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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MORAWA

LOCAL PLANNING SCHEME

No. 2

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

SHIRE OF MORAWA

LOCAL PLANNING SCHEME No. 2

The Shire of Morawa, under the powers conferred and by the *Planning and Development Act 2005*, hereinafter referred to as the Act, hereby makes the following Local Planning Scheme for the purposes laid down in the Act.

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

SHIRE OF MORAWA

LOCAL PLANNING SCHEME No. 2

Ref: 853/3/12/2.

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning and Infrastructure approved the Shire of Morawa Local Planning Scheme No. 2 on 20 February 2007, the scheme text of which is published as a Schedule annexed hereto.

J. F. COOK, Shire President.
G. R. TREASURE, Chief Executive Officer.

SCHEDULE

CONTENTS

PART I—PRELIMINARY

- 1.1 Citation
- 1.2 Responsible Authority
- 1.3 Scheme Area
- 1.4 Contents of Scheme
- 1.5 Arrangement of Scheme Text
- 1.6 Scheme Objectives
- 1.7 Interpretation
- 1.8 Revocation

PART II—RESERVES

- 2.1 Scheme Reserves
- 2.2 Matters to be Considered
- 2.3 Compensation

PART III—ZONES

- 3.1 Classification
- 3.2 Zoning Table
- 3.3 Additional Uses
- 3.4 Special Use Zones

PART IV—GENERAL DEVELOPMENT REQUIREMENTS

- 4.1 Residential Design Codes
- 4.2 Variation to Residential Design Codes
- 4.3 Development Requirements
- 4.4 Restrictive Covenants
- 4.5 Discretion to Modify Development Standards
- 4.6 Residential Zones
- 4.7 Commercial
- 4.8 Urban Zone

- 4.9 Industrial Zone
- 4.10 Rural Residential
- 4.11 Rural Zone

PART V—SPECIAL CONTROLS

- 5.1 Heritage—Precincts and Places of Cultural Significance
- 5.2 Townscape Character
- 5.3 Tourist Facilities and Accommodation
- 5.4 Town Entries
- 5.5 Townsite Expansion Plans
- 5.6 Declared Rare Flora
- 5.7 Transportable and Secondhand Buildings
- 5.9 Mining

PART VI—USE AND DEVELOPMENT OF LAND

- 6.1 Requirement for Planning Approval
- 6.2 Application for Planning Approval
- 6.3 Advertising of Applications
- 6.4 Consultations with Other Authorities
- 6.5 Matters to be Considered by Council
- 6.6 Determination of Applications
- 6.7 Deemed Refusal
- 6.8 Approval Subject to Later Approval of Details
- 6.9 Approval of Existing Developments

PART VII—NON-CONFORMING USES

- 7.1 Non-Conforming Use Rights
- 7.2 Extension of Non-Conforming Use
- 7.3 Change of Non-Conforming Use
- 7.4 Discontinuance of Non-Conforming Use
- 7.5 Destruction of Buildings

PART VIII—ADMINISTRATION

- 8.1 Powers of the Scheme
- 8.2 Offences
- 8.3 Compensation
- 8.4 Election to Purchase and Valuation
- 8.5 Applications for Review
- 8.6 Planning Policies
- 8.7 Delegation
- 8.8 Notice for Removal of Certain Buildings

APPENDICES

- 1. Interpretations
- 2. Additional Uses Schedule
- 3. Special Use Zone Schedule
- 4. Application for Planning Approval
- 5. Notice of Public Advertisement of Planning Proposal
- 6. Notice of Decision on Application for Planning Approval
- 7. Special Requirements—Rural Residential Zones
- 8. Car Parking Requirements

PART I—PRELIMINARY

1.1 CITATION

This Local Planning Scheme may be cited as the Shire of Morawa Scheme No. 2 (hereinafter called 'the Scheme') and shall come into operation on the publication of the Scheme in the *Government Gazette*.

1.2 RESPONSIBLE AUTHORITY

The authority responsible for implementing the Scheme is the Council of the Shire of Morawa (hereinafter called the Council).

1.3 SCHEME AREA

The Scheme applies to the municipal district of the Shire of Morawa as generally shown by the Scheme area boundary on the Scheme Map.

1.4 CONTENTS OF SCHEME

The Scheme comprises—

- (a) This Scheme Text

- (b) The Scheme Map (Sheet 1-4)
- (c) Townsite Expansion Plan
- (d) Scheme Report

1.5 ARRANGEMENT OF SCHEME TEXT

The Scheme Text is divided into the following parts—

- PART I—PRELIMINARY
- PART II—RESERVES
- PART III—ZONES
- PART IV—GENERAL DEVELOPMENT REQUIREMENTS
- PART V—SPECIAL CONTROLS
- PART VI—USE AND DEVELOPMENT OF LAND
- PART VII—NON-CONFORMING USES
- PART VIII—ADMINISTRATION
- APPENDICES

1.6 SCHEME OBJECTIVES

The objectives of the Scheme are—

- (a) to zone the Scheme Area for the purposes described in the Scheme;
- (b) to secure the amenity, health and convenience of the Scheme Area and the residents thereof;
- (c) to make provisions as to the nature and location of buildings and the size of lots when used for certain purposes;
- (d) the preservation of places and objects of natural beauty, cultural and indigenous heritage significance, or other scientific interest;
- (e) to make provision for other matters necessary or incidental to local planning and housing.

The Scheme specifically—

- provides for future landuse needs and townsite expansion
- identifies future residential land to meet the needs of the private sector
- encourages new industries and businesses
- encourages tourism opportunities
- provides for mining activities

1.7 INTERPRETATION

1.7.1 Words and expressions used in the Scheme shall have the respective meanings given to them in Appendix 1 or elsewhere in the Scheme and the Residential Design Codes.

1.7.2 Where a word or term is defined in the Residential Design Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Design Codes.

1.7.3 Words and expressions used in the Scheme but not defined in Appendix I, elsewhere in the Scheme or in the Residential Design Codes shall have their normal and common meanings.

1.8 REVOCATION

The Shire of Morawa Local Planning Scheme No. 1 published in the *Government Gazette* of July 11, 1986 and amended from time to time is hereby revoked.

PART II—RESERVES

2.1 SCHEME RESERVES

The land shown as Scheme Reserves on the Scheme Map, hereinafter called 'Local Reserves' are lands reserved under the Scheme for the purposes shown on the Scheme Map and are listed hereunder—

1. Public Purposes
2. Public Open Space
3. Railway

2.2 MATTERS TO BE CONSIDERED

Where an application for planning consent is made with respect to land within a reserve, the Council shall have regard to the ultimate purpose intended for the reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent.

2.3 COMPENSATION

2.3.1 Where the Council refuses planning consent for the development of a reserve on the ground that the land is reserved for Local Authority purposes or for the purposes shown on the Scheme Map, or grant consent subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.

2.3.2 Claims for such compensation shall be lodged at the Office of the Council not later than six months after the date of the decision of the Council refusing planning consent or granting it subject to conditions that are unacceptable to the applicant.

2.3.3 In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price representing the value of the land at the time of refusal of planning consent or of the grant of consent subject to conditions that are unacceptable to the applicant.

PART III—ZONES

3.1 CLASSIFICATION

3.1.1 There are hereby created the several zones set out hereunder—

1. Commercial
2. Industrial
3. Residential
4. Rural—Residential
5. Rural
6. Urban
7. Special Use

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

3.2 ZONING TABLE

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

3.2.2 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.

‘AA’ means that the use is not permitted unless the Council has granted planning approval.

‘SA’ means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 6.3.

3.2.3 Where no symbol appears in the cross reference of a use class against a zone in the Zoning Table a use of that class is not permitted in that zone.

Table 1
ZONING TABLE

Uses	Residential	Commercial	Urban	Industrial	Rural— Residential	Rural
aged or dependent persons dwelling	AA		AA			AA
ancillary accommodation	AA		AA		AA	AA
caravan park			SA			SA
caretaker's dwelling		AA	AA	AA	AA	AA
civic building		P	AA	AA		
club premises		AA	AA			
consulting rooms	AA	P	AA			
dry cleaning establishment		AA		AA		
education establishment	SA	AA	AA			AA
fuel depot				P		AA
grouped dwelling	P	AA	P			
home occupation	AA		AA		AA	AA
hotel		AA	SA			
industry cottage	AA	AA	AA		AA	AA
industry—extractive						AA
industry—general				P		
industry—light			SA	P		
industry—rural				AA		P
industry—service			SA	P		
intensive agriculture						AA
motel	SA	AA	AA			
motor vehicle repair		SA	SA	P		
multiple dwelling	P	AA	P			
office		P	AA	AA		
piggery						SA
plant nursery		P	AA	P	SA	SA
poultry farm						SA

Uses	Residential	Commercial	Urban	Industrial	Rural— Residential	Rural
public amusement		AA	AA	AA		
public utility	AA	AA	AA	AA	AA	AA
public worship	AA	AA	AA			
residential building	AA	AA	AA			
restaurant		P	AA			AA
rural home business						AA
rural pursuit					SA	P
service station		SA	SA	AA		AA
shop		P	AA			
showroom		P		AA		
single house	P	AA	P			
trade display		AA	AA	P		
transport depot				P		SA
tourist accommodation	SA	SA	SA		SA	SA
tourist facilities	SA	SA	SA		SA	SA
veterinary hospital		SA	SA	P	AA	AA
warehouse				P		

3.2.4 Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

3.2.5 If the use of the land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may—

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the 'SA' procedures of Clause 6.3 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

3.2.6 Notwithstanding that Residential Building and Grouped Dwelling are uses that are not permitted in the Rural Zone, Council may, at its discretion, approve an application for a Residential Building or Grouped Dwelling in the Rural Zone so long as that building is for the accommodation of workers employed for agriculture activities on that land holding.

