning approval.

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 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 R 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 that 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 local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is 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 or the inhabitants of the locality or upon 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 section 48F and 48G of the EP Act; and
- (b) make the statements available for public inspection at the offices of the local government.

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

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

5.7 Site and Development Requirements

The site and development requirements for land in various zones are to be as set out in Table 2.

TABLE 2
SITE AND DEVELOPMENT REQUIREMENTS

USE	MAXIMUM PLOT RATIO	MINIMUM LANDSCAPED AREA (% land area)	MINIMUM NUMBER OF CAR PARKING BAYS
Club premises	0.5	*	1 for every 45m ² of floor area
Educational Establishment	*	30	1 per full time employee, plus bays for students as determined by the local government, which may require a dedicated set down/pick up area.
Hotel or Tavern	*	10	1 for every bedroom plus 1 per 2m ² of bar and lounge area
Industry—General	*	15	1 per 2 employees, min. 4 bays plus adequate loading area.
Industry—Light	*	10	1 per 2 employees, min. 3 bays plus adequate loading area.
Industry—Service	*	10	1 per 2 employees, min. 3 bays plus adequate loading area.
Motel	1.0	30	1 per unit, plus 1 space per 25m ² of service area
Office	*	*	1 for every 30m ² floor area
Restaurant	*	*	1 for every 10m ² of floor area or 1 for every 4 seats provided, whichever is the greater
Service Station	*	5	1 for every working bay, plus 1 for each person employed on site
Shop	*	*	1 for every 15m ² of floor area
Tavern	*	10	1 per 2m ² of bar and lounge area

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

(ii) Where a use is not listed in Table 2 and the particular site and development requirements for that use are not set out elsewhere in the Scheme, they are to be determined by the local government

5.8 Landscaping

- (a) The landscaping requirement in the Scheme means an open area designed, developed, and maintained as garden planting with areas for pedestrian use and at the discretion of the local government it may include natural bushland, swimming pools and areas under covered ways; garbage collection and handling spaces, and other open storage areas are not to be included.
- (b) Access driveways between a street alignment and buildings may be included in the landscaping requirement but otherwise car parking areas and driveways are not to be included.
- (c) The local government may in a landscaped area restrict the use of concrete, gravel, pebble and similar hard materials and require the planting of lawns, trees and/or shrubs in lieu thereof.
- (d) Where a proposed development utilises less than 50% of the allowable plot ratio, the local government may reduce the landscaping requirement, provided that the landscaping requirement is to be required proportionately as subsequent development occurs.
- (e) A person is not to occupy any buildings forming part of an approved development until the required landscaping has been constructed and planted, unless with the written approval of the local government.

5.9 Car Parking

- (a) A person is not to develop or use any land or erect or use any building unless car parking spaces specified by the local government are provided and such spaces are constructed and maintained in accordance with the Scheme.
- (b) Car parking bays are to be of minimum dimensions of 5.5m x 2.5m
- (c) All car parking spaces and all necessary access ways are to be marked, drained, and paved.
- (d) Where the maximum dimension of any open car parking area exceeds 20 metres in length or width, one car parking space in 10 is to be used for garden and tree planting to provide visual relief and whilst the garden and the tree planting areas are maintained in good order, those car parking spaces may be included in calculations as car parking and not as landscaping.
- (e) Where a person can demonstrate to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in the Scheme, landscaping may be provided in lieu of car parking spaces not constructed, and the landscaping may be included in the calculations as car parking but not as landscaping; provided that the local government may from time to time require by written notice that the additional parking spaces be provided.
- (f) If a person can satisfy the local government that the car parking requirement cannot be provided on land in the Town Centre, Light Industry, or General Industry zones the local government may accept a cash payment in lieu of the provision of car parking spaces but subject to;
 - (i) A cash-in-lieu payment is to be not less than the estimated cost of providing and constructing the parking spaces required by the Scheme, plus the value, as estimated by the Valuer General, of the area of land that would have been occupied by the parking spaces.
 - (ii) Before the local government agrees to accept a cash payment in lieu of the provision of parking spaces, the local government is to either have already provided a public car park nearby, or have firm proposals for providing a public car park area nearby within a period of not more than 18 months from the time of agreeing to accept the payment of cash-in-lieu.
 - (iii) Payments made under this clause are to be paid into a special fund to be used to provide public car parks.
- (g) When considering an application for planning approval the local government is to have regard to and may impose conditions in respect of the location and design of the required car parking spaces, natural planting, and pedestrian spaces on the land. In particular, the local government is to take into account and may impose conditions concerning—
 - (i) the proportion of car parking spaces to be below natural ground level;
 - (ii) the means of access to each car parking space and the adequacy of any vehicular manoeuvring area;
 - (iii) the location of the car parking spaces on the site and their effect on the amenity of adjoining development, including the potential effect if those spaces should later be roofed or covered;
 - (iv) the extent to which car parking spaces are located within required building setback areas;
 - (v) the locations of proposed public footpaths, vehicular crossings, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety;
 - (vi) the suitability and adequacy of elevated structural decks for development and service as a proportion of the required area for natural planting and pedestrian space;
 - (vii) the provision of disabled bays; and
 - (viii) parking and manoeuvring spaces for trucks and service vehicles.

5.10 Transported Buildings

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

5.10.2 The local government must only grant planning approval in accordance with clause 5.10.1 if the transported building—

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

5.11 Telecommunication Facilities

In determining applications for telecommunication facilities, the local government is to consider—

- (a) the social and economic benefits of affordable and convenient access to modern telecommunications based services for people and businesses throughout the State;
- (b) continuity of supply of telecommunications services;

- (c) protection of the environment;
- (d) safeguarding visual amenity and streetscape;
- (e) protection of heritage places;
- (f) public safety; and
- (g) co-ordination with other services.

5.12 Development on Land Subject to Dampness or Flooding

5.12.1 Where, in the opinion of the local government, the dampness of the site on which a building is proposed to be constructed so warrants, the local government may refuse that development or require that one or all of the following measures is to be carried out;

- (a) the subsoil is to be effectively drained;
- (b) the surface of the ground beneath the building is to be regraded or filled and provided with adequate outlets to prevent any accumulation of water beneath the building;
- (c) the surface of the ground beneath the building is to be covered with an approved damp-resisting material.

5.12.2 A building is not to be constructed upon any land defined by the local government as being liable to flooding or periodic inundation.

5.13 Appearance of Buildings

5.13.1 In considering an application for planning approval in respect to any building the local government is to be satisfied as to the appearance of the building.

5.13.2 If, in the opinion of the local government, a proposed building will have a detrimental affect on the local amenity, or have the potential to visually impair or detract from the exterior design or appearance of other buildings in the vicinity, the local government may refuse to grant planning approval or may request that amendments or modifications be made to the proposal before the local government further considers the application.

5.13.3 A person is not to erect a building which by virtue of colour or type of materials, architectural style, height or bulk, ornamental or general appearance, has an exterior design which is out of harmony with existing buildings or the landscape character of the area, unless with the written approval of the local government.

5.13.3 In considering applications for planning approval for land in the towns of Jerramungup and Bremer Bay, the local government is to have regard to the scale, colours, materials, and design of buildings.

5.14 Visual Impact of Land Use and Development Near the Coast or Along Major Tourist Routes

5.14.1 The local government is to have regard to the visual impact of any land use or development proposal for land adjacent to the coast or major tourist routes and may require as conditions of planning approval—

- (a) increased setbacks; or
- (b) screening or landscaping; or
- (c) the use of colours and materials that in the opinion of the local government will be more sympathetic to the local amenity; or
- (d) siting of development to avoid silhouetting against the skyline.

