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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MINGENEW

LOCAL PLANNING SCHEME
No. 3

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

Shire of Mingenew

LOCAL PLANNING SCHEME No. 3

Ref: 853/3/10/4

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 Mingenew Local Planning Scheme No. 3 on 9 March 2008, the scheme text of which is published as a Schedule annexed hereto.

M. A. BAGLEY, Shire President.
I. FITZGERALD, Chief Executive Officer.

Preamble

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

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

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

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MINGENEW

LOCAL PLANNING SCHEME No. 3**Table of Contents**

- Part 1 **Preliminary**—sets out the Scheme title, responsible authority for implementing the Scheme, definitions used in the Scheme, Scheme area, contents, purpose, aims and relationship to other Schemes and laws.
- Part 2 **Local Planning Policy Framework**—sets out the relationship between the Scheme and the Local Planning Strategy and the procedures for preparing and adopting Local Planning Policies.
- Part 3 **Reserves**—sets out the reserves which apply in the Scheme area and related provisions.
- Part 4 **Zones and the use of land**—sets out the zones which apply in the Scheme area and the uses which may require approval or may be prohibited.
- Part 5 **General development requirements**—sets out the planning requirements which may apply to a particular use or development in a zone.
- Part 6 **Special control areas**—sets out particular provisions which may apply in addition to the zone requirements and generally concerns landscape, environmental, built form, and land and site management issues.
- Part 7 **Heritage protection**—sets out special provisions which apply to heritage places and areas.
- Part 8 **Development of land**—sets out the circumstances under which approval is required for the development of land as distinct from the use of land.
- Part 9 **Applications for planning approval**—sets out the procedure for applying for planning approval including both the use and development of land.
- Part 10 **Procedure for dealing with applications**—sets out the procedure for dealing with applications for planning approval and the matters to be taken into account.
- Part 11 **Enforcement and administration**—sets out the general provisions for the administration and enforcement of the Scheme.

Schedules

- Schedule 1 Dictionary of defined words and expressions
 General definitions
 Land use definitions
- Schedule 2 Additional uses
- Schedule 3 Restricted uses
- Schedule 4 Special use zones
- Schedule 5 Exempted advertisements
- Schedule 6 Form of application for planning approval
- Schedule 7 Additional information for advertisements
- Schedule 8 Notice of public advertisement of planning proposal
- Schedule 9 Notice of determination on application for planning approval
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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MINGENEW

LOCAL PLANNING SCHEME No. 3

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

PART 1—PRELIMINARY**1.1. Citation**

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

1.1.2. The following Scheme is revoked—

Name: Shire of Mingenew Local Planning Scheme No. 2.

Gazettal date: 13th September, 1994

1.2. Responsible authority

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

1.3. Scheme area

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

1.4. Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1-5).

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

Note: The Scheme Map comprises 5 sheets

1.5. Purposes of Scheme

The purposes of the Scheme are to—

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

1.6. The aims of the Scheme

The aims of the Scheme are to—

- provide for future landuse needs and townsite expansion;
- identify future residential land to meet the needs of the private sector;
- encourage new industries and businesses;
- encourage tourism opportunities;
- provide for mining activities; and
- preserve, protect and enhance the Mingenew Townscape and historic buildings.

1.7. Definitions

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

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

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

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

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

1.8. Relationship with local laws

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

1.9. Relationship with other Schemes

There are no other Schemes of the Shire of Mingenew which apply to the Scheme area.

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1. Scheme determinations to conform with Local Planning Strategy

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

2.2. Local Planning Policies

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

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

and may amend or add to or rescind the Policy.

2.3. Relationship of Local Planning Policies to Scheme

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

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

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

2.4. Procedure for making or amending a Local Planning Policy

2.4.1. If a local government resolves to prepare a Local Planning Policy, the local government—

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

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

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

2.4.3. If the local government resolves to adopt the Policy, the local government is to—

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

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

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

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

2.5. Revocation of Local Planning Policy

A Local Planning Policy may be revoked by—

- (a) the adoption by a local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or

- (b) publication of a notice of revocation by the local government once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

PART 3—RESERVES

3.1. Reserves

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

3.2. Regional Reserves

There are no regional reserves in the Scheme area.