3.2.7 Notwithstanding that Single House is a use that is permitted in the Rural Zone, no more than one Single House is permitted on a lot within the Rural Zone unless that building is for the accommodation of workers employed for agricultural activities on that land holding.

3.3 ADDITIONAL USES

Notwithstanding anything contained within the Zoning Table, the land specified in Appendix 2 may, subject to compliance with any condition specified in the appendix with respect to the land, be used for the purpose set against that land. The use so specified is in addition to the other uses permitted in the zone in which the land is situated unless any of those uses are excluded or modified by a condition specified in that appendix.

3.4 SPECIAL USE ZONES

No person shall use any land, or any building or structure thereon in a Special Use Zone, except for the purpose set against that land in Appendix 3 and subject to compliance with any conditions specified in the Appendix with respect to the land.

PART IV—GENERAL DEVELOPMENT REQUIREMENTS

4.1 RESIDENTIAL DESIGN CODES

4.1.1 For the purpose of this Scheme 'Residential Design Codes' means the Residential Design Codes set out in Appendix 1 to Statement of Planning Policy No. 3.1, together with any amendments thereto.

4.1.2 A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

4.1.3 Unless otherwise provided for in the Scheme the development of land for any of the Residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.

4.1.4 The R-Code density applicable to land within the Scheme Area shall be determined by reference to the Residential Design Codes density number superimposed on the particular areas shown on the Scheme maps as being contained within the solid black line borders or where such an area abuts another area having a Residential Design Code density, as being contained within the centre-line of those borders.

4.2 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES

In area codes R10/30, the development standards of the R10 Code shall apply, except that the Council may permit development to the density and standards of the R30 Code only if—

- (i) the development is connected to reticulated sewerage;
- (ii) the lot has a minimum area of 1000m² and is located within 300 metres of commercial and civic services and facilities; and
- (iii) the Council, after following the advertising procedures in clause 6.3 is satisfied there will not be any adverse impacts on local amenity.

4.3 SITE AND DEVELOPMENT REQUIREMENTS

4.3.1 The site building requirements for land in various zones shall be as set out in Table 2.

Table 2
SITE REQUIREMENTS

Zone	Minimum Setbacks from Boundaries		
	Front	Rear	Side
Residential	As in the R codes		
Commercial	Setbacks at the discretion of Council		
Industrial (Note 1)	11m or 22m	7.5m	3.0m
Rural—Residential	10.0m	10.0m	5.0m
Rural	20.0m	15.0m	15.0m

Note: (1) An 11-metre front setback shall be applied where loading and unloading facilities are provided at the rear of buildings.

A 22-metre front setback shall be applied where loading and unloading facilities are provided at the front of building.

4.3.2 (1) The minimum number of car spaces to be provided on a residential lot shall be as per the R Codes

(2) Car parking bays for non-residential uses shall be of a minimum dimensions of 5.5m x 2.5m, except as otherwise provided for under Clause 4.3.3. The requirements for car parking bays for residential uses are as specified in the R Codes.

(3) A person shall not develop or use any land or erect, use or adopt any building in the Commercial, Industrial and Rural Residential zones unless car parking spaces specified in Appendix 8 are provided and such spaces are constructed and maintained in accordance with the Scheme.

4.3.3 The parking space required under the provisions of the Scheme shall measure not less than the dimensions specified by Council policy for the type of parking layout adopted.

4.3.4 All car parking spaces, and all necessary access ways shall unless the Council agrees otherwise and except as hereinafter provided be paved.

4.3.5 Where the maximum dimension of any open car parking area exceeds twenty metres in length or width, one car parking space in ten shall be used for garden and tree planting to provide visual relief and so long as the garden and tree planting areas shall be maintained in good order, those car parking spaces shall be included in calculations as car parking and not as landscaping.

4.3.6 Where the owner can demonstrate to the satisfaction of the Council that there is not the demand for the number of parking spaces specified in Clause 4.3.2, landscaping may be provided in lieu of car parking spaces not constructed and the said landscaping shall be included in the calculations as carparking but not as landscaping; provided that the Council may from time to time require that the additional parking spaces be provided.

4.3.7 In a commercial zone where a developer can satisfy the Council that the maximum car parking requirement cannot be provided on the site the Council may accept a cash payment in lieu of the provision of car parking spaces but subject to the requirements of this clause—

- (a) A cash-in-lieu payment shall be not less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme, plus the value, as estimated by the Chief Valuer of the Department of State Taxation, of the area of his land which would have been occupied by the parking spaces.
- (b) Before the Council agrees to accept a cash payment in lieu of the provision of parking spaces, the Council must either have already provided a public car park nearby, or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen months from the time of agreeing to accept the cash payment.
- (c) Payments made under this clause shall be paid into a special fund to be used to provide public car parks.

4.3.8 When considering an application to commence development the Council shall 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 Lot. In particular, the Council shall take into account and may impose conditions concerning—

- (a) the proportion of car spaces to be roofed or covered;
- (b) the proportion of car spaces to be below natural ground level;

- (c) the means of access to each car space and the adequacy of any vehicular manoeuvring area;
- (d) the location of the car 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;
- (e) the extent to which car spaces are located within required building setback areas;
- (f) 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;
- (g) 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.

4.3.9 Home Occupation

4.3.9.1 A person shall not carry on a home occupation as defined in Appendix 1 of this Scheme unless—

- (a) an approval in respect of the home occupation has been issued in writing by the Council and is current.
- (b) the person concerned is the occupier of the dwelling in which the home occupation is carried on.

4.3.9.2 An application for approval to carry on a home occupation shall comprise an application in accordance with the provisions of Appendix No. 4 of the Scheme together with a letter addressed to the CEO describing the nature of the proposed home occupation and demonstrating the proposed use falls within the terms of the definition under this Scheme of Home Occupation.

4.3.9.3 An approval to carry on a home occupation—

- (a) is valid only for a period of 12 months after the date of issue thereof but may be renewed upon application in writing to the Council.
- (b) relates only to the premises for which and 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.

4.3.9.4 In granting an approval to carry on a home occupation the Council may impose any condition it thinks fit.

4.3.9.5 If in the opinion of the Council a home occupation is causing a nuisance or annoyance to neighbours or to other persons within the neighbourhood or if any condition imposed by the Council is not complied with the Council may revoke an approval granted by it in respect of the home occupation.

4.3.10 Landscaping

4.3.10.1 The landscaping requirement shown in the Scheme means an open area designed, developed and maintained as garden planting and areas for pedestrian use and at the discretion of the Council it may include natural bushland, swimming pools and areas under covered ways; garbage collection and handling spaces, and other open storage areas shall not be included.

4.3.10.2 Access driveways between a street alignment and buildings may be included in the landscaping requirement but otherwise car parking areas and driveways shall not be included.

4.3.10.3 The Council may in a landscaped area restrict the use of concrete, gravel, pebble and similar hard materials and require the planting of lawns, trees or shrubs in lieu thereof.

4.3.10.4 Where a proposed development utilises less than 50 per cent of the allowable plot ratio, the Council may reduce the landscaping requirement, provided that the landscaping requirement shall be required proportionately as subsequent development occurs.

4.3.10.5 No person shall, unless the Council otherwise approves, occupy any buildings forming part of an approved development until the required landscaping has been constructed and planted in accordance with approved plans.

4.3.11 General Appearance of Buildings

4.3.11.1 No person shall without the written approval of the Council 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.

4.4 RESTRICTIVE COVENANTS

4.4.1 Subject to the provisions of sub-clause 4.4.2, a restrictive covenant affecting any land in the Scheme Area whereby or the effect of which is that the number of residential units that may be constructed on the land is limited or restricted to a number less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under this Scheme.

4.4.2 Where sub-clause 4.4.1 operates to extinguish or vary a restrictive covenant the Council shall not grant planning approval to the development of the land which would but for the operation of sub-clause 4.4.1 have been prohibited unless the application has been dealt with as an 'SA' use and has complied with all of the advertising requirements of sub-clause 6.3.3.

4.5 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

4.5.1 Except for development in respect of which the Residential Design Codes apply under this Scheme, if a development the subject of an application for planning approval does not comply with a standard prescribed by the Scheme with respect to minimum lot sizes, building height, setbacks, site

coverage, car parking, landscaping and related matters, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. The power conferred by this clause may only be exercised if the Council is satisfied that—

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the non-compliance will not have any 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.

4.6 RESIDENTIAL ZONE

4.6.1 Objectives

- (a) to retain the single house as the predominant form of residential development in the town.
- (b) to provide for lifestyle choice in and around the town with a range of residential densities.
- (c) to allow for the establishment of non-residential uses subject to local amenities not being adversely affected.

4.6.2 Site Requirements: In accordance with the R Codes or any variations made in accordance with Clause 4.2.

4.6.3 Development Requirements

- (a) no horse or other hoofed animal shall be kept on any lot in the Residential zone.

4.7 COMMERCIAL

4.7.1 Objectives

- (a) to ensure the town centre remains the principal place for business and administration within the District.
- (b) to encourage a high standard of development including buildings, landscaping, and car parking.
- (c) to make the town centre an attractive place to work and to conduct business through the implementation of the Morawa Townscape Plan and Report.

4.7.2 Site Requirements: See Table 2

4.7.3 Development Requirements

4.7.3.1 Development shall not exceed 2 storeys in height except where the Council considers that particular circumstances may warrant an exception being made and provided such development will not affect local amenity and will enhance the character of the town centre.