5.14.2 The local government may require increased setbacks, and/or landscaping to maintain or improve the road entries to townsites in the Scheme Area.

5.15 Aquaculture

When considering an application for planning approval for aquaculture the local government is to have regard for the following—

- (a) issue of a licence by the relevant authorities;
- (b) environmental impacts and approval of Environmental Protection Authority;
- (c) road access being provided and constructed;
- (d) appropriate landscaping and use of building colours, heights, materials and design so as to minimise visual impacts; and
- (e) provision of appropriate and satisfactory effluent disposal.

5.16 Home Business or Home Occupation or Rural Home Business

5.16.1 A person is not to carry on a home business or home occupation or rural home business unless planning approval has been issued in writing by the local government and is current.

5.16.2 An application for planning approval to carry on a home business or home occupation or rural home business is to comprise an application in accordance with the Scheme.

5.16.3 An approval to carry on a home business or home occupation or rural home business—

- (a) is valid for a period of 12 months after the date of issue thereof but may be renewed upon application in writing to the local government.
- (b) relates only to the premises for which, and the person for whom, the application was made and the approval subsequently issued.

- (c) is not capable of being transferred or assigned to any other person and does not run with the land in respect of which it was granted.

5.16.4 In granting planning approval to carry on a home business or home occupation or rural home business the local government may impose any reasonable condition it thinks fit to preserve the amenity of the area and reduce potential land use conflicts.

5.17 Caretaker's Dwellings

The provisions of this clause apply for all caretakers' dwellings in the Light Industry and General Industry zones.

- (a) a caretaker's dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;
- (b) only one caretaker's dwelling is to be permitted on a lot; for the purposes of this clause "lot" excludes a strata lot or survey-strata lot created under the *Strata Titles Act 1985*;
- (c) a caravan or park home is not to be permitted as a caretaker's dwelling for either permanent or temporary occupation;
- (d) a caretaker's dwelling is to be screened and/or fenced from the street frontage of the lot to the satisfaction of the local government and wherever possible is to be sited at the rear of other buildings on the lot;
- (e) a caretaker's dwelling is to contain 1 bedroom only within an a total floor area that does not exceed 100 square metres measured from the external face of walls;
- (f) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100 square metres referred to in clause 5.17 (e).

5.18 Tourist Related Uses

Despite any other provision of the Scheme the local government may approve tourist-related uses that are operated in conjunction with the predominant use of the land and which are for —

- (a) consumption of food and / or beverages,
- (b) the sale of produce,
- (c) the sale of arts and crafts, and / or
- (d) conducting excursions for tourists.

5.19 Residential Zone

5.19.1 Site Requirements

In accordance with the Residential Design Codes.

5.19.2 Development Requirements

- (a) No horse or other hoofed animal is to be kept on any lot that has an area less than 4,000 m²;
- (b) Despite any other provision of the Scheme, development is not permitted on Lot 5 Bremer Road, Bremer Bay until the local government is satisfied adequate setback is provided from the foreshore and that the amenity of the area will be maintained.
- (c) Despite any other provision in the Scheme on land in the Bremer Bay townsite with R2 density code—
 - (i) all buildings are to be contained within a building envelope to be specified by the owner and approved by the local government, and the building envelope is not to be split;
 - (ii) no natural vegetation is to be removed, cleared or destroyed outside a building envelope or on a lot prior to a building envelope being defined, without the written approval of the local government;
 - (iii) rear and side setbacks are to be re-vegetated with indigenous trees or vegetation or otherwise landscaped to the satisfaction of the local government;
 - (iv) in order to preserve the amenity the local government will consider the design, colours and materials of all development; the use of natural colours is to be encouraged;
 - (v) the local government may allow temporary use of an outbuilding for a dwelling provided the temporary use does not exceed 6 months and a dwelling on the land has been substantially commenced; and
 - (vi) subdivision is to be generally in accordance with a Subdivision Guide Plan adopted by the local government.

5.19.3 Parking and Repair of Commercial Vehicles

- (a) A person who wants to park a commercial vehicle at his dwelling is to apply to the local government for planning approval. In assessing the application the local government is to have regard for the type and tonnage of the vehicle, the likely hours of parking, potential nuisance to neighbours, and the position on the lot wherein it is proposed to park the vehicle.
- (b) If an application is approved it will be for a 12 month period with an annual renewal required every year thereafter. The renewal may not be granted if the parking of the vehicle has caused nuisance to neighbours or adversely affected the local amenity.

5.20 Townsite Zone

5.20.1 Site Requirements

- (a) Residential development is to be in accordance with the Residential Design Codes.

- (b) For non-residential development the minimum building setbacks are to be—
- Front : 7.5m
 - Rear : 7.5m
 - Side : 5.0m on one side.

5.20.2 Development Requirements

When considering an application for planning approval the local government is to have regard for any Townsite Expansion Plan adopted by the local government, and the appropriateness of the proposal in terms of location and compatibility with existing land uses on adjacent land.

5.21 Town Centre Zone

5.21.1 Site Requirements

- (a) Residential development is to be in accordance with the Residential Design Codes.
- (b) For non-residential development the minimum building setbacks are to be—
- Front : 7.5m
 - Rear : 7.5m
 - Side : 5.0m on one side.

5.21.2 Development Requirements

- (a) An application for residential development is to be determined by the local government having regard for potential nuisance, the desirability of retaining the subject land for commercial use, the levels of residential amenity, and potential for land use conflicts.
- (b) Development is not to exceed 2 storeys in height except where the local government considers that particular circumstances may warrant an exception being made and the character of the area will be enhanced.
- (c) In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the local government is to have regard to the following—
- (i) the colour and texture of external building materials; the local government may require the building façade and side walls to a building depth of 3m to be constructed in masonry;
 - (ii) building size, height, bulk, and roof pitch;
 - (iii) setback and location of the building on its lot;
 - (iv) architectural style and design details of the building;
 - (v) relationship to surrounding development; and
 - (vi) any other characteristics considered by the local government to be relevant.
- (d) A landscaping plan is to accompany an application for planning approval, with a minimum of 10% of the lot to be set aside for landscaping that is to complement the appearance of the proposed development and the area.
- (e) The layout of car parking areas is to have regard to traffic circulation in existing car parking areas and be integrated with any existing and adjoining car park.
- (f) Loading docks and access ways are to be provided sufficient in size to wholly contain delivery vehicles on site or within the building and to permit the passage of vehicles from and to the street without reversing.
- (g) Where the local government considers it appropriate, rear access is to be provided to avoid using the front entrance, another lot, or other access for service access.

5.22 Service Commercial Zone

5.22.1 Site Requirements

The minimum building setbacks are to be determined by the local government.

5.22.2 Development Requirements

- (a) Development is not to exceed 2 storeys in height except where the local government considers that particular circumstances may warrant an exception being made and the character of the area will be enhanced.
- (b) In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the local government is to have regard to the following—
- (i) the colour and texture of external building materials; the local government may require the building façade and side walls to a building depth of 3m to be constructed in masonry;
 - (ii) building size, height, bulk, and roof pitch;
 - (iii) setback and location of the building on its lot;
 - (iv) architectural style and design details of the building;
 - (v) relationship to surrounding development; and
 - (vi) any other characteristics considered by the local government to be relevant.
- (c) The layout of car parking areas is to have regard to traffic circulation in existing car parking areas and be integrated with any existing and adjoining car park.