3.3. Local Reserves

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

3.4. Use and development of Local Reserves

3.4.1. A person must not—

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

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

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

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

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

PART 4—ZONES AND THE USE OF LAND

4.1. Zones

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

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

4.2. Objectives of the zones

The objectives of the zones are—

Rural Residential Zone

The use of land in the Rural Residential Zone shall be consistent with the following objectives:—

- Provide lots near an urban centre for rural residential lifestyle purposes.
- Ensure that Rural-Residential development is carried out in a proper and orderly manner.
- To promote the use of the land in a manner that does not leave it barren and subject to erosion.
- To ensure that other uses and activities compatible with the predominant use are provided for.
- To promote the protection and enhancement of any the landscape by environmentally sensitive subdivision design.

Rural Townsite

The use of land in the Rural Townsite Zone shall be consistent with the following objectives—

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

Residential Zone

The use of land in the Residential Zone shall be consistent with the following objectives—

- The zone shall be predominantly residential in use.
- Non-Residential uses permitted under the provisions of the Scheme shall be of service to, compatible in character and of a scale and operation which is not detrimental to the predominant residential use.
- Any Non-Residential use shall not detract from or adversely affect the residential amenity of the area.

Town Centre Zone

The use of land in the Town Centre Zone shall be consistent with the following objectives—

- To provide for the variety of predominantly commercial, service, social and administrative uses required to service the needs of local resident and visitor alike.
- The maintenance and centralisation of commercial, service and other permitted uses in a compact accessible centre.
- To encourage development in general compliance with the Mingenew Townscape Plan, at Councils discretion.

- To provide for residential development in conjunction with commercial development. However, Residential development without commercial uses is permitted at the discretion of Council.
- To provide for pedestrian movement and sheltered spaces relating to the same.
- To provide for the safe and efficient flow of traffic and the adequate provision of car parking facilities.
- To encourage the development of new building or the modification/restoration of existing buildings in a manner which is compatible with the existing Streetscape in terms of scale, height, design, materials location and façade design.
- To restrict the use of the Town Centre for any industrial activity, which is not of a low key or service nature and which does not provide for the storage of any unsightly goods from the public view.

General Industrial Zone

The use of land in the General Industrial Zone shall be consistent with the following objectives—

- To provide for industrial use on a location where it does not detract from the built environment of Mingenew Townsite.
- To provide land for industrial development which is reasonably flat and permits ease of use and development.
- To provide land for industrial development which can be provided with easy road access for industrial traffic.
- To provide serviced land which can be developed in a manner which minimises industrial impact on the townsite area.
- To provide sufficient good land to enable Council to cater for the land needs of anticipated industrial development within the townsite area.

Rural-Mining Zone

The use of land in the Rural-Mining Zone shall be consistent with the following objectives—

- To provide for rights of vehicular access, unfettered as to time, location and circumstance, to any land subject of a planning approval.
- To ensure the preservation of the rural character and rural appearance of land within the zone.
- To protect the economic viability of agricultural production via support only for subdivision or boundary relocation which retains or results in lot or location sizes which facilitate ongoing agricultural activity.
- To preserve and protect the natural undeveloped land areas throughout the zone and to provide for the planting of trees and other suitable vegetation via the imposition of conditions on any Planning consent issued, in order to assist in balancing the greenhouse effect, provide shade, prevent erosion, reduce salinity and provide habitats for native fauna.

TABLE 1—ZONING TABLE

Use Class	Residential	Town Centre	General Industrial	Rural-Residential	Rural/Mining	Rural Townsite
Aged & Dependant Persons Dwelling	D	D	X	X	X	D
Agriculture—extensive	X	X	X	X	P	X
Agriculture- Intensive	X	X	X	X	A	X
Amusement Parlour	X	A	X	X	X	D
Ancillary Accommodation	D	D	X	D	D	D
Animal Husbandry—intensive	X	X	X	X	A	X
Aquaculture	X	X	X	X	A	X
Bed and Breakfast Accommodation	D	D	X	A	D	D
Betting Agency	X	A	X	X	X	D
Camping Area	X	X	X	X	A	D
Caravan Park	X	X	X	X	A	D
Caretaker's Dwelling	X	X	D	X	X	X
Carpark	X	P	X	X	X	D
Cattery/Dog Kennel	X	X	X	D	D	A
Child Care Premises	A	D	X	X	X	D
Civic Use	A	D	X	X	X	D
Club Premises	X	A	X	X	X	D
Consulting Rooms	A	D	X	X	X	D
Consulting Rooms	A	D	X	X	X	D