4.7.3.2 In considering an application for planning consent for a proposed development (including additions and alterations to existing development) in the town centre the Council shall have regard to the following—

- (a) the colour and texture of external building materials; the Council may require the building facade and side walls to a building depth of 3m to be constructed in masonry;
- (b) building size, height, bulk, roof pitch;
- (c) setback and location of the building on its lot;
- (d) architectural style and design details of the building;
- (e) function of the building;
- (f) advertising signage;
- (g) relationship to surrounding development; and
- (h) other characteristics considered by the Council to be relevant.

4.7.3.3 Landscaping shall complement the appearance of the proposed development and the town centre.

4.7.3.4 The layout of carparking shall have regard to traffic circulation in existing carparking areas and shall, where reasonable and practical, be integrated with any existing and adjoining carpark.

4.8 URBAN ZONE

4.8.1 Objectives

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

4.8.2 Site Requirements

The site requirements for any given use will be as per the requirements in Table 2 for the Zone deemed by Council to be most appropriate to the given use.

4.8.3 General Requirements

Council shall have regard to any Townsite Expansion Plan adopted for the townsites covered by this zone and shall have regard to the appropriateness of the proposal in terms of location and compatibility with existing land uses.

4.9 INDUSTRIAL ZONE

4.9.1 Objectives

- (a) to encourage industrial development with diverse employment opportunities.
- (b) to provide for industry to support development in the District.

4.9.2 Site Requirements: See Table 2.

4.9.3 Development Requirements

4.9.3.1 The first 5 metres of the front setback on any lot shall be landscaped to the satisfaction of the Council. Where a lot has frontage to 2 streets the Council may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the Council.

The development of industry in the Industrial Zone shall be subject to the following requirements—

- (a) Screening of work and service areas shall be subject to the development application and the discretion of Council.
- (b) All unloading and loading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site.
- (c) Minimum fencing standard shall be 1.8m security fence.
- (d) New buildings proposed adjacent to the Residential Zone shall be compatible in scale, materials and appearance with residential development.

4.9.3.2 Council may permit the construction and occupation of a Residential Building on an Industrial zoned lot providing—

- (i) that any occupant is directly related to the business or industrial activity carried out on the lot;
- (ii) that there shall be a limit of seven consecutive days of occupation by any such transient worker.

4.9.3.3 In considering any proposed development within the Industrial Zone, the Council must be satisfied that any on-site effluent disposal resulting from the proposed development will be adequate, having regard to advice from and guidelines of the Department of Environment, and may impose conditions in this respect. If, in the opinion of council, the proposed on-site effluent disposal is inadequate, the proposed development may be refused or be required to connect to reticulated sewerage.

4.9.4 Caretakers Dwellings

The provisions of this clause apply for all caretaker's dwellings in the industrial Zone.

- (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 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 one bedroom only within a total floor area that does not exceed 100 m² measured from the external face of walls; and
- (f) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100 m² referred to in paragraph (e).

4.10 RURAL RESIDENTIAL

4.10.1 Objectives

- (a) to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, Rural Residential retreats;
- (b) to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas;
- (c) to locate Rural Residential zones generally within 5 km of the town of Morawa so that residents have convenient access to services and facilities without a drain on resources of the wider community;
- (d) to recommend a minimum lot size of 2 hectares to apply within or adjacent to the town of Morawa, and larger lots elsewhere.

4.10.2 General Provisions

- (a) Before making provision for a Rural Residential zone, the Council will require the owner(s) of the land to prepare a submission supporting the creation of the Rural Residential zone and such submission shall 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) in the absence of a Rural Strategy, it will be the responsibility of each applicant for rezoning to Rural Residential to prepare a land capability and suitability assessment to the satisfaction of the Council and in accordance with the Commission's Policy and Guidelines;

- (b) an Overall Plan of Subdivision or a Guide Plan shall be prepared for a specific area zoned Rural Residential showing, amongst other things—
 - (i) the proposed ultimate subdivision including lot sizes and dimensions;
 - (ii) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc. as may be considered appropriate;
 - (iii) those physical features it is intended to conserve;
 - (iv) the proposed staging of the subdivision where relevant;
- (c) in addition to the Overall Plan of Subdivision or Guide Plan, the Scheme provisions for a specific Rural Residential zone shall specify—
 - (i) any facilities which the purchasers of the lots will be required to provide (eg. their own potable water supply, liquid or solid waste disposal, etc.);
 - (ii) proposals for the control of land uses and development which will ensure that the purpose and intent of the zone and the rural environment and amenities are not impaired;
 - (iii) any special provisions appropriate to secure the objectives of the zone;
- (d) the provisions for making recommendations on subdivision and decisions on development in specific areas zoned Rural Residential shall be as laid down in Appendix 7 and future subdivision of the land shall be generally in accord with the Overall Plan of Subdivision or Guide Plan adopted by the Council for this location. The Plan shall show the minimum recommended lot size for subdivision;
- (e) all lots of 4ha or below created in the Rural Residential Zone shall be provided with a reticulated potable water supply to an appropriate standard as determined by the licence holder.

4.10.3 Site Requirements: See Table 2.

4.10.4 Development Requirements

4.10.4.1 Development in a Rural Residential zone shall comply with the following—

- (a) not more than one dwelling per lot shall be erected but the Council may, at its discretion, approve ancillary accommodation;
- (b) in order to conserve the rural environment or features of natural beauty all trees shall be retained unless their removal is authorized by the Council;
- (c) in order to enhance the rural amenity of the land in areas the Council considers deficient in tree cover it may require as a condition of any planning consent the planting of such trees and/or groups of trees and species as specified by the Council;
- (d) any person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the Council.

4.10.4.2 In considering an application for planning consent for a proposed development (including additions and alterations to existing development) the Council shall have regard to the following—

- (a) the colour and texture of external building materials;
- (b) building size, height, bulk, roof pitch;
- (c) setback and location of the building on its lot;
- (d) architectural style and design details of the building;
- (e) relationship to surrounding development;
- (f) other characteristics considered by the Council to be relevant; and
- (g) provision to be made for bush fire control in accordance with a Local Planning Scheme Policy adopted by the Council.

4.11 RURAL ZONE

4.11.1 Objectives

- (a) to ensure the continuation of broad-hectare farming as the principal landuse in the District and encouraging where appropriate the retention and expansion of agricultural activities;
- (b) 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;
- (c) to allow for facilities for tourists and travellers, and for recreation uses.

4.11.2 Site Requirements: See Table 2.

4.11.3 Development Requirements: Except for—

- (a) establishment of a firebreak required to comply with a regulation or by-law, or
- (b) provision of access to a building site, or
- (c) the area of building, or
- (d) cash crops;

not more than 2000m² on any lot shall be cleared of indigenous trees or substantial vegetation. If the Council is satisfied upon receipt of a submission the clearing of an area greater than 2000m² will not adversely affect the amenity, environmental values, character and landscape qualities of the locality it may approve such land to be cleared subject to conditions as may be required by the Council.

4.11.4 Subdivision: Having regard to the prime agricultural importance of land in the zone the Council will only support further subdivision of existing lots where—

- (a) the lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a farming property as a single unit (unless adjoining land could be similarly subdivided and thereby, by the process of precedent, lead to an undesirable pattern of landuse in the area or in lots too small for uses compatible with the prevailing use in the area or in ribbon development alongside roads);
- (b) the lots are for farm adjustment;
- (c) the lots are for specific uses such as recreation facilities and public utilities; or
- (d) the lots are required for the establishment of uses ancillary to the rural use of the land or are required for the travelling public and tourists (such as service stations and motels).

4.11.5 Homestead lots: Notwithstanding clause 4.11.4 above, the council may support a subdivision application to excise a homestead lot, containing an existing farm residence, within the Rural Zone, subject to—

- (i) there having been a decline in population over two intercensal periods in the Census Collection District within which the subject land is located;
- (ii) any such homestead lot being between 4 ha and 10 ha in size, excluding any battleaxe leg; and
- (iii) any such homestead lot having its own frontage, and constructed vehicular access, to a constructed road.

PART V—SPECIAL CONTROLS

5.1 HERITAGE—PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE

5.1.1 Purpose and Intent

5.1.1.1 The purpose and intent of the heritage provisions are—

- (a) to facilitate the conservation of places of heritage value;
- (b) to ensure as far as possible that development occurs with due regard to heritage values.

5.1.2 Heritage List

5.1.2.1 The Council shall establish and maintain a Heritage List of places considered by the Council to be of heritage significance and worthy of conservation.

5.1.2.2 For the purposes of this Clause, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the *Heritage of Western Australia Act 1990* (as amended), or such parts thereof as described in the Municipal Inventory.

5.1.2.3 The Council shall keep copies of the Heritage List with the Scheme documents for public inspection during normal office hours.

5.1.3 Designation of Heritage Precincts

5.1.3.1 The Council may designate an area of land to be a heritage precinct where, in the opinion of the Council, special planning control is needed to conserve and enhance the heritage values and character of the area.

5.1.3.2 The Council shall adopt for each heritage precinct a policy statement which shall comprise—

- (a) a map showing the boundaries of the precinct;
- (b) a list of places of heritage significance;
- (c) objectives and guidelines for the conservation of the precinct.

5.1.3.3 The Council shall keep a copy of the policy statement for any designated heritage precinct with the Scheme documents for public inspection during normal office hours.