- (d) Loading docks and access ways are to be provided sufficient in size to wholly contain delivery vehicles on site or within the building and to permit the passage of vehicles from and to the street without reversing.
- (e) Where the local government considers it appropriate, rear access is to be provided to avoid using the front entrance, another lot, or other access for service access.

5.23 Light Industry Zone

5.23.1 Site Requirements

The minimum building setbacks are to be—

- Front : 7.5m
- Rear : 7.5m
- Side : 5.0m on one side.

5.23.2 Development Requirements

- (a) The front setback area may be used only for the purposes of landscaping, visitor's car parking, or access, but the local government may approve the use of the front setback area for display or for loading and unloading of vehicles.
- (b) The front setback area is to be landscaped, including an area of not less than 1 metre wide adjacent to each side boundary, except where an access is shared between adjacent lots.
- (c) No materials or product are to be stored in the front setback area.
- (d) Areas of a lot, other than the front setback, that are visible from a public street or place are to be developed with landscaped open space or screened to the satisfaction of the local government.
- (e) A landscaping plan is to accompany any application for planning approval, and landscaping is to complement the appearance of the proposed development.
- (f) An open storage area that is visible from a public place or street and is not a trade display area is to be screened to the satisfaction of the local government.
- (g) All buildings are to be clad with "Colorbond" steel sheeting or similar, and facades are to be constructed in face brick, stone, or other masonry.
- (h) A building is not to exceed 5 metres in height above natural ground level and the building facade is not to exceed 3.6 metres in height, but the local government may vary this height in a particular case to allow for such items as internal gantry cranes or similar.
- (i) All lots be connected to deep sewerage, where reasonably available, or to an approved effluent system suitable for the long term disposal of effluent onsite.
- (j) Fencing is to be provided to the boundaries of a lot that abut a Recreation Reserve to prevent vehicular ingress and egress. The fence is to be of a uniform design, colour, material, and height to the satisfaction of the local government having regard for the amenity of the Recreation Reserve and the area.

5.23.3 Industrial Development

- (a) In addition to other requirements of the Scheme an application for planning approval for an industry is to demonstrate compliance with the buffer distance separation from dwellings in accordance with guidelines of the Environmental Protection Authority.
- (b) In determining an application for planning approval for an industry the local government may impose conditions to control industrial liquid, solid, or gaseous wastes in accordance with Environmental Protection Authority guidelines and advice from the Department of Environment.
- (c) Where a proposed industry would generate industrial liquid, solid, or gaseous wastes such wastes are to be treated and disposed of in accordance with Department of Environment advice/guidelines.

5.24 General Industry Zone

5.24.1 Site Requirements

- (a) The minimum building setbacks are to be—

- Front : 7.5m
- Rear : 7.5m
- Side : 5.0m on one side.

- (b) The first 5 metres of the front setback on any lot are to be landscaped to the satisfaction of the local government. Where a lot has frontage to 2 streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced is to be landscaped to the satisfaction of the local government.

5.24.2 Development Requirements

- (a) The development of a lot is to be subject to—
 - (i) screening of work and service areas to the satisfaction of the local government;
 - (ii) all unloading and loading of materials, parking, and the operation of the industry is to be within the boundaries of the lot;
 - (iii) fencing is to be to the specification and satisfaction of the local government;

- (vi) a landscaping plan is to accompany any application for planning approval, and the landscaping is to complement the appearance of the proposed development.
- (b) The front setback area may be used only for the purposes of landscaping, visitor's car parking, or access, but the local government may approve the use of the front setback area for display or for loading and unloading of vehicles if the local government is satisfied that landscaping can be provided to preserve the amenity of the area and provide adequate screening.
- (c) No materials or product are to be stored in the front setback area.
- (d) An open storage area that is visible from a public place or street and is not a trade display area is to be screened to the satisfaction of the local government.
- (e) Loading docks and access ways are to be provided sufficient in size to wholly contain delivery vehicles on the lot or within the building and to permit the passage of vehicles on site or within the building and to permit the passage of vehicles from and to the street without reversing.
- (f) Where the local government considers appropriate, rear access is to be provided to each lot to avoid using the front entrance, another lot, or other access for service deliveries.

5.24.3 Industrial Development

- (a) In addition to other requirements of the Scheme an application for planning approval for an industry is to demonstrate compliance with the buffer distance separation from dwellings in accordance with guidelines of the Environmental Protection Authority.
- (b) In determining an application for planning approval for an industry the local government may impose conditions to control industrial liquid, solid, or gaseous wastes in accordance with Environmental Protection Authority guidelines and advice from the Department of Environment.
- (c) Where a proposed industry would generate industrial liquid, solid, or gaseous wastes such wastes are to be treated and disposed of in accordance with Department of Environment advice/guidelines.

5.25 Rural Residential Zone

5.25.1 Site Requirements

Unless otherwise provided in Schedule 11, the minimum building setbacks are to be—

Front	: 30.0m
Rear	: 10.0m
Side	: 10.0m

5.25.2 General Requirements

- (a) Before making provision for a Rural-Residential zone the local government is to require the owner(s) of the land to prepare a submission supporting the creation of the Rural Residential zone and such submission is to include—
 - (i) a statement as to the purpose or intent for which the zone is being created and the reasons for selecting the particular area the subject of the proposed zone;
 - (ii) a plan or plans showing contours at such intervals as to adequately depict the landform of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, creeks, wells and significant improvements;
 - (iii) information regarding the method whereby it is proposed to provide a potable water supply to each lot;
 - (iv) a detailed report on the land capability of the site and its suitability for the proposed lot sizes; and
 - (v) a detailed report on the vegetation characteristics of the area outlining the type and general health of vegetation and any measures undertaken to identify rare or endangered species.
- (b) A Subdivision Guide Plan is to be prepared for a specific area showing, amongst other things—
 - (i) the proposed ultimate subdivision including approximate lot sizes and dimensions;
 - (ii) areas to be set aside for public open space, pedestrian access ways, horse trails, community facilities, etc as may be considered appropriate;
 - (iii) those physical features it is intended to conserve and the methods to be put in place by the applicant to ensure those areas will be appropriately managed;
 - (iv) the proposed staging of the subdivision where relevant;
 - (v) proposed cluster designs for vegetated sites to improve fire safety and reduce impacts on flora and fauna values; and
 - (vi) retention and creation through revegetation using local native species, of wildlife corridors linking with areas of native vegetation on adjoining land.
- (c) In addition to the Subdivision Guide Plan the provisions for making recommendations on subdivision and determinations on development in specific areas are to be as in Schedule 11, and future subdivision of the land is to be generally in accord with the Subdivision Guide Plan adopted by the local government. The plan is to show the minimum recommended lot size for subdivision.