Use Class	Residential	Town Centre	General Industrial	Rural-Residential	Rural/Mining	Rural Townsite
Convenience Store	A	D	X	X	X	D
Corner Shops	A	D	A	X	X	D
Dry Cleaning Premises	X	D	P	X	X	D
Educational Establ.	D	A	X	D	D	D
Equestrian Centre	X	X	X	A	A	A
Factory Unit Building	X	X	P	X	X	D
Family Day Care Centre	A	D	X	X	X	D
Fast Food Outlet	X	D	X	X	X	D
Fish Shop	X	D	X	X	X	D
Fuel Depot	X	X	P	X	X	X
Funeral Parlour	X	D	X	X	X	D
Grouped Dwelling	D	D	X	X	A	D
Health Centre	X	D	X	X	X	D
Health Studio	X	D	D	X	X	D
Holiday Accommodation	A	A	X	A	A	D
Home Occupation	A	D	X	D	D	D
Hotel	X	A	X	X	X	A
Industry—General	X	X	P	X	X	X
—Light	X	X	P	X	X	A
—Service	X	D	D	X	X	A
—Extractive	X	X	X	X	A	X
—Cottage	A	D	D	D	D	D
Liquor Store	X	A	X	X	X	D
Lunch Bar	X	D	D	X	X	D
Market	X	D	X	A	X	D
Medical Centre	A	D	X	X	X	D
Motel	A	A	X	X	X	A
Motor Vehicle—Repairs	X	X	P	X	X	A
—Wrecking	X	X	P	X	X	A
Motor Vehicle Hire	X	D	D	X	X	D
Motor Vehicle Wash	X	A	D	X	X	D
Motor Vehicle, Boat or Caravan Sales	X	D	P	X	X	D
Multiple Dwelling	D	D	X	X	X	D
Museum	X	P	X	A	A	D
Night Club	X	A	X	X	X	D
Nursery	X	D	D	D	D	D
Office	X	P	X	X	X	A
Place of Worship	A	D	X	X	X	D
Public Amusement	X	D	X	X	X	D
Public Utility	P	P	P	P	X	D
Radio & TV Installation	X	X	P	D	D	D
Reception Centre	X	A	X	X	X	D
Recreation- Private	A	D	X	A	A	D
Residential Bldg	A	A	X	A	A	D
Resort	X	X	X	A	A	D
Restaurant	X	A	X	A	A	D
Restricted Premises	X	X	X	X	X	D
Rural Industry	X	X	X	X	D	X
Rural Pursuit	X	X	X	P	P	X
Salvage Yard	X	X	P	X	X	D
Service Station	X	A	D	X	X	D
Shop	X	P	X	X	X	D
Showroom	X	P	P	X	X	D

Use Class	Residential	Town Centre	General Industrial	Rural-Residential	Rural/Mining	Rural Townsite
Single House	P	D	X	P	P	P
Tavern	X	A	X	X	X	D
Theatre/Cinema	X	A	X	X	X	D
Transport Depot	X	X	P	X	D	A
Veterinary Consulting Rooms	X	D	D	D	D	A
Veterinary Hospital	X	X	D	D	D	A
Warehouse	X	D	P	X	X	D
Wayside Stall	X	X	X	D	D	D
Winery	X	X	X	X	A	X

4.3. Zoning Table

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

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

- “P” means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;
- “D” means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;
- “A” means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4;
- “X” means a use that is not permitted by the Scheme.

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

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

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

4.4. Interpretation of the Zoning Table

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

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

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

4.5. Additional uses

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

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

4.6. Restricted uses

These are no restricted uses which apply to the Scheme.

4.7. Special use zones

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

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

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

4.8. Non-conforming uses

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

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

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

4.9. Extensions and changes to a non-conforming use

4.9.1. A person must not—

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

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

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

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

4.10. Discontinuance of non-conforming use

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

4.11. Termination of a non-conforming use

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

Note: Section 13 of the Planning and Development Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a Local Planning Scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