5.1.3.4 The procedure to be followed by the Council in designating a heritage precinct shall be as follows—

- (a) the Council shall notify in writing each owner of land affected by the proposal;
- (b) the Council shall advertise the proposal by way of a notice in a newspaper circulating in the district, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council consider necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation and where the policy statement which applies to the precinct may be inspected;
- (c) the Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to immediately above;
- (d) the Council shall carry out such other consultations as it thinks fit;
- (e) the Council shall consider any submissions made and resolve to designate the heritage precinct with or without modification or reject the proposal after consideration of submissions;
- (f) the Council shall forward notice of its decision to the Heritage Council of WA and State Planning Commission.

5.1.3.5 The Council may modify or may cancel a heritage precinct or any policy statement which relates to it by following the procedure set out in sub-clause 5.1.3.4 above.

5.1.4 Applications for Planning Approval

5.1.4.1 In dealing with any matters which may affect a heritage precinct or individual entry on the Heritage List, including any application for planning approval, Council shall have regard to any heritage policy of the Council.

5.1.4.2 The Council may, in considering any application that may affect a heritage precinct or individual entry on the Heritage List, solicit the views of the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.

5.1.4.3 Notwithstanding any existing assessment on record, Council may require a heritage assessment to be carried out prior to the approval for any development proposed in a heritage precinct or individual entry listed on the Heritage List.

5.1.4.4 For the purposes of sub-clause 6.1.1 of the Scheme the term 'development' shall have the meaning as set out in the Planning and Development Act but shall also include, in relation to any place entered in the Heritage List or contained within a heritage precinct, any act or thing that is likely to significantly change the external character of the building, object, structure or place.

5.1.5 Formalities of Application

5.1.5.1 In addition to the application formalities prescribed in sub-clause 5.1.4 and any formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a heritage precinct, to provide one or more of the following to assist the Council 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) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
- (c) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council 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; and
- (d) any other information which the Council indicates that it considers relevant.

5.1.6 Variations to Scheme Provisions

5.1.6.1 Where desirable to facilitate the conservation of a heritage place or to enhance or preserve heritage values, the Council may vary any provision of the Scheme provided that, where in the Council's opinion the variation of a provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall—

- (a) consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to clause 6.3; and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

5.1.6.2 In granting variations under sub-clause 5.1.6.1 the Council may enter into a heritage agreement under Part 4 of the *Heritage of Western Australia Act 1990* with an owner who would benefit from the variation. The agreement may specify the owner's obligations and contain memorials noted on relevant Certificates of Title.

5.2 TOWNSCAPE CHARACTER

The townsite of Morawa has an identifiable character. In order to enhance the existing character and complement the existing pattern of development, in considering applications for the town centre Council shall have regard to the scale, colours, materials and design of new buildings and extensions, and have regard to the recommendations of the Morawa Townscape Plan and Report.

5.3 TOURIST FACILITIES AND ACCOMMODATION

Council may permit tourist facilities and accommodation in selected locations but only where the development in the opinion of the Council—

- (i) does not adversely affect the amenity of the area;
- (ii) is in an appropriate location having regard to matters including proximity to tourist attractions and/or proximity to Commercial zoned land or townsites;
- (iii) has no significant adverse environmental impact;
- (iv) complies with all other Scheme requirements and any relevant policy of Council.

5.4 TOWN ENTRIES

Council promotes attractive entries into each of the townsites and may restrict some land uses, require greater setbacks and landscaping to maintain or improve the entries in to towns.

5.5 TOWNSITE EXPANSION PLANS

Council has adopted a Townsite Expansion Plan for Morawa and similar plans may be prepared for other townsites in the Shire. In considering applications for Scheme Amendments or development Townsite Expansion Plan shall be used by Council as a guide in determining the proposal.

5.6 DECLARED RARE FLORA

Prior to the subdivision or development of any lot where there is remnant native vegetation, Council may seek advice from the Department of Conservation and Land Management as to whether any declared rare flora will be affected by the proposal, and shall put in place measures to preserve the remnant native vegetation, if the lot contains declared rare flora.

5.7 TRANSPORTABLE AND SECONDHAND BUILDINGS

(a) A transportable or secondhand building may not be transported to and placed on a lot within the Scheme area and thereafter occupied as a residential dwelling (whether in whole or in part) except with the approval of Council and in accordance with any conditions contained in such approval.

(b) In considering whether or not to grant approval for a transportable or secondhand building, the Council shall have regard to—

- (i) the appearance and external materials of the building, and any proposed alterations thereto;
- (ii) the amenity of the locality;
- (iii) the visual prominence of the site; and
- (iv) any proposed landscaping or screening of the site; and
- (v) all applicable statutes, by-laws and regulations relating to dwelling houses applicable both to the transportable or secondhand building and the upon which it is to be located following transportation.

(c) In granting approval for a transportable or secondhand building, the Council may impose conditions including conditions which—

- (i) require landscaping to be established within a specific time and thereafter maintained; and
- (ii) require the applicant or owner to provide a bond or bank guarantee to Council as surety for the completion of the transportable or secondhand building to a standard of presentation acceptable to Council within a specific time frame. Should Council require the provision of a bond, such monies shall be deposited in an interest bearing Trust account and upon the satisfactory completion of the necessary works, such monies owing shall be refunded.

5.8 MINING

Planning approval is required for all extractive industry. In determining an application Council shall have regard to and may impose conditions relating to the demand for additional services, facilities and infrastructure, the impact on surrounding land uses, and shall require a management plan to manage the impact and operation of a mine.

PART VI—USE AND DEVELOPMENT OF LAND

6.1 REQUIREMENT FOR PLANNING APPROVAL

6.1.1 In order to give full effect to the provisions and objectives of this Scheme, all development, including a change in the use of land, except as otherwise provided, requires the prior approval of the Council in each case. Accordingly, no person shall commence or carry out any development, including a change in the use of any land, without first having applied for and obtained the planning approval of the Council pursuant to the provisions of this Part.

6.1.2 The planning approval of the Council is not required for the following development of land—

- (a) The use of land in a reserve, where such land is held by the Council or vested in a public authority;
 - (i) for the purpose for which the land is reserved under the Scheme; or
 - (ii) in the case of land vested in a public authority, for any purpose for which such land may be lawfully used by that authority.
- (b) The use of land which is a permitted ('P') use in the zone in which that land is situated provided it does not involve the carrying out of any building or other works.
- (c) The erection of a boundary fence except as otherwise required by the Scheme, except where the proposals require the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes.
- (d) The erection on a lot of a single dwelling house, including ancillary outbuildings, in a zone where the proposed use is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table, except where otherwise provided by the Scheme.
- (e) The carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act.
- (f) The carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building.
- (g) The carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services.

- (h) The installation of a satellite dish, where that satellite dish is not visible from any street or road reserve.
- (i) A home office, except within the Industrial Zone.

6.2 APPLICATION FOR PLANNING APPROVAL

6.2.1 Every application for planning approval shall be made in the form prescribed in Appendix 4 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

6.2.2 Unless Council waives any particular requirement every application for planning approval shall be accompanied by—

- (a) a plan or plans to a scale of not less than 1:500 showing;
 - (i) street names, Lot number(s), north point and the dimensions of the site;
 - (ii) the location and proposed use of the site, including any existing building to be retained and proposed buildings to be erected on the site;
 - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (v) 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;
 - (vi) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
 - (vii) 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; and
- (c) any other plan or information that the Council may reasonably require to enable the application to be determined.

6.3 ADVERTISING OF APPLICATIONS

6.3.1 Where an application is made for planning approval to commence or carry out development which involves an 'SA' use, the Council shall not grant approval to that application unless notice of the application is first given in accordance with the provisions of sub-clause 6.3.3.

6.3.2 Where an application is made for planning approval to commence or carry out development which involves an 'AA' use, or any other development which requires the planning approval of the Council, the Council may give notice of the application in accordance with the provisions of sub-clause 6.3.3.

6.3.3 Where the Council is required or decides to give notice of an application for planning approval the Council shall cause one or more of the following to be carried out—

- (a) Notice of the proposed development to be served on the owners and occupiers as likely to be affected by the granting of planning approval stating that submissions may be made to the Council within twenty-one days of the service of such notice.
- (b) Notice of the proposed development to be published in a newspaper circulating in the Scheme area stating that submissions may be made to the Council within twenty-one days from the publication thereof.
- (c) A sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph (b) of this sub-clause.

6.3.4 The notice referred to in sub clause 6.3.3 (a) and (b) shall be in the form contained in Appendix 5 with such modifications as circumstances require.

6.3.5 After expiration of twenty-one days from the serving of notice of the proposed development, the publication of notice or the erection of a sign or signs, whichever is the later, the Council shall consider and determine the application.

6.4 CONSULTATIONS WITH OTHER AUTHORITIES

6.4.1 In determining any application for planning approval the Council may consult with any other statutory, public or planning authority and with any other party it considers appropriate.

6.4.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Council shall consult that authority before making its determination.

6.5 MATTERS TO BE CONSIDERED BY COUNCIL

6.5.1 The Council in considering an application for planning approval shall have due regard to the following—

- (a) the provisions of this Scheme and any other relevant Local Planning scheme operating within the district;
- (b) any relevant proposed new local planning scheme of the Council in so far as they can be regarded as seriously entertained planning proposals;
- (c) any approved Statement of Planning Policy of the Commission;

- (d) any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
- (e) any planning policy, strategy or plan adopted by the Council under the provisions of clause 8.6 of this Scheme;
- (f) the preservation of any object or place of heritage significance;
- (g) the requirements of orderly and proper planning;
- (h) the preservation of the amenities of locality;
- (i) any other planning considerations which the Council considers relevant;
- (j) any relevant submissions or objections received on the application;
- (k) the impacts on the amenity of the surrounding area and the environmental impacts.