5.25.3 Development Requirements

- (a) Development in a Rural Residential zone is to be subject to—
- (i) planning approval is required for all development including a dwelling and such application is to be made in accordance with the provisions of the Scheme;
 - (ii) not more than 1 dwelling per lot is to be erected but the local government may, at its discretion, approve ancillary accommodation;
 - (iii) in order to conserve the rural environment or features of natural beauty all trees are to be retained unless their removal is authorised by the local government;
 - (iv) in order to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require as a condition of any planning approval the planting of such trees and/or groups of trees and species as specified by the local government;
 - (v) a person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals is to be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government;
 - (vi) with the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of a Rural Residential zone, the local government may take any action which in the opinion of the local government is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals; and
 - (vii) any costs incurred by the local government in taking action under clause 5.25.3 (vi) are to be recoverable by the local government from the landowner.
- (b) In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the local government is to have regard to the following—
- (i) the colour and texture of external buildings materials;
 - (ii) building size, height, bulk, roof pitch;
 - (iii) setback and location of the building on its lot;
 - (iv) architectural style and design details of the building;
 - (v) relationship to surrounding development;
 - (vi) provision to be made for Bush Fire Control in accordance with a Policy of the Commission.
- (c) Subdivision and development is to generally be in accordance with the Subdivision Guide Plan adopted by the local government for the land.
- (d) Unless otherwise provided in Schedule 11—
- (i) the keeping of stock animals is not permitted
 - (ii) the keeping of horse(s) is not permitted.
- (e) All buildings on a lot are to be contained within the Building Envelope defined on the Subdivision Guide Plan but the local government may permit a variation to the building envelope if the local government is satisfied that the proposed location of the building envelope will not be detrimental to the landscape or the environment.
- (f) Building envelopes as shown on the Subdivision Guide Plan are to—
- (i) be delineated on-site by owner and approved by the local government prior to the commencement of any clearing of vegetation and the local government may require an alternative building envelope if it considers the envelope delineated would be detrimental to the landscape or environment;
 - (ii) not exceed 10% of the lot area, or 3,000 m² whichever is the lesser;
 - (iii) be located having regard for the suitability of the soil for effluent disposal, wind protection and the objective to minimise erosion and the visual prominence of buildings;
 - (iv) be located on lots adjacent to major roads, tourist routes, the roads to the beaches on Point Henry Peninsula, and reserved land so that any building is not visually prominent when viewed from such roads or reserved land;
- (v) be located, wherever possible, so that new dwellings will not be visible from dwellings on adjacent or surrounding properties.
- (g) Despite any other provision of the Scheme the local government may grant planning approval to clear vegetation around buildings as required for Hazard Separation Zones and Building Separation Zones referred to in Commission policy; where vegetation is felled or removed, the surface soil is to be retained to prevent erosion.
- (h) Driveways are to be located and constructed to the satisfaction of the local government having regard for the objective to minimise soil erosion and the visibility of driveways.
- (i) The materials and colours of external walls and the roofs of all buildings are to be non-reflective and, blend with the landscape to the satisfaction of the local government, and are to be constructed of materials that are relatively fire resistant.
- (j) Buildings are not to exceed 5 metres in height from natural ground level to the apex of the roof unless the local government is satisfied that a higher building will not be visually obtrusive.

- (k) Water supply and effluent disposal for each lot is to be the responsibility of the owner.
- (l) A dwelling is not to be occupied unless water storage tank(s) of minimum total capacity of 92 kilolitres and an approved method of effluent disposal have been installed and are operating.
- (m) The local government may require the owner to erect advisory sign(s) to the satisfaction of the local government to inform future owners of any special conditions that apply to the land.
- (n) No signs are to be erected without the prior written approval of the local government except for a lot and homeowner identification sign no larger than 0.1 m² in area.
- (o) Boundary fences are not to be erected on lots with coverage of more than 80% natural vegetation. Where livestock is to be kept in accordance with the Scheme all areas of natural vegetation on the lot are to be fenced and a boundary fence provided to contain animals within the lot.
- (p) Strategic fire breaks as nominated on the Subdivision Guide Plan, are to be constructed and maintained to the specification and satisfaction of the local government and Bush Fires Service.
- (q) An access track, and fire reduction clearing around all buildings, is to be maintained to the satisfaction of the local government.
- (r) The clearing of firebreaks along boundary lines other than for strategic fire breaks is not permitted unless to comply with requirements of the local government or Bush Fires Service.
- (s) For subdivision of land on the Point Henry Peninsula the local government may request the Commission to require landowners at the time of subdivision to contribute to a special fund that will be administered by the local government, and solely used for the construction of standpipe facilities, and fire fighting equipment. The local government may recommend that at least 1 such facility is to be provided as part of the first stage of subdivision, with any remaining facility to be provided at a subsequent stage as determined by the local government in consultation with the Bush Fires Service.

5.26 Rural Zone

5.26.1 Site Requirements

The minimum building setbacks are to be—

Front	:	20.0m
Rear	:	20.0m
Side	:	10.0m

5.26.2 General Development Requirements

- (a) In considering an application for planning approval the local government will have due regard for the following, in addition to the provisions of the Scheme—
 - (i) any sensitive or incompatible uses that may require buffer separation from the proposed use, including the potential for spray drift and the need to contain any spray drift within the land the subject of the application;
 - (ii) any wetland or remnant vegetation or other sensitive feature, and how the application has addressed the protection of the feature;
 - (iii) evidence of a sustainable water supply that does not rely on catchment outside the lot, or damming of a stream that will impact on the water availability for another lot or lots;
 - (iv) soil conditions, slope, soil type, rock, potential for water logging, foundation stability, and how the application has addressed these site characteristics; and
 - (v) proposals for treatment and disposal of waste products.
- (b) The local government may require a Nutrient Management Plan for developments which involve high levels of nutrients and have potential to export nutrients into waterways.

5.26.3 Development of Agroforestry and Plantations

- (a) In addition to those matters listed in clause 10.2, applications for the development of agroforestry and plantations are to be determined by the local government having regard to—
 - (i) The Code of Practice for Timber Plantations in Western Australia 1997 as amended from time to time ('Code of Practice').
 - (ii) Submission of a plantation management plan in accordance with the protocol in the Code of Practice.
 - (iii) The need to encourage the commercial production of trees which is of significance to the national, regional, and local economy.
 - (iv) The benefits of agroforestry and plantations in addressing land degradation including soil erosion and salinity.
 - (v) The role of agroforestry and plantations in protecting water quality and preventing adverse effects on groundwater recharge.
 - (vi) The location of the land in relation to land zoned for residential, industrial, commercial uses.
 - (vii) The suitability of the current and future road systems.

- (b) In determining applications for agroforestry and plantations the local government may impose conditions relating to *inter alia*—
- (i) The application of fire management measures and the provision of internal and boundary fire breaks and water supplies in accordance with the Guidelines for Plantation Fire Protection 1998 (Bush Fire Service of WA/FESA and CALM).
 - (ii) Compliance with the Code of Practice.

5.26.4 Additional Dwellings

- (a) The local government may permit more than one dwelling to be erected and occupied on a lot where it is satisfied that an additional dwelling(s) is necessary or desirable for continuation of bona-fide rural activity, or for any other permitted use. In considering an application the local government will have regard for the desirability to protect the economic viability of farming activities, and to retain the rural character of the area.
- (b) The following are to apply for more than one dwelling on a lot—
- (i) Where the lot size is less than 40 hectares the local government may seek advice from the Department of Agriculture.
 - (ii) The land is to contain a bona-fide rural use and have a suitable dam, dam site, or other suitable alternative water supply.
 - (iii) Occupation of an additional dwelling(s) is limited to a person or persons employed locally in rural uses.
 - (iv) The local government may determine the location of the proposed additional dwelling(s) to protect the rural character of the area.

5.26.5 Animal Husbandry-Intensive (Cattle Feedlots)

In addition to other requirements of the Scheme, cattle feedlots are to be in accordance with the Department of Environment *Guidelines for the Environmental Management of Beef Cattle Feedlots in WA*.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of Special Control Areas

6.1.1 The following Special Control Areas are shown on the Scheme Map—

- Public Drinking Water Source Area
- Special Design Area

6.1.2 In respect of a Special Control Area 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 Public Drinking Water Source Area- PDWSA

6.2.1 Purpose of Special Control Area

To protect the area from use and/or development which may adversely impact on public drinking water supplies.