4.12. Destruction of non-conforming use buildings

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

PART 5—GENERAL DEVELOPMENT REQUIREMENTS

5.1. Compliance with development standards and requirements

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

5.2. Residential Design Codes

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

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

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

5.3. Special application of Residential Design Codes

- (a) Notwithstanding the provisions of the Residential Design Codes, Ancillary Accommodation may be approved by Council subject to the following criteria—
- (i) the lot on which the Unit is proposed is to have an area not less than 800m²;
 - (ii) the total floor space of the Ancillary Accommodation does not exceed 60m² in area;
 - (iii) the Ancillary Accommodation contains no more than two habitable rooms;
 - (iv) the Ancillary Accommodation will be occupied by an aged, elderly or disabled person related to the persons occupying the remainder of the dwelling, or such other person as approved by Council by the issue of an annual written permit; and
 - (v) the owner of any premises for which approval has been granted for use as an Ancillary Accommodation shall notify the Council forthwith when the occupant for whom the approval was granted no longer permanently resides therein and the premises shall not then be re-occupied as Ancillary Accommodation without prior approval of the Council
- (b) Notwithstanding the provisions of the Residential Design Codes the building setbacks relating to outbuilding setback, size and construction criteria shall in a Residential Zone be as defined in the provisions of 5.17.

5.4. Restrictive covenants

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

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

5.5. Variations to site and development standards and requirements

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

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

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

5.5.3. The power conferred by this clause may only be exercised if the local government is satisfied that—

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

5.6. Environmental conditions

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

5.7 Two Storey Height Limit

5.7.1 No site shall be developed or building or structure constructed to contain more than two storeys or exceed 10 metres in height from the mean natural ground level of the site. Council may use its discretion and vary these requirements if it can be assured that any height variation proposed will not affect the privacy enjoyed by neighbouring developments and is sympathetic with the scale and character of the surrounding built environment.

5.7.1.2 Country Sewerage Policy

In considering subdivision and development applications for residential use in the Residential R12.5 the Council will take into account the provisions of the Draft Country Sewerage Policy.

5.7.1.3 All two storey dwellings and second storey additions require Planning Consent.

5.7.2 Variation to Height Limit

5.7.2.1 Council may, after following the procedures set out in Clause 9.4, approve by an absolute majority, buildings which exceed the height specified in Clauses 5.10.1 and 5.10.2 when it is satisfied that the proposed building;

- (a) will be in harmony with the general character of buildings in the locality;
- (b) will not adversely affect the beauty, character, quality of environment or the townscape generally;

- (c) will maintain a satisfactory relationship to the boundaries of the lot on which it is to be constructed and relates generally to the siting, design and aspect of buildings on other nearby lots;
- (d) will not impair the amenity or development of adjoining lots.

5.7.2.2 Proposals to vary the height restrictions pursuant to sub clause 5.7.2.1 shall be accompanied by such plans, elevations and sketches as is determined by the Council to assess the affect on the visual amenity of the locality, including—

- (a) the natural screening effect of any existing vegetation to be maintained on the site;
- (b) the natural screening effect of the existing topography of the site;
- (c) any proposed siteworks including recontouring of the site; and
- (d) any proposed landscaping to be provided.

5.7.3 Structures

5.7.3.1 Free standing structures such as promotional towers and radio/TV masts proposed to exceed the height limit shall be individually assessed by the Council, after due consideration of the effect such a structure may have on established views and amenity generally.

5.8 Development of Land Subject to Dampness or Flooding

5.8.1 Where in the opinion of the Council, the dampness of the site on which a building is proposed to be constructed so warrants the Council may require that one or all of the following measures shall be carried out—

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

5.8.2 A building shall not be constructed upon any land defined by the Council as being liable to flooding and/or inundation.

5.8.3 Where a development is proposed on a site such that, in the opinion of Council, that development may be impacted upon by flooding, Council may require the proponents to provide technical advice from an appropriately qualified person to demonstrate that the development will not be adversely impacted on by flooding.

5.9 Setbacks from Watercourses

5.9.1 The Council shall not permit the erection of any habitable building or effluent disposal system on any land within 100 metres of the nearest definable bank of any permanent watercourse, river or estuary, or within 30 metres of the nearest definable bank of any seasonally flowing watercourse.

5.10 Development of Land Abutting Unconstructed Road

5.10.1 Where an application for Planning Consent to commence development is made in respect of land abutting an unconstructed road or not having access by means of a constructed road, the Council may either—

- (a) refuse the application until the road has been constructed, or access by means of a constructed road is provided; or
- (b) grant the application approval subject to a condition requiring the applicant to pay a sum of money towards payment of the cost or estimated cost of construction of the road or part thereof; or
- (c) require other legal arrangements are made for permanent access, to the satisfaction of the Council.