6.6 DETERMINATION OF APPLICATIONS

6.6.1 In determining an application for planning approval the Council may—

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

6.6.2 The Council shall convey its decision to the applicant in the form prescribed in Appendix 6 to the Scheme.

6.6.3 Where the Council grants planning approval, that approval—

- (a) continues in force for two years, or such other period as specified in the approval, after the date on which the application is approved; and
- (b) lapses if the development has not substantially commenced before the expiration of that period.

6.6.4 Where the Council grants planning approval, the Council may impose conditions limiting the period of time for which the development is permitted.

6.7 DEEMED REFUSAL

6.7.1 Subject to subclause 6.7.2, an application for planning approval shall be deemed to have been refused where a decision in respect of that application is not conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

6.7.2 An application for planning approval which is subject of a notice under subclause 6.3.3 shall be deemed refused where a decision in respect of that application is not conveyed to the applicant by the Council within 90 days of the receipt of it by the Council, or within such further time as agreed between the applicant and the Council.

6.7.3 Notwithstanding that an application for planning approval may be deemed to have been refused under subclauses 6.8.1 and 6.8.2, the Council may issue a decision in respect of the application at any time after the expiry of the 60 days or 90 day period specified in those classes, and that decision shall be regarded as being valid.

6.8 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS

6.8.1 Where an application is for a development that includes the carrying out of any building or works, the Council may grant approval subject to matters requiring the subsequent approval of the Council. These matters may include the siting, design, external appearance of the buildings, means of access or landscaping.

6.8.2 The Council may decline to deal with an application requiring later approval of details or call for further details if it thinks fit.

6.8.3 Where the Council has granted approval subject to matters requiring the later approval of the Council, application for approval of those matters must be made not later than the expiration of two years beginning with the date of the first approval.

6.9 UNAUTHORIZED EXISTING DEVELOPMENTS

6.9.1 The Council 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.

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

Note: 1. Applications for approval to an existing development are to be made in the form prescribed in appendix No.4.

2. The approval by the Council of an existing development does not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.

PART VII—NON-CONFORMING USES

7.1 NON-CONFORMING USE RIGHTS

7.1.1 Except as otherwise provided in this part, no provision of the Scheme shall prevent—

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the time of coming into force of the Scheme; or

- (b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits, lawfully required to authorise the development to be carried out were duly obtained and are current.

7.2 EXTENSION OF NON-CONFORMING USE

7.2.1 A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the planning approval of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme.

7.3 CHANGE OF NON-CONFORMING USE

7.3.1 Notwithstanding anything contained in the Zoning Table, the Council may grant its planning approval to the change of use of any land from a non-conforming use to another use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the non-conforming use and is, in the opinion of the Council, closer to the intended purpose of the zone or reserve.

7.4 DISCONTINUANCE OF NON-CONFORMING USE

7.4.1 When a non-conforming use of any land or building has been discontinued for a period of six months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.

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

7.5 DESTRUCTION OF BUILDINGS

7.5.1 If any building is, at the gazettal date, being used for a non-conforming use, and is subsequently destroyed or damaged to an extent of 75% or more of its value, the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the buildings shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner or position not permitted by the Scheme.

PART VIII—ADMINISTRATION

8.1 POWERS OF THE SCHEME

8.1.1 The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers—

- (a) The Council may enter into any agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme.
- (b) The Council may acquire any land or buildings within the district pursuant to the provisions of the Scheme or the Act. The Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.
- (c) An officer of the Council, authorised by the Council for the purpose, 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.

8.2 OFFENCES

8.2.1 No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area—

- (a) otherwise than in accordance with the provisions of the Scheme;
- (b) unless all approvals required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with;
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with.

8.2.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 223 of the Planning and Development Act.

8.3 COMPENSATION

8.3.1 Except as otherwise provided, the time limit for the making of claims for compensation for injurious affection pursuant to Section 173 and 174 of the *Planning and Development Act 2005* resultant from the making of, or the making of an amendment to, the Scheme is six (6) months from the date of publication of the Scheme or the Scheme Amendment in the *Government Gazette*.

8.3.2 Where, in respect of any application for planning approval to commence and carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter,

refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may, within six (6) months of the date of the relevant decision, claim compensation from the Council for injurious affection.

8.4 ELECTION TO PURCHASE AND VALUATION

8.4.1 Where compensation for injurious affection is claimed pursuant to either Section 173 or 174, the Council may, at its option elect to acquire the land so affected instead of paying compensation.

8.4.2 Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.

8.4.3 Where the Council elects to acquire land as provided in Section 187, if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land as determined in accordance with Section 188.

8.4.4 The value of the land referred to in Section 188 shall be the value thereof on the date that the Council elects to acquire the land and that value shall be determined—

- (a) by arbitration in accordance with the *Commercial Arbitration Act 1985*; or
- (b) by some other method agreed upon by the Council and the owner of the land,

and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.

8.4.5 The Council may deal with or dispose of land acquired for a Local Reserve or pursuant to the preceding upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

8.5 APPLICATIONS FOR REVIEW

8.5.1 An applicant aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part 14 of the Act and the rules and regulations made pursuant to the Act.

8.6 PLANNING POLICIES

8.6.1 The Council may prepare a planning policy (herein after called 'a Policy') which may make a provision for any matter related to the planning or development of the Scheme Area and which may be prepared so as to apply—

- (a) generally or in a particular class of matter or in particular 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.

8.6.2 A Policy shall become operative only after the following procedures have been completed—

- (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, and in what form and during what period (being not less than 21 days) submissions may be made.
- (b) Policies which the Council considers may be inconsistent with other provisions of the Scheme or with State and regional planning policies are to be submitted to the Commission for consideration and advice.
- (c) The Council shall review the draft Policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.
- (d) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.

8.6.3 The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.

8.6.4 An amendment or addition to a Policy may be made after the Policy has become operative and shall be made in the same manner as provided for the making of a Policy in sub-clause 8.6.2.

8.6.5 A Policy may be rescinded by—

- (a) preparation or final adoption of a new Policy pursuant to this clause, specifically worded to supersede an existing Policy; and
- (b) publication of a formal notice of rescission by the Council twice in a local newspaper circulating in the district.

8.6.6 A Policy shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its decision.

8.6.7 Any Policy prepared under this clause shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

8.7 DELEGATION

8.7.1 The Council may, either generally or in a particular case or cases, by resolution passed by an absolute majority of the Council, delegate to the following eligible persons the authority to deal with an application for Planning Approval made under this Scheme—

- (a) a member of the Council being the Chairman of the committee required at the direction of Council to consider and report upon all applications for planning approval within its municipal district, and being qualified by experience with the work of any such committee; and/or
- (b) that officer of the Council, holding or eligible to hold a Municipal Town Planners Certificate, appointed to the position of Town Planner for the purpose of the *Local Government Act 1995* with overall responsibility for the planning functions of the Council or appointed by the Council to supervise the development control functions of the Council,

or those persons who from time to time occupy the positions referred to in (a) and (b) above.

8.7.2 Any delegation made under sub-clause 8.7.1 shall have effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.

8.7.3 A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.

8.7.4 The performance of the function by a delegate under subclause 8.7.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

8.7.5 Without affecting the generality of the provisions of this clause, where in the exercise of any power under this Scheme the Council is required to form any opinion or view or have any state of mind or to consider to have due regard to any matter, then that requirement shall be satisfied if a person exercising delegated authority in respect of that power performs the function.

8.7.7 A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.

8.7.8 An officer or member exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power by the Council, in so far as such provisions are reasonably applicable.

8.7.9 A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.

8.8 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

8.8.1 Twenty-eight (28) days written notice is hereby prescribed as the notice to be given pursuant to section 10 of the Act for the removal of certain buildings.

8.8.2 Council may recover expenses under section 10(2) of the Act in a court of competent jurisdiction.

Appendix No. 1 INTERPRETATIONS

abattoir: means any land or buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

absolute majority: has the same meaning as given to it in the *Local Government Act 1995*.

Act: means the *Planning and Development Act 2005*.

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.

amenity building: means a building or part of a building used by employees or persons otherwise engaged in the conduct of an industry or business on the same site, for their personal comfort, convenience or enjoyment of leisure, but not used or intended for use for the work of the industry or business.

amusement facility: means any land or buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use.

amusement machine: means any machine, game or device whether mechanical or electronic or a combination of both operated by one or more players for amusement and recreation.

amusement parlour: means any land or building, open to the public, where the predominant use is amusement by amusement machines and where there are more than two amusement machines operating within the premises.

ancillary use: means a use which is incidental to the predominant use of land and buildings.

appendix: means an appendix to the Scheme.