6.2.2 Application and Referral Requirements

- (a) Planning approval is required for the use or development of any land within the public drinking water source area including a single house.
- (b) A licence from the Department of Environment is required for any clearing.
- (c) The local government is to refer to the Department of Environment Water Quality Protection Note: *Land Use Compatibility in Public Drinking Water Source Areas* in the assessment of an application for planning approval.
- (d) An application for planning approval for a land use that is not covered by the Department of Environment Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas* is to be referred by the local government to the Department of Environment for advice.
- (e) The local government may refuse or approve with or without conditions an application referred to the Department of Environment under clause 6.2.2 (d) having regard for the recommendations of the Department of Environment.

6.3 Special Design Area

6.3.1 Purpose of Special Control Area

To provide for co-ordinated development that has regard for environmental considerations and infrastructure requirements.

6.3.2 Application and Referral Requirements

Before the local government considers any development or subdivision a plan of the overall proposed development is to be prepared for approval by the local government and the Commission. The plan is to include—

- (a) An assessment of the site in regard to—
 - (i) the type, quality and quantity of existing vegetation;
 - (ii) the depth and nature of the soils, including rock;

- (iii) the existing contour information adequate to depict the landform;
 - (iv) any existing structures or improvements on the land;
 - (v) any other factors the local government considers relevant.
- (b) Information concerning the proposal for the land including—
- (i) the proposed and ultimate subdivision of the land;
 - (ii) new contours of the site;
 - (iii) services and facilities for the development;
 - (iv) the trees and areas of vegetation to be preserved;
 - (v) new tree planting, landscape and proposed public open space;
 - (vi) the nature, form, scale and proposed use of the development on the land; and
 - (vii) where applicable, the staging of the proposal, and the maintenance strategy for the development.

PART 7—HERITAGE PROTECTION

7.1 Heritage List

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

7.1.2 In the preparation of the Heritage List the local government is to—

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

7.1.3 In considering a proposal to include a place on the Heritage List, the local government is to—

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

7.1.4 Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

7.1.5 The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.

7.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

Note: 1. The purpose and intent of the heritage provisions are—

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

7.2 Designation of a Heritage Area

7.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, declare that area to be a Heritage Area.

7.2.2 The local government is to—

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

7.2.3 If a local government proposes to designate a Heritage Area, the local government is to—

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the Heritage Area;
- (b) advertise the proposal by—
 - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating within the Scheme Area;

- (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area affected by the designation; and
- (iii) such other methods as the local government considers necessary to ensure widespread notice of the proposal;

and

- (c) carry out such other consultations as the local government considers appropriate.

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

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

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

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

7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of WA, the Commission, and each owner of land affected by the designation.

7.2.7 The local government may modify or revoke a designation of a Heritage Area.

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

7.3 Heritage Agreements

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

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

7.4 Heritage Assessment

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

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

Where desirable to—

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

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

PART 8—DEVELOPMENT OF LAND

8.1 Requirement for Approval to Commence Development

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

- Note:
1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).
 2. Development includes the erection, placement, and display of any advertisement.

8.2 Permitted Development

Except as otherwise provided in the Scheme, for the purpose of the Scheme the following development does not require the planning approval of the local government—

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
 - (i) located in a place that has been registered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an Order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) included on the Heritage List under clause 7.1;

- (b) the erection on a lot of a single house including any extension, ancillary outbuildings, and swimming pools, except where—
 - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes;
 - (ii) the development will be located in a Heritage Area designated under the Scheme;
 - (iii) the single house is a transported building under clause 5.10;
 - (iv) the single house will be located on a lot abutting an unconstructed road or a lot which does not have frontage to a constructed road; or
 - (v) the single house is to be on a lot located in a Rural Residential zone;
- (c) the demolition of any building or structure except where the building or structure is—
 - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an Order under Part 6 of the *Heritage of Western Australia Act 1990*;
 - (iii) included on the Heritage List under clause 7.1; or
 - (iv) located in a Heritage Area designated under the Scheme;
- (d) a home office;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a Heritage Area.

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

8.3 Amending or Revoking a Planning Approval

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

8.4 Unauthorised Existing Developments

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

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

- Note
1. Applications for approval to an existing development are made under Part 9.
 2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Planning and Development Act in respect of the commencement or carrying out of development without planning approval.

PART 9—APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of Application

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

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

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

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

9.2 Accompanying Material

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

- (a) a plan or plans to a scale of not less than 1:500 showing—
 - (i) the location of the site including street names, lot number(s), north point and the dimensions of the site;

- (ii) the existing and proposed ground levels over the whole of the land subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (v) the location, number, dimensions, and layout of all parking spaces intended to be provided;
 - (vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop those areas; and
 - (viii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations, and sections of any building proposed to be erected or altered and of any building it is intended to retain;
 - (c) any specialist studies that the local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering, or urban design studies;
 - (d) information on the natural environment; and
 - (e) any other plan or information that the local government may reasonably require to enable the application to be determined.

9.3 Additional Material for Heritage Matters

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

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

9.4 Advertising of Applications

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

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

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

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

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

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

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

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

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

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS**10.1 Consultations with Other Authorities**

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

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

10.2 Matters to be Considered by the Local Government

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

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

10.3 Determination of Applications

In determining an application for planning approval the local government may—

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

10.4 Form and Date of Determination

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

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

10.5 Term of Planning Approval

10.5.1 Where the local government grants planning approval for the development of land—

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

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

10.6 Temporary Planning Approval

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

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

10.7 Scope of Planning Approval

Planning approval may be granted—

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

10.8 Approval Subject to Later Approval of Details

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

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

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

10.9 Deemed Refusal

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

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

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

10.10 Right of Review

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

PART 11—ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the Local Government

11.1.1 The local government in implementing the Scheme has the power to—

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

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

11.2 Removal and Repair of Existing Advertisements

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

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

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

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

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

11.2.4 A person on whom notice is served under this clause may make application under Part 14 of the Planning and Development Act for review of the determination of the local government.

11.3 Delegation of Functions

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

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

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

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

11.4 Person must comply with provisions of Scheme

11.4.1 A person must not—

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

Note: Section 218 of the Planning and Development Act provides that a person who—

- (a) contravenes or fails to comply with the provisions of a Local Planning Scheme; or
- (b) commences or continues to carry out any development which is required to comply with a Local Planning Scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,

is guilty of an offence.

Penalty: \$50,000, and a daily penalty of \$5,000.

11.5 Compensation

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Section 173 of the Planning and Development Act—

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and—
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or

- (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

not later than 6 months after the application is refused or the permission granted.

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

Note: A claim for compensation under section 173 of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

11.6 Purchase or Taking of Land

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

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

Note: Sections 190 and 191 of the Planning and Development Act empower the local government to purchase or compulsorily acquire land comprised in a scheme.

11.7 Notice for Removal of Certain Buildings

11.7.1 Under section 214 of the Planning and Development Act, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The local government may recover expenses under Section 214 of the Planning and Development Act in a Court of competent jurisdiction.