5.11 Development Plans

5.11.1 The Local Government may require the preparation of a development plan prior to subdivision and development being approved in Residential, Town Centre, Rural Residential, Rural Townsite and General Industrial zones.

5.11.2 Where the Local Government requests the preparation of a development plan, no development shall be commenced before a development plan has been prepared by the Proponent and adopted by the Local Government.

5.12 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.

5.13 Transportable Buildings

5.13.1 Planning Consent Necessary

The use of transportable buildings for any purpose within the Scheme area is subject to the planning consent of Council.

5.13.2 Standard of Buildings

The Council shall require that the standards of finish of transportable buildings are agreed on prior to the issue of planning consent and must be consistent with those prevailing in the locality in which the building is to be located.

5.13.3 Council may permit the erection or placement of a transportable building on a lot providing that the design of the building is to the satisfaction of the Council and—

- (a) is in a satisfactory condition;
- (b) will not detrimentally affect the amenity of the area;
- (c) is permanently affixed to the ground; and
- (d) has a facade appropriate to that prevailing in the vicinity.

5.14 Secondhand Buildings

Secondhand buildings may only be erected within the Shire at Councils discretion. All secondhand buildings shall comply with Councils policy and Council shall have regard to the impact on the amenity of the surrounding locality.

5.15 Car Parking Requirements

Car Parking requirements are set out in Table 2 for the Zones and or land uses shown therein. In addition the following general requirements shall apply—

- (a) The parking spaces required under the provisions of the Scheme, shall measure not less than; 90° parking—2.5m x 5.5m per bay with 6.5m separating parallel rows for vehicle access; 60° parking—2.8m x 5.6m per bay with 5m separating parallel rows for vehicle access; and 45° parking—3.5m x 5.2m per bay with 3.7m separating parallel rows for vehicle access.
- (b) All car parking spaces, and all necessary access ways shall, unless the Council agrees otherwise and except as hereinafter provided, be paved.
- (c) Where the maximum dimension of any open car parking area exceeds 20m in length or width, one car parking space in every 10 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 to the satisfaction of Council, those car parking spaces shall be included in calculations as car parking and not as landscaping.
- (d) Where the owner can demonstrate to the satisfaction of the Council that there is not the demand for the number of parking spaces specified, landscaping may be provided in lieu of car parking spaces not constructed and the landscaping shall be included in calculations as car parking but not as landscaping, provided that the Council from time to time may require that additional parking spaces be provided by the owner up to the maximum number specified in Table 2.
- (e) Where development of a commercial nature is proposed and where a developer can satisfy the Council that the minimum car parking requirements 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—
 - (i) 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 Valuer General, or by a licensed Valuer appointed by Council of that area of his land which would have been occupied by the parking spaces;
 - (ii) 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 18 months from the time of agreeing to accept the cash payment;
 - (iii) Payments made under this Clause shall be paid into a special fund to be used to provide public car parks and the Council may use this fund to provide public car parks anywhere in the immediate vicinity.
- (f) 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.
- (g) Where premises are to be used for any Commercial and or General Industrial purpose, provision must be made for access from the street to the building for the purpose of loading and unloading vehicles. Such access is to be designed in association with any onsite car parking provision and in a manner which does not interfere with the operation of any car parking area which permits vehicles using the same to return to the street in forward gear.

5.16 Amenity Control

5.16.1 Untidy Sites

5.16.1.1 To maintain an acceptable standard of amenity the Council may, by written notice require the owner, occupier, or lessee of that land to undertake such works as may be necessary to restore or upgrade the conditions of that property to the satisfaction of Council.

5.16.1.2 Where, in opinion of the Council, a property is not being maintained in a clean and tidy condition and that the unkempt appearance of the property has a detrimental effect on the amenity of the area in which it is located, the Council shall require the owner or occupier to improve the condition to meet proper standards.

5.16.2 Vehicles, Caravans, Trailers and Boats in Residential Areas

5.16.2.1 For reasons of aesthetics, caravans, trailers and boats in Residential Zones should be stored behind the front building setback line.