- aquaculture:** means any fish farming operation for which a fish farm licence issued pursuant of the provisions of Part V of the *Fish Resources Management Act 1994* and the *Fish Resources Management Regulations 1995* is required.
- auction mart:** means any land or building on or in which goods are exposed or offered for sale by auction, but does not include a place used for the sale by auction of fresh food, fruit, vegetables or livestock.
- authorised officer:** means an officer of the Council, authorised by the Council to exercise all or some of the powers of the Council under this Scheme.
- battle-axe lot:** means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot.
- bed and breakfast:** means accommodation for not more than four (4) adults or one family in an establishment containing a maximum of two (2) guest bedrooms and one (1) guest bathroom, located under the main roof of the dwelling.
- betting agency:** means a building operated in accordance with the *Racing and Wagering Western Australia Act 2003*.
- builder's storage yard:** means any land or buildings used for the storage of building material, pipes, or other similar items related to any trade; and may include manufacture, assembly and dismantling processes incidental to the predominant use.
- Building Code of Australia:** means the Building Code of Australia 1988 (as amended).
- building envelope:** means an area of land within a lot marked on a plan within which all buildings on the lot must be contained.
- building line:** means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act.
- camping area:** means any land used for the lodging of persons in tents or other temporary shelter.
- canteen:** means a shop which provides food and refreshments for the workforce of the surrounding area and which has a maximum gross floor area of 75m² including any storage and food preparation areas.
- caravan:** means a vehicle as defined under the *Road Traffic Act 1974* maintained in condition suitable for licence under that Act at all times and being designed or fitted or capable of use as a habitation or for dwelling or sleeping purposes.
- caravan park:** means an area of land specifically set aside for the parking of caravans and park homes or for the erection of camps on bays or tent sites allocated for that purpose.
- caretaker's dwelling:** means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.
- car park:** means any land or buildings used primarily for parking private cars or taxis 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 land or buildings in which cars are displayed for sale.
- cattery:** means the use of an approved outbuilding constructed in accordance with the Health Act Model By-Laws Series 'A' Part One—General Sanitary Provisions (as amended) for the purpose of keeping more than three (3) cats over the age of three (3) months for reward or profit.
- child day care centre:** means any land or buildings used for the daily or occasional care of children in accordance with the *Children and Community Services (Child Care) Regulations 2006* but does not include a Child Family Care Centre.
- child family care centre:** means a Child Minding Centre conducted in a private dwelling where children are received for care but does not include a Child Day Care Centre.
- cinema/theatre:** means any land or building where the public may view a motion picture or theatrical production.
- civic building:** means a building designed, used or intended to be used by a Government Department, an instrumentality of the Crown, or the Council as offices or for administrative or other like purpose.
- civic use:** means land or buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose.
- club premises:** means any land or buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the *Liquor Licensing Act 1988* or not and which building or premises are not otherwise classified under the provisions of the Scheme.
- commercial vehicle:** means a vehicle whether licensed or not and which is used in conjunction with a trade or profession and shall include trailers, tractors and their attachments, buses and earthmoving machines whether self propelled or not but shall not include a passenger car derivative as defined by the *Motor Vehicle Dealers (Sales) Regulations 1976*, a van, utility or light truck which is rated by the manufacture as being suitable to carry loads of up to 1.5 tonnes.
- Commission: Western Australian Planning:** means the Western Australian Planning Commission constituted under the *Planning and Development Act 2005*.
- community purpose:** means the use of land or buildings designed or adapted primarily for the provision of educational, social and recreational facilities and services by organisations involved in activities for community benefit.

conservation: means, in relation to any place or heritage precinct, the management of that place or precinct in a manner that will—

- (a) enable the cultural heritage significance of that place or precinct to be retained; and
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or precinct, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct in accordance with relevant professional standards, and the provision of an appropriate visual setting.

consulting rooms: means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, podiatrists, and persons ordinarily associated with a practitioner, in the prevention or treatment of physical or mental injuries or ailments, and the two practitioners may be of the one profession or any combination of professions or practices.

consulting rooms group: means a building (other than a hospital or medical centre) used by more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, podiatrists and persons ordinarily associated with a practitioner, in the prevention, investigation or treatment of physical or mental injuries or ailments, and the practitioners may be of the one profession or any combination of professions or practices.

contractor's yard: means any land or buildings used for the storage of contractor's plant and equipment, including prefabricated or transportable buildings and materials.

convenience store: means any land and/or buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300 m² gross leasable area.

corner shop: means a shop used for the sale of daily grocery needs to persons in the immediate locality, with a gross floor area not exceeding 100 m², attached to a dwelling in residential zones and which is operated as an additional use thereto by the permanent tenants of the dwelling.

Council: means the executive body of the Shire of Morawa.

cultural heritage significance: means, in relation to a place or heritage precinct, the relative value which that place or precinct has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generations.

cultural use: means any use aimed at the improvement or refinement of people by entertainment and/or education.

curtilage: in relation to a dwelling means the yard of the dwelling, or an area in the immediate vicinity of the dwelling on the same lot used for purposes ancillary to the dwelling. The curtilage shall not include the area located between the street frontage of the lot and the dwelling thereon except with the special approval of the Council. The term shall have a like meaning in relation to land around buildings other than dwellings.

development: shall have the same meaning given to it in and for the purposes of the Act but shall also include in relation to any building, object structure or place entered in the Heritage List or contained within a heritage precinct, any act or thing that—

- (a) is likely to change the character of the place or the external appearance of any building; or
- (b) would constitute an irreversible alteration to the fabric of any building.

display home centre: means a group of two or more dwellings which are intended to be open for public inspection.

District: means the Municipal District of the Shire of Morawa.

dog kennels: means any land or buildings used for the boarding and breeding of dogs where such premises are registered or required to be registered by the Council; and may include the sale of dogs where such use is incidental to the predominant use.

drive-in theatre: means any land or buildings used to make provision for an audience to view the entertainment while seated in motor vehicles.

dry cleaning premises: means any land or buildings used for the cleaning of garments and other fabrics by chemical processes.

educational establishment: means a school, college, university, technical institute, academy or other educational centre, but does not include a reformatory.

facade: means the exposed faces of a building towards roads or open space or the frontal outward appearance of the building.

factory unit building: means a building or structure, or group of buildings or structures designed, used or adapted for use as two or more separately occupied production or storage areas.

farm supply centre: means the use of land and buildings for the supply of vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment.

farm stay: shall have the same meaning as bed and breakfast accommodation.

fish shop: means a building where wet fish and similar foods are displayed and offered for sale.

floor area: shall have the same meaning given to it in and for the purposes of the Building Code of Australia 1988.

fuel depot: means any land or building used for the storage and sale in bulk of solid or liquid gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final users vehicle of such fuel from the premises.

funeral parlour: means any land or buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation.

garden centre: means any land or buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden buildings.

gazettal date: means the date on which notice of the Minister's approval on this Scheme is published in the *Government Gazette*.

gross floor area: shall have the same meaning as Floor Area in the Building Code of Australia.

gross leasable area: means, in relation to a building, the area of all floors capable of being occupied by a tenant for his exclusive use, which area is measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas.

harbour installations: means any land or buildings used for and incidental to the purposes of loading, unloading and maintaining ships.

health centre: means any buildings used as a maternity or x-ray centre, a district clinic, a masseur's establishment, or a medical clinic and can include ancillary services such as pathologists, radiologists and paramedicals.

health studio: means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.

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

- (a) residential purposes, has the same meaning given to it in and for the purpose of 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.

heritage precinct: means a precinct of heritage value having a distinctive nature, which may contain elements of only minor individual significance but heightened collective significance, and within whose boundaries controls may be necessary to retain and enhance its character.

heritage list: means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the *Heritage of Western Australia Act 1990*, or such parts thereof as described in the Heritage List.

hobby farm: means the use of land for the agistment of horses, the growing of vegetables, fruit and flowers and the keeping of domestic poultry for private use only and not for commercial purposes or sale and shall include any buildings normally associated therewith.

home occupation: means a business or activity carried out within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that—

- (a) entails the conduct of a business, office, a workshop only, and does not entail the retail sale or display of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) does not entail employment of any person not a member of the occupier's household;
- (e) does not occupy an area greater than 20 m²;
- (f) does not display a sign exceeding 0.2 m² in area;
- (g) in the opinion of the Council is compatible with the principal uses to which land in the zone in which it is located may be put;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not entail the presence, parking and garaging of a vehicle of more than two (2) tonnes tare weight.

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.

hospital: means a building in which persons are received and lodged for medical treatment or care and includes a maternity hospital.

hospital special purposes: means a building used or designed for use wholly or principally for the purpose of a hospital or sanatorium for the treatment of infectious or contagious diseases, or hospital for the treatment of the mentally ill or similar use.

hotel: means any land or buildings providing accommodation for the public the subject of a hotel licence granted under the provisions of the *Liquor Licensing Act 1988* and may include a betting agency operated in accordance with the *Racing and Wagering Western Australia Act 2003*, but does not include a motel, tavern or boarding house the subject of a limited hotel licence or other licence granted under that Act.

Industry: means the carrying out of any process in the course of trade or business for gain, for and incidental to one or more of the following—

- (a) the winning, processing or treatment of minerals;
- (b) the making, altering, repairing, or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;
- (c) the generation of electricity or the production of gas;
- (d) the manufacture of edible goods;

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include—

- (i) the carrying out of agriculture;
- (ii) on-site work on buildings or land; and
- (iii) in the case of edible goods the preparation of food for retail sale from the premises.

industry—cottage: means a business, professional service, trade or light industry producing arts and craft goods which cannot be carried out under the provisions relating to a 'home occupation' and which, in the opinion of Council—

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (b) where operated in a Residential Zone, does not entail the employment of any person other than a member of the occupier's household;
- (c) is conducted in an out-building which is compatible within 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 m²;
- (e) does not display a sign exceeding 0.2 m² in area.

industry—extractive: means an industry which involves—

- (a) the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land, and also includes the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products;
- (b) the production of salt by the evaporation of salt water.

industry—general: means an industry other than a cottage, extractive, hazardous, light, noxious, rural or service industry.

industry—hazardous: means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries.