SCHEDULE 1

DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

1. General definitions

In the Scheme—

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

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

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

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

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

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

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

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

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

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

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

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

“**local government**” means the Shire of Jerramungup;

“**Local Planning Strategy**” means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;

“**lot**” has the same meaning as in the Planning and Development Act but does not include a strata or survey strata lot;

“**minerals**” has the same meaning as in the *Mining Act 1978*;

“**net lettable area (nla)**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas —

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

“**non-conforming use**” has the same meaning as it has in section 172 of the Planning and Development Act;

“**owner**”, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity—

- (a) is entitled to the land for an estate in fee simple in possession;
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
- (c) is a lessor or licensee from the Crown; or
- (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;

“**place**”, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;

“**Planning and Development Act**” means the *Planning and Development Act 2005*;

“**plot ratio**”, in the case of residential dwellings has the same meaning as in the Residential Design Codes;

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

“**predominant use**” means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;

“**premises**” means land or buildings;

“**region scheme**” means a region planning scheme made under the *Planning and Development Act 2005*;

“**Residential Design Codes**” means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 3.1, as amended from time to time;

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

“**substantially commenced**” means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;

“**wholesale**” means the sale of goods or materials to be sold by others;

“**zone**” means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include a reserve or special control area.

2. Land use definitions

In the Scheme—

“**agriculture—extensive**” means premises used for the raising of stock or crops but does not include agriculture—intensive or animal husbandry—intensive;

“**agriculture—intensive**” means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following —

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

“**agroforestry**” means land used commercially for tree production and agriculture where trees are planted in blocks of more than one hectare;

“**amusement parlour**” means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;

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

- “animal husbandry—intensive”** means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) and other livestock in feedlots;
- “aquaculture”** has the same meaning given to the term in the *Fish Resources Management Act 1994*;
- “bed and breakfast”** means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;
- “betting agency”** means an office or totalisator agency established under the *Totalisator Agency Board Betting Act 1960*;
- “caravan park”** has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;
- “caretaker’s dwelling”** means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;
- “car park”** means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;
- “child care premises”** has the same meaning as in the *Community Services (Child Care) Regulations 1988*;
- “cinema/theatre”** means premises where the public may view a motion picture or theatrical production;
- “civic use”** means premises used by a government department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purposes;
- “club premises”** means premises used by a legally constituted club or association or other body of persons united by a common interest;
- “community purpose”** means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations involved in activities for community benefit;
- “consulting rooms”** means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;
- “convenience store”** means premises—
- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
 - (b) operated during hours which include, but may extend beyond, normal trading hours;
 - (c) which provide associated parking; and
 - (d) the floor area of which does not exceed 300 square metres net lettable area;
- “corrective institution”** means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;
- “educational establishment”** means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;
- “exhibition centre”** means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;
- “family day care”** means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*;
- “fast food outlet”** means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;
- “fuel depot”** means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;
- “funeral parlour”** means premises used to prepare and store bodies for burial or cremation;
- “home business”** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —
- (a) does not employ more than 2 people not members of the occupier’s household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 50 square metres;
 - (d) does not involve the retail sale, display, or hire of goods of any nature;
 - (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
 - (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

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

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

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

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

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

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

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

“industry” means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for—

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

incidental to any of those industrial operations;

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

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

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

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

“industry—light” means an industry—

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

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

“industry—rural” means—

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

“industry—service” means—

- (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or

- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;
- “lunch bar”** means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas;
- “marina”** means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina;
- “marine filling station”** means premises used for the storage and supply of liquid fuels and lubricants for marine craft;
- “market”** means premises used for the display and sale of goods from stalls by independent vendors;
- “medical centre”** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);
- “motel”** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Licensing Act 1988*;
- “motor vehicle, boat or caravan sales”** means premises used to sell or hire motor vehicles, boats or caravans;
- “motor vehicle repair”** means premises used for or in connection with—
- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
 - (b) repairs to tyres,
- but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;
- “motor vehicle wash”** means premises where the primary use is the washing of motor vehicles;
- “night club”** means premises—
- (a) used for entertainment with or without eating facilities; and
 - (b) licensed under the *Liquor Licensing Act 1988*;
- “office”** means premises used for administration, clerical, technical, professional or other like business activities;
- “park home park”** has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;
- “place of worship”** means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;
- “plantation”** has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;
- “plant nursery”** means premises used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden décor.
- “reception centre”** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;
- “recreation—private”** means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;
- “residential building”** has the same meaning as in the Residential Design Codes;
- “restaurant”** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Licensing Act 1988*;
- “restricted premises”** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- (a) publications that are classified as restricted under the *Censorship Act 1996*;
 - (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;
- “rural home business”** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —
- (a) does not employ more than 5 people not members of the occupier’s household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 200 square metres;
 - (d) does not involve the retail sale, display, or hire of goods of any nature;
 - (e) in relation to vehicles and parking, does not result in traffic difficulties because of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and unless approved by the local government does not involve the presence, use or calling of more than 3 vehicles of more than 3.5 tonnes tare weight;

- (f) does not involve the use of an essential service of greater capacity than normally required in the zone; and
- (g) does not have an adverse impact on the rural character of the area;

“rural pursuit” means any premises used for—

- (a) the rearing or agistment of animals;
- (b) the stabling, agistment or training of horses;
- (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (d) the sale of produce grown solely on the lot,

but does not include agriculture—extensive or agriculture—intensive;

“service station” means premises used for—

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

but does not include premises used for a transport depot, panel beating, spray-painting, major repairs or wrecking;

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

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

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

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

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

“tourist accommodation” means accommodation specifically catering for tourists and includes bed and breakfast accommodation, chalets, farmstay, guesthouses, caravan parks, etc. but does not include hotels, or motels;

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

“transport depot” means premises used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles, and may include overnight accommodation on-site for the transport workers;

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

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

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

**SCHEDULE 2
ADDITIONAL USES**

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
1	Lots 32 and 33 Mary and Bennett Streets, Bremer Bay	Shop, convenience store.	<ol style="list-style-type: none"> 1. The local government is to have regard to the size, height, colour, and location of buildings and landscaping and may impose conditions of approval in relation to these matters to minimise any impacts on residential amenity in the area. 2. The local government is to consider the potential impact of proposed development having regard for residential amenity in the area.
2	Kent Location 2118, Dillon Bay.	A maximum of 29 dwellings as rural multiple occupancy.	<ol style="list-style-type: none"> 1. The objective is that the multiple occupancy of the land cease and the land returned to a rural use that is consistent with the Scheme and the objectives of the Rural zone. 2. To achieve this objective a maximum of 29 dwellings is permitted on the land. If a dwelling or dwellings is/are demolished the maximum number of permitted dwellings is to be reduced accordingly. 3. In addition to the requirements of the Scheme, development of the land is subject to the following conditions: <ol style="list-style-type: none"> (a) a dwelling that becomes unfit for habitation as determined by the local government, is to be demolished and is not to be rebuilt or replaced; (b) a dwelling is not to be extended or renovated other than is necessary to bring it into conformity with the Scheme or to satisfy requirements of safety, welfare, or health. (c) no new Class 10 building (including any shed, garage, carport, or other Class 10 building as defined in the Building Code of Australia), or fence or driveway may be developed, or an existing Class 10 building extended.

**SCHEDULE 3
RESTRICTED USES**

NO.	DESCRIPTION OF LAND	RESTRICTED USE	CONDITIONS

**SCHEDULE 4
SPECIAL USE ZONES**

NO.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
1.	Lot 201 and 203 Waller/Moorshead Streets, Jerramungup	Caravan Park and ancillary uses	As determined by the local government
2.	Pt. Lot 1275 Gnowangerup/ Jerramungup Road, Jerramungup	Service Station	As determined by the local government
3.	Lot 192 Frantom Way, Bremer Bay.	Tavern/Motel/Hotel and ancillary uses including tourist accommodation	As determined by the local government.
4.	Reserve 21496 Bremer Road, Bremer Bay	Caravan Park and ancillary uses including kiosk, art gallery and café, chalet development.	<ol style="list-style-type: none"> 1. Development is to be sited and designed to minimise the need for clearing of native vegetation for development, access, and fire protection. 2. Proposals for expansion of the caravan park or for significant new uses are to be referred to the Environmental Protection Authority for its advice. 3. Other Conditions will be as determined by the local government.
5.	Lot 645 Wellstead and Point Henry Roads, Bremer Bay	Caravan Park and ancillary uses including kiosk.	<ol style="list-style-type: none"> 1. Development is to be sited and designed to minimise the need for clearing of native vegetation for development, access, and fire protection. 2. Proposals for expansion of the caravan park or for significant new uses are to be referred to the Environmental Protection Authority for its advice. 3. Other Conditions will be as determined by the local government.

NO.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
6.	Portion Reserve 511 Back Beach, Bremer Bay	Aquaculture.	<p>1. The following matters will be considered in determining an application and/or are to be requirements of development approval:</p> <ul style="list-style-type: none"> (a) minimal environmental impacts; (b) approval of the Environmental Protection Authority; (c) road access being provided and constructed; (d) appropriate landscaping and use of building colours, heights, materials and design so as to minimise visual impacts; and (e) provision of appropriate services and infrastructure and satisfactory effluent disposal. <p>2. Other Conditions will be as determined by the local government.</p>
7.	Lot 50 Location 1564, Swamp and Ocumup Roads, Bremer Bay.	<ul style="list-style-type: none"> • Conservation of vegetation, • Eco-tourism including chalets, • Floriculture. 	<p>1. The following matters will be considered in determining an application and/or are to be requirements of development approval:</p> <ul style="list-style-type: none"> (a) management of environmental impacts (b) appropriate landscaping and use of building colours, heights, materials and design to minimise visual impacts of any buildings; and (c) provision of appropriate services and infrastructure and satisfactory effluent disposal. <p>2. Other Conditions will be as determined by the local government.</p>

NO.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
8.	Reserve 31611 Bremer Road, Garnett Road, and John Street, Bremer Bay	Bremer Bay Town Centre providing for— <ul style="list-style-type: none"> • civic uses, • offices, • dwellings under the medium density codes of the Residential Design Codes • community purposes, • shops, • movement systems, • landscaping areas, • civic spaces, and • parking areas. 	A Structure Plan is to be prepared by the proponent and approved by the local government and endorsed by the Commission before any subdivision or development. The Structure Plan is to incorporate— <ul style="list-style-type: none"> • a strategy to retain areas of native vegetation in the design to enhance local character of the centre and conserve water; • permissible land uses; • road and servicing networks; • development staging; and • such other matters as determined by the local government.

**SCHEDULE 5
EXEMPTED ADVERTISEMENTS**

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA
Dwellings	One professional nameplate as appropriate.	0.2m ²
Home Business or Home Occupation	One advertisement describing the nature of the home business or 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 5 metres from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting Local Laws.	Not Applicable
Industrial and Warehouse Premises	A maximum of four 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 and excluding signs which are connected to a pole, wall, or other building. A maximum of two freestanding advertisement signs not exceeding 5 metres in height above ground level.	Total area of such advertisements are not to exceed 15m ² Maximum permissible total area is not to exceed 10m ² and individual advertisement signs are not to exceed 6m ² .
Showroom, racecourses, 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.	Not Applicable

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA
Public Places and Reserves	<p>(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of Government, a public authority or 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, 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>Not Applicable</p> <p>Not Applicable</p> <p>Not Applicable</p>
Advertisements within Buildings	All advertisements placed or displayed within buildings, which cannot ordinarily be seen by a person outside of those buildings.	Not Applicable
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
TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA
<p>Building Construction Sites (advertisement signs displayed only for the duration of the construction) as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding three (3) storeys in height</p>	<p>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above</p> <p>One additional sign showing the name of the project builder.</p>	<p>2m²</p> <p>5m²</p> <p>10m²</p> <p>5m²</p>
Sales of goods or livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose	2m ²

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA
Property transactions Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows: (a) Dwellings (b) Multiple dwellings, shops, commercial and industrial properties (c) Large properties comprised of shopping centres, buildings in excess of four (4) storeys and rural properties in excess of five (5) hectares.	One sign per street frontage for each property relating to the Sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed. One sign as for (a) above. One sign as for (a) above	Each sign is not to exceed an area of 2m ² Each sign is not to exceed an area of 5m ² Each sign is not to exceed an area of 10m ²
Display Homes Advertisement signs displayed for the period over which homes are on display for public inspection	(a) One sign for each dwelling on display. (b) In addition to (a) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2m ² 5m ²

**SCHEDULE 6
APPLICATION FOR PLANNING APPROVAL**

OWNER DETAILS—

Name.....
 Address.....Post Code.....
 Phone (work)..... (home)..... Fax..... E-Mail.....
 Contact Person.....
 Signature..... Date.....
 Signature..... Date.....

The signature of the landowner(s) is required on all applications. This application will not proceed without that signature.

APPLICANT DETAILS:

Name.....
 Address.....Post Code.....
 Phone (work)..... (home)..... Fax..... E-Mail.....
 Contact Person for correspondence.....
 Signature..... Date.....

PROPERTY DETAILS:

Lot No.....House/Street No. Location No.
 Diagram or Plan No. Certificate of Title No. Folio.....
 Diagram or Plan No. Certificate of Title No. Folio.....
 Title Encumbrances (e.g., easements, restrictive covenants).....
 Street Name..... Suburb.....
 Nearest Street Intersection.....

Existing Building/Land Use.....
 Description of proposed development and/or use.....

 Nature of any existing buildings and/or use.....

 Approximate cost of proposed development.....
 Estimated time of completion.....

OFFICE USE ONLY

Acceptance Officer's Initials..... Date Received.....
 Local government Reference No.

SCHEDULE 7

ADDITIONAL INFORMATION FOR ADVERTISEMENTS

(NOTE: TO BE COMPLETED IN ADDITION TO THE APPLICATION FOR PLANNING APPROVAL FORM)

1. Description of property upon which advertisement is to be displayed including full details of its proposed position within that property—

2. Details of Proposed Sign—
 - (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other)—

 - (b) Height Width:..... Depth:
 - (c) Colours to be used:
 - (d) Height above ground level —(to top of advertisement):
 —(to the underside):
 - (e) Materials to be used.....

Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:

3. Period of time for which advertisement is required:
4. Details of signs (if any) to be removed if this application is approved—

Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.

Signature of Advertiser(s):
 (if different from landowners).....
 Date:

**SCHEDULE 8
NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

Planning and Development Act 2005

SHIRE OF JERRAMUNGUP

LOCAL PLANNING SCHEME NO. 2

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

LOT NO. STREET.....

SUBURB.....

PROPOSAL.....

Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the day of

.....
CHIEF EXECUTIVE OFFICER

.....
DATE

**SCHEDULE 9
NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**

Planning and Development Act 2005

SHIRE OF JERRAMUNGUP

LOCAL PLANNING SCHEME NO. 2

LOCATION:

LOT: PLAN/DIAGRAM:.....