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, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

industry—rural: means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality.

industry—service: means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced.

intensive agriculture: means the use of land for the purposes of trade, commercial reward or gain, including such buildings and earthworks normally associated with the following—

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

- (d) the development of land for the keeping, rearing or fattening of poultry (for either egg or meat production), rabbits (for either meat, or fur production), and other livestock in feedlots;
- (e) dairy milking sheds;
- (f) the development of land for the keeping, rearing or fattening of other livestock above those stocking rates recommended by the Department of Agriculture in consultation with surrounding farmers for the applicable pasture type;
- (g) aquaculture.

kindergarten: means any land or buildings used as a school for young children.

land: shall have the same meaning given to the term in and for the purposes of the Act.

laundromat: means any land or building, open to the public in which washing machines, with or without provision for drying clothes, are available for use.

liquor store: means any land or buildings the subject of a Store Licence granted under the provisions of the *Liquor Licensing Act 1988*.

lodging house: shall have the same meaning as is given to the term in and for the purposes of the *Health Act 1911*.

lot: shall have the same meaning given to the term in and for the purposes of the Act, and 'allotment' has the same meaning.

lunch bar: means a building or part of a building used for the sale of take-away sandwiches and similar foodstuffs between the hours of 9am and 4pm within industrial and commercial areas, in a form ready to be consumed without further preparation off the premises but does not include a take-away food outlet;

market: means any land or buildings used for a fair, a farmer's or producer's market or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stallholders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental.

medical centre: means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the interpretations of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists.

milk depot: means any land or buildings to which milk is delivered for distribution to consumers but in which milk is not processed or pasteurised.

Minister: means the Minister for Planning or the Minister of the Western Australian Government responsible for town planning.

motel: means any land or buildings used or intended to be used to accommodate patrons in a manner similar to a hotel but in which special provision is made for the accommodation of patrons with motor vehicles and to which a licence under the *Liquor Licensing Act 1988* has been granted.

motor vehicles and marine sales Premises: means any land or buildings used for the display and sale of new or second hand motor-cycles, cars, trucks, caravans and boats or any one or more of them and may include the servicing of motor vehicles sold from the site.

motor vehicle hire: means any land or buildings used for the hiring out of motor vehicles and when conducted on the same site, the storage and cleaning of motor vehicles for hire but does not include mechanical repair or servicing of such vehicles.

motor vehicle repair: means any land or buildings used for the mechanical repair and overhaul of motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis reshaping.

motor vehicle wash: means any land or buildings where vehicles are washed and cleaned by or primarily by mechanical means.

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

museum: means any land or buildings used for storing and exhibiting objects and artefacts illustrative of history, natural history, art, nature and culture.

net lettable area (nla): means the area of all floors confined within the finished surfaces of permanent walls but excludes the following areas—

- (a) all stairs, toilets, cleaners 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.

night club: means any land or buildings used for the entertainment and/or eating facilities and to which a licence under the provisions of the *Liquor Licensing Act 1988* has been granted.

non-conforming use: means any use of land or building which, was lawful immediately prior to the coming into operation of this Scheme, but is not in conformity with the provisions of this Scheme.

nursing home: means any building used for the medical treatment or care of sick persons, whether resident or not, but does not include consulting rooms.

office: means a building or part of a building used for the conduct of administration, the practise of a profession, the carrying on of agencies, a post office, bank, building society, insurance office, estate agency, typist and secretarial services, or services of a similar nature, and where not conducted on the site thereof, the administration of or the accounting in connection with a commercial or industrial undertaking.

open air display: means the use of land as a site for the display and/or sale of goods and equipment.

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; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or
- (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 thereof, whether as a beneficial owner, trustee, mortgagee in possession, or otherwise.

park home: means a movable dwelling, not being a vehicle as defined under the *Road Traffic Act 1974*, but constructed and maintained on its own chassis and wheels and capable of mobility at all times although stabilised by jacks and provided with skirtings and being so designed and constructed as to permit independent occupancy for dwelling purposes.

park home park: means an area of land set aside exclusively for the parking of park homes occupied for residential purposes, whether short or long stay purposes, but includes the provision of buildings and uses incidental to the predominant use of the land including ablution blocks, recreation areas, office and storage space and, as approved by Council, a shop or kiosk and refuelling facilities but the term shall be interpreted to exclude the parking of caravans, camper trailers and the erection of tents or camps.

petrol filling station: means any land or buildings used for the supply of petroleum products and motor vehicle accessories.

place: means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes—

- (a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;
- (b) any works or buildings situated there, their contents relevant to the purpose of this Scheme, and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation.

piggery: shall have the same meaning given to it in and for the purposes of the *Health Act 1911*.

plant nursery: means any land or buildings used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden decor.

plot ratio: shall have the same meaning given to the term in the Building Code of Australia except for residential dwellings where the term shall have the same meaning given to it in the Residential Design Codes.

potable water: means water in which level of physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in the Australian Drinking Water Guidelines 1996 published by the National Health and Medical Research Council and the Agriculture and Resource Management Council of Australia and New Zealand.

poultry farm: means any land or buildings used for hatching, rearing or keeping of poultry for either egg or meat production which does not constitute an offensive trade within the meaning of the *Health Act 1911*.

prison: shall have the same meaning given to it in and for the purposes of the *Prisons Act 1981*.

private hotel: means any land or buildings used for residential purposes the subject of a Limited Hotel Licence granted under the provisions of the *Liquor Licensing Act 1988*.

produce store: means any land or buildings wherein fodders, fertilisers and grain are displayed and offered for sale.

public amusement: means any land or buildings used for the amusement or entertainment of the public, with or without charge.

public authority: shall have the same meaning given to it in and for the purposes of the Act.

public exhibition: means any building or land used for the display of materials, for promotion of artistic, cultural or educational purposes.

public mall: means any public street or right-of-way designed especially for pedestrians who shall have right-of-way, and vehicle access shall be restricted to service vehicles at times specified by the Council.

public parking station: means any land or building or part of a building open to the public generally for the parking of vehicles for which payment of a fee or charge may be required, and includes the use of the land or building for that purpose.

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

- public worship—place of:** means any land or buildings used primarily for religious activities but does not include an institution for primary, secondary, or higher education, or a residential training institution.
- radio and TV installation:** means any land or buildings used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers.
- reception centre:** means any land or buildings used by parties for functions on formal or ceremonial occasions, but not for unhosted use for general entertainment purposes.
- recreation private:** means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not usually open to the public without charge.
- recreation public:** means land used for a public park, public gardens, foreshore reserve, playground or other grounds for recreation which are usually open to the public without charge.
- reformatory:** means land or buildings used for the confinement or detention in custody of juvenile offenders against the law with a view to their rehabilitation.
- reserve:** means any land reserved for a public purpose.
- residential building:** has the same meaning as in the Residential Design Codes.
- Residential Design Codes:** means the Residential Design Codes, in Appendix 1 to the Western Australian Planning Commission Statement of Planning Policy No. 3.1.
- restaurant:** means a building wherein food is prepared for sale and consumption on the premises and the expression shall include a licensed restaurant.
- restricted premises:** means any land or building, part or parts thereof, used or designed to be used primarily for the sale of retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or deliver of—
- publications that are classified as restricted publications pursuant to the *Classification (Publications Film and Computer Games) Enforcement Act 1996*; or
 - 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.
- retail:** means the sale or hire of products, goods or services to the public generally in small quantities and from a shop, showroom or fast food outlet.
- retirement village:** means a development containing accommodation for aged persons together with ancillary facilities.
- roadhouse:** means land and buildings used for the predominant purpose of a service station but incidentally including a cafe, restaurant and/or shop.
- rural home business:** means a business, service or profession carried out in a dwelling or on land around a dwelling, in a rural area, which—
- does not employ more than five people not members of the occupier's household;
 - will not cause injury to or adversely affect the amenity of the neighbourhood;
 - does not occupy an area greater than 200m²;
 - does not entail the retail sale, display or hire of goods of any nature;
 - in relation to vehicles and parking, will not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the locality, and does not involve the presence, use or calling of a more than 3.5 tonnes tare weight, except that for land in the General Agriculture Zone and the Local Government may permit the use of up to 3 vehicles of more than 3.5 tonnes tare weight; and
 - does not involve the use of an essential service of greater than normally required in the zone.
- rural pursuit:** means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated there with—
- the rearing or agistment of goats, sheep, cattle or beasts of burden;
 - the stabling, agistment or training of horses;
 - the growing of trees, plants, shrubs, or flowers for replanting in domestic, commercial or industrial gardens;
 - the sale of produce grown solely on the lot;
- but does not include intensive agriculture.
- salvage yard:** means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.
- sawmill:** means any land or buildings where logs or large pieces of timber are sawn but does not include a joinery works.
- second-hand building:** means a building which has been constructed at another location and transported either whole or in parts to the subject location.
- service station:** means any land or buildings used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking.