VOL: NO: FOLIO NO:

Application Date:..... Received on:

Description of proposed development:.....

The application for planning approval is—

granted subject to the following conditions:

refused for the following reason(s):

CONDITIONS / REASONS FOR REFUSAL—

.....
.....
.....
.....
.....

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of review under Part 14 of the *Planning and Development Act 2005*. Application for a review must be lodged within 28 days of the determination.

.....
CHIEF EXECUTIVE OFFICER

.....
DATE

**SCHEDULE 10
ENVIRONMENTAL CONDITIONS**

SCHEME OR AMENDMENT NO.	GAZETTAL DATE	ENVIRONMENTAL CONDITIONS

**SCHEDULE 11
RURAL-RESIDENTIAL ZONE**

No	PARTICULARS OF LAND	REQUIREMENTS
1.	Portion Lots 116, 127 and 206, Point Henry Road, Point Henry Peninsula	<p>1. Objective The objective is to create rural-residential retreats in a coastal area with emphasis on minimising impact on the landscape and natural vegetation. Foreground views visible from Point Henry Road, roads to the beaches and visually significant areas including Tooleburrup Hill and the coastline generally are to be particularly protected.</p> <p>2. Minimum Lot Size and Setbacks</p> <p>(a) Minimum lot sizes are to be generally as shown on the Subdivision Guide Plan-Rural Residential Zone No. 1.</p> <p>(b) Minimum setbacks for building envelopes are to be 20 metres from road frontages and 15 metres from all other boundaries.</p> <p>3. Water Supply Water supply tanks and effluent disposal systems are to be located within Building Envelopes.</p> <p>4. Fire Control</p> <p>(a) The local government may request the Commission to require all subdividing landowners to contribute to a fund administered by the local government used solely for the construction of 25,000 litre standpipe facilities and fire fighting equipment provided as a condition of subdivision approval. The local government may recommend that either the northern or southern facility is to be provided as part of the first stage of subdivision, with the remaining facility to be provided at a subsequent stage as determined by the local government in consultation with the Bush Fires Service.</p> <p>(b) The local government will require all owners to contribute annually to the special fund to be administered by the local government and used for the maintenance of the standpipe facilities and the fire fighting equipment.</p> <p>7. Staging Provisions</p> <p>(a) Subdivision will be staged within each owner's land.</p>

No	PARTICULARS OF LAND	REQUIREMENTS
		(b) Each stage is to consist of not more than 25 lots and subsequent stages will not be approved until at least 50% of the lots in the previous stage have been sold.
2.	Portion Lots 109 and 110 Bremer Road, Bremer Bay	<p>1. Objective</p> <p>The objective is to create rural residential retreats in an area where the protection of underground water sources require protection from urban development. Restricting uses and development generally, within the zone will minimise the opportunity for pollutants to enter the underground watercourses.</p> <p>2. Minimum Lot Size</p> <p>(a) Minimum lot sizes are to be generally as shown on the Subdivision Guide Plan—Rural Residential Zone No. 2.</p> <p>(b) Minimum setbacks for building envelopes are to be 20 metres from road frontages and 15 metres from all other boundaries.</p> <p>3. Landscaping Provisions</p> <p>(a) Within each lot, no indigenous trees or vegetation may be felled or removed except where—</p> <p>(i) the trees or vegetation are dead, diseased or dangerous;</p> <p>(ii) the vegetation is within an approved site for a dwelling;</p> <p>(iii) the establishment of a firebreak is required under a regulation or local-law; or</p> <p>(iv) a driveway is to be constructed in a location approved by the local government</p> <p>(b) Removal of indigenous trees or substantial vegetation for any purposes other than the above exceptions, requires the written approval of the local government. As a condition of planning approval, the local government may require the planting and maintenance, for a period of at least 3 years, of endemic native trees and shrubs of species and in locations approved by the local government.</p> <p>(c) The area designated on the Subdivision Guide Plan for landscaping is to be planted and maintained with suitable indigenous vegetation to the satisfaction of the local government.</p> <p>(d) Where vegetation is permitted to be felled or removed, the ground is to be minimally disturbed so that soil erosion is avoided.</p> <p>4. Fences</p> <p>Boundary fences are to be constructed of post and rail type, to the satisfaction of the local government.</p> <p>5. Fire Management Plan</p> <p>A fire management plan is to be prepared in accordance with the Commission's Fire Planning Policy as and when required by the local government.</p>

No	PARTICULARS OF LAND	REQUIREMENTS
3.	Portion Lot 111, Point Henry Road, Point Henry Peninsula.	<p>1. Objective</p> <p>The objective is to facilitate the creation of quality rural-residential retreats in a scenic coastal area, with an emphasis on minimising any detrimental impact on landscape quality and existing natural vegetation and preserving the existing visual amenity of foreground views into Portion Kent Location 111 from Point Henry Road and Short Beach Road, along with views across the land from neighbouring Short Beach.</p> <p>2. Minimum Lot Size and Setbacks</p> <p>(a) Minimum lot sizes are to be generally as shown on the Subdivision Guide Plan-Rural Residential Zone No. 3.</p> <p>(b) Minimum setbacks for building envelopes are to be 20 metres from road frontages and 15 metres from all other boundaries.</p> <p>3. Fire Control</p> <p>(a) the local government may request the Commission to require all subdividing landowners to contribute to a fund administered by the local government used solely for the construction of 54,000 litre southern peninsula standpipe facilities and fire fighting equipment;</p> <p>(b) the local government will require all owners to annually contribute to the special fund to be administered by the local government and used for the maintenance of the standpipe facilities and the fire fighting equipment,</p> <p>(c) low fuel buffers are to be established and maintained by the landowner in accordance with the Commission's Fire Planning Policy; and</p> <p>(d) the local government is to require that all buildings comply with Australian Standard 3959.</p> <p>4. Access—Landscape Protection</p> <p>(a) driveway access is not permitted from Point Henry Road to development on proposed Lots 101, 102 and 103 as identified on Subdivision Guide Plan—Pt. Kent Location 111. Arrangements may be required at the subdivision stage to ensure that driveway access to development on these lots is provided from Short Beach Road by way of the strategic firebreak along the eastern boundary of proposed Lots 101 and 102. These arrangements may entail battleaxe access with reciprocal rights of access or access easements. These measures are intended to minimise visual impact of driveways to these lots.</p> <p>(b) driveway access to development on proposed Lot 104 as identified on Subdivision Guide Plan—Pt. Kent Location 111 is to be, as far as practical, via the strategic firebreak along the southern boundary of that lot.</p>

ADOPTION

Adopted by Resolution of the local government of the Shire of Jerramungup at the meeting of the local government held on the 19th day of December 2000.

B. TREVASKIS, Deputy President.
A. LAMB, Chief Executive Officer.

FINAL APPROVAL

Adopted by Resolution of the local government of the Shire of Jerramungup at the meeting of the local government held on the 20th day of December 2005 and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of—

B. TREVASKIS, Deputy President.
A. LAMB, Chief Executive Officer.

The Scheme Text is to be read in conjunction with the approved maps of the Scheme described in clause 1.4 of the Scheme and to which formal approval was given by the Minister for Planning and Infrastructure on the date shown below.

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

P. WOODWARD, delegated under Section 16 of
the *Planning and Development Act 2005*.

Dated: 15 November 2006.

FINAL APPROVAL GRANTED

ALANNAH MacTIERNAN, Minister for Planning
and Infrastructure.

Dated: 20 November 2006.



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