- shop:** means any building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food outlet or any other premises specifically defined elsewhere in this part.
- showroom:** means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.
- sign:** means a notice, message or display by means of a freestanding or fixed sign or hoarding.
- special facility:** means a facility established for purposes in section 46(5) of the *Liquor Licensing Act 1988* or for another purpose in respect of which the relevant Liquor Licensing Authority in Western Australia grants a Special Purpose Licence within the meaning of the *Liquor Licensing Act 1988*.
- stable:** means any land, building or structure used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities.
- stockyards:** means any land, building or other structure used for holding and/or sale of animal stock.
- storage yard:** means any land used for the storage of goods.
- structure plan:** means a plan which indicates broad land use options for the development and subdivision of an area and provides a policy framework for such future subdivision and development.
- take-away food outlet:** means any land or buildings 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.
- tavern:** means any land or buildings the subject of a Tavern Licence granted under the provisions of the *Liquor Licensing Act 1988*.
- trade display:** means any land and/or buildings used for the display of trade goods and equipment for the purposes of advertisement.
- transport depot:** means any land or buildings 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 motor vehicle to another of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles.
- transportable building:** means a building which has been prefabricated at another location and transported either whole or in parts to the subject location.
- tourist accommodation:** means accommodation specifically catering for tourists and includes bed and breakfast accommodation, chalets, farmstay, guesthouses, etc. but does not include hotels, or motels.
- tourist facilities:** means facilities specifically provided for the entertainment and amusement of tourists.
- veterinary clinic:** means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight, and may include a dispensary of medications incidental thereto.
- veterinary hospital:** means a building used in connection with the treatment of animal injuries and ailments, and includes the care and accommodation of animals during or after such treatment.
- warehouse:** means a building wherein goods are stored and may be offered for sale by wholesale.
- waterway:** shall have the same meaning given to it in and for the purposes of the Act.
- wholesale:** means the sale of goods or materials to be sold by others.
- wine house:** means any land or buildings the subject of a Wine House Licence granted under the provisions of the *Liquor Licensing Act 1988*.
- 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 reserved land.
- zoological gardens:** means any land or buildings used for the keeping, breeding or display of fauna and the term includes Zoo but does not include kennels or keeping, breeding or showing of domestic pets.
-

**Appendix No. 2
ADDITIONAL USES**

No.	Land Particulars	Permitted Uses	Development Standards/Conditions
1.	Lots 29 and 30 Valentine Street, Morawa	Truck Depot	As determined by Council
2.	Lot 428 Evans Street, Morawa	Restaurant Incidental Retail Sale of Clothes and Tourist Articles	As determined by Council

**Appendix No. 3
SPECIAL USE ZONE**

No.	Land Particulars	Permitted Uses	Development Standards/Conditions
1.	Lot 425 Reserve 33537 White Avenue, Morawa	Caravan Park	As determined by Council

**Appendix No. 4
SHIRE OF MORAWA
Local Planning Scheme No. 2
District Scheme**

APPLICATION FOR PLANNING APPROVAL

OFFICE USE

Application Number:

Date Received:

Notice of Application:

Application for Planning Consent

I/We
(Full Name of Applicant)

of P/Code
(Address for Correspondence)

hereby apply for planning consent to—

1. Use the land/premises situated at and described as—

.....
.....

2. Erect, alter or carry out development on land described hereunder in accordance with the accompanying plans (3 copies).

The existing use of the land/building is

The approximate cost of the proposed development is \$.....

The estimated time of completion is

The approximate number of persons to be housed/employed when the development is completed is

DESCRIPTION OF LAND

LOCALITY PLAN

House No. Street (indicate distance to nearest intersecting street)

Lot No. Plan or Diagram Location

Certificate of Title: Volume Folio

Dimensions: Site Area sq. metres Frontage metres Depth m north

Signature of Applicant

Date:

Where the applicant is not the owner the owner's signature is required.

Signature of Owner:

Date:

THIS FORM IS TO BE SUBMITTED IN DUPLICATE, TOGETHER WITH THREE COPIES OF PLANS, COMPRISING THE INFORMATION SPECIFIED IN THE PARTICULARS REQUIRED WITH APPLICATION ON PAGE 2 HEREOF.

Note: This is not an application for a building licence.

PARTICULARS REQUIRED WITH APPLICATIONS

Where an application involves the erection or alteration of a building or a change in levels of a site, the plans accompanying an application for planning consent must, unless otherwise required by the Council.

1. indicate the position and describe the existing buildings and improvements on the site and indicate those which are to be removed;
2. indicate the position and describe the buildings and improvements proposed to be constructed, their appearance, height and proposed used in relation to existing and proposed contours;
3. indicate the position, type and height of all existing trees on the site and indicate those to be retained and those to be removed;
4. indicate the areas to be landscaped and the location and type of shrubs, trees and other treatment proposed;
5. indicate site contours and details of any proposed alteration to the natural contour of the area;
6. indicate car parking areas, their layout and accessways, dimensions and the position of existing and proposed crossovers;
7. indicate site dimensions and be to metric scale.

Appendix No. 5

SHIRE OF MORAWA

Local Planning Scheme No. 2

NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

It is HEREBY NOTIFIED for public information and comment that the Council has received an application to develop land for the purpose described hereunder—

LAND DESCRIPTION

LOT NO. STREET

PROPOSAL

Details of the proposal are available for inspection at the Council office. Comments on the proposal may be submitted to the Council in writing on or before the day of 19.....

.....
CEO DATE

Appendix No. 6

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MORAWA

Local Planning Scheme No. 2

DECISION ON APPLICATION FOR PLANNING APPROVAL

The Council having considered the application

Dated

Submitted by

On behalf of

hereby advise that it has decided to—

REFUSE/GRANT APPROVAL — TO COMMENCE DEVELOPMENT TO DISPLAY AN ADVERTISEMENT

subject to the following conditions/for the following reasons.

CEO
DATE

Appendix No. 7
SPECIAL REQUIREMENTS
RURAL—RESIDENTIAL ZONES

Area	Special Requirements
<p>1. Evans Street Lots 90, 91, 92, 93, 94, 271 and Neagle Street Lots 136, 137, 138, 139, 140 141.</p>	<p>(a) No further subdivision of the lots will be permitted.</p> <p>(b) With the intention of preventing over-stocking or other practices detrimental to the amenity of the zone, intensive agricultural pursuits and the breeding or keeping of animals for commercial gain shall not be permitted without the approval in writing of Council.</p> <p>(c) Notwithstanding anything else contained in the Scheme, Council may take appropriate action necessary to reduce or eliminate adverse effects on the environment caused solely or partly by stocking of animals or development on any lot. Proposals for the keeping of stock must be accompanied by a statement of the measures proposed to be introduced to maintain soil stability.</p> <p>(d) Pig farming will not be permitted.</p>
<p>2. Portion of Lot 1 of Victoria Location 3925 Waddilove Road (as shown on the Scheme Map)</p>	<p>(a) The minimum lot size shall be 2 hectares.</p> <p>(b) Subdivision of the lots shall be in accordance with a Subdivision Guide Plan approved by Council. Once the land is subdivided in accordance with an approved Subdivision Guide Plan then Council shall not support any further subdivision.</p> <p>(c) With the intention of preventing overstocking or other practices detrimental to the amenity of the zone, intensive agricultural pursuits and the breeding or keeping of animals for commercial gain shall not be permitted without the approval in writing of Council.</p> <p>(d) Notwithstanding anything else contained in the Scheme, Council may take appropriate action necessary to reduce or eliminate adverse affects on the environment caused solely or partly by stocking of animals or development on any lot. Proposals for the keeping of stock must be accompanied by a statement of the measures proposed to be introduced to maintain soil stability.</p> <p>(e) Pig farming will not be permitted.</p> <p>(f) Prior to commencement of any development on any lot, Council will require the preparation of a tree planting and maintenance program with the intent of rehabilitating and revegetating the land without restricting approved activities/operations.</p> <p>(g) All trees and remnant native vegetation shall be protected from grazing stock, and Council may require fencing to ensure protection is maintained.</p> <p>(h) No vegetation shall be destroyed or removed except where the landowner obtains the prior consent in writing of Council, and where such vegetation is dead or diseased, or where the clearing is required for the purpose of a firebreak, development within a building envelope and access to the envelope, or for an outbuilding or fence.</p> <p>(i) No building shall be constructed in such a manner of such materials that it would, in the opinion of Council, impact adversely on the rural amenity of the area.</p> <p>(j) No development or land use activity shall impede in way the natural and existing drainage pattern of the land.</p> <p>(k) All contour banks shall be protected from any development or land use activity, and Council may require fencing and/or other methods as determined by Council to ensure protection is maintained.</p>

**Appendix No. 8
CAR PARKING REQUIREMENTS**

Use	Minimum Number of Spaces
RESIDENTIAL	Requirements for carparking in a residential area to be in accordance with the provisions of the Residential Design Codes.
INDUSTRIAL	Light and service industrial areas, provision of 1 bay per 50m ² floor area. Other industrial areas, provision of 1 bay per 100m ² floor area. Warehouse with retail sales, require 1 car bay per 50m ² of floor area.
COMMERCIAL	
Service Stations	Two car bays for every working bay and one car bay for every employee.
Officer/Professional Offices	1 car bay per 40m ² of leasable floor area
Shop	1 car bay per 15m ² of retail floor space
Consulting Rooms	4 car bays for each professional person, plus 1 for each other employee.
Hotel	1 car bay for each bedroom and 1 car bay for each 3m ² of bar, lounge or other areas designated public, also staff parking.
Motel	1 car bay for each bedroom and 1 car bay for every 25m ² gross floor area of service building.
Tavern/Nightclub/Restaurant	1 car bay for each 3m ² public floor area.
Public Assembly or Public Amusement	Places of Public Assembly require 1 car bay for every 4 persons being accommodated. Library/Museum provision at 1 car bay per 40m ² of floor area.

ADOPTION

Adopted by Resolution of the Council of the Shire of Morawa at the meeting of the Council held on the 6th day of August 2006.

J. F. COOK, President.
G. R. TREASURE, Chief Executive Officer.

Dated: 23 November 2006.

FINAL APPROVAL

1. Adopted by Resolution of the Council of the Shire of Morawa at the Ordinary Meeting of the Council held on the 19th day of September 2001 and the seal of the Municipality was pursuant to that resolution hereunder affixed in the presence of—

J. F. COOK, President.
G. R. TREASURE, Chief Executive Officer.

Dated: 23 November 2006.

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

2. Recommended/submitted for final approval by the Western Australian Planning Commission—

PHIL WOODWARD, Delegated under s.16 of the Act.

Dated: 9 February 2007.

3. Final Approval granted—

ALANNAH MacTIERNAN, Hon Minister for Planning and Infrastructure.

Dated: 20 February 2007.