5.16.2.2 Planning approval is required for the parking of commercial vehicles on any lot within a Residential Zone.

The following requirements shall apply to any person parking a commercial vehicle in a Residential Zone—

- (a) the vehicle shall form an essential part of the occupation of an occupant of the dwelling;
- (b) no vehicle shall exceed either 2.7m in height, 16m in length or 2 tones in tare weight.
- (c) major repairs to the vehicle shall not be undertaken on the lot; and
- (d) any minor repairs, servicing or cleaning of the vehicle shall be carried out in an area which is screened from view from outside the lot.

5.16.2.3 Planning approval granted under this clause—

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

A person to whom planning approval has been granted under this clause shall not park or cause to be parked the vehicle on any lot within a Residential Zone other than on the lot in respect of which the approval is granted.

If—

- (a) a vehicle has been parked pursuant to a planning approval granted under this clause; and
- (b) in the opinion of the Council such vehicle is causing a nuisance or annoyance to neighbours or to owners or to occupiers of land in the neighbourhood,

then the Council may rescind the approval granted by it and after the rescission, no person shall upon the land the subject of a resolution for rescission, park a commercial vehicle unless planning approval is subsequently granted by the Council.

5.16.3 Temporary Accommodation

5.16.3.1 The Council may approve the occupation of a caravan or other temporary accommodation on a lot only if it has approved an application for the development of a habitable building in accordance with the Building Code of Australia as adopted by the Council.

5.16.3.2 The Council shall not issue another permit unless it is satisfied that there has been a genuine effort to complete the approved building pursuant to the original temporary accommodation permit.

5.16.4 Derelict Vehicles

5.16.4.1 Council shall not permit the storage and/or wrecking of any vehicle considered derelict by the Council on any street verge or on any lot other than within the Industrial or Rural Townsite Zones.

5.16.5 Rear Access and Loading Docks

5.16.5.1 When considering any application for Planning Consent the Council shall have regard to any development that may require the provision of loading docks and/or rear access. In particular, the Council may impose conditions concerning—

- (a) the size of the loading docks;
- (b) the means of providing rear access of adequate width and design so as to ensure that transport vehicles shall be able to enter and exit in a forward direction.

5.16.6 Nuisance

5.16.6.1 No lot, building or appliance shall be used in such a manner as to permit the escape of smoke, dust, fumes, odour, noise, vibration or waste products in such quantity or extend in such manner as to create or to be a nuisance to any inhabitant of the surrounding neighbourhood or to traffic or persons using roads in the vicinity.

5.16.6.2 Any owner or occupier of land shall be responsible for implementing appropriate measures to prevent dust pollution and soil erosion to the satisfaction of the Council.

5.16.6.3 Where in the opinion of the Council a use or activity is likely to contribute or is contributing to dust pollution or soil erosion, notice may be served on the occupier requiring the appropriate remedial action.

5.16.6.4 Any owner or occupier of land who has received notice in accordance with 5.16.6.3 and has not initiated the remedial action which is to be undertaken within 30 days, is guilty of an offence and is liable to penalties prescribed by the Act.

5.16.6.5 The Council shall use the “Dust Control Guidelines: published by the Environmental Protection Authority (September 1990) as guidance for assessing and controlling dust and wind-borne material resulting from the development of sites.

5.17 **Outbuildings—Setbacks, Size and Construction Type**

5.17.1 Within all Residential, Town Centre or Special Use zoned land, Planning Consent will be granted to outbuildings appurtenant to any dwelling, provided all boundary setbacks and building separation requirements have been complied with, the building is of single storey construction, located behind any dwelling on site and provided the proposed development complies with the following—

- (a) In the Residential, Town Centre and Special Use Zone of the Shire where the lot size is 1500m² or less in Area.
 - (i) The area of an outbuilding of zincalume construction shall not exceed 55m² ;
 - (ii) An outbuilding of other than zincalume construction shall not exceed 75m², and shall have no parapet wall longer than 8m;

- (iii) The wall height of any outbuilding, including any parapet walls, shall not exceed 3m. The building height for gable roof construction shall not exceed 4m and the maximum wall height is 3.3m, providing adjacent landowners give written approval where the wall height exceeds 3m;
 - (iv) A planning application will be required for parapet wall construction on any boundary. The applicant shall obtain written comments on the proposal from the adjacent landowners for the local government's consideration;
 - (v) An outbuilding will not be approved by the local government on a lot containing no dwelling.
 - (vi) Any development application which does not comply with the above, shall be referred to Council for consideration.
- (b) In the Residential, Town Centre and Special Use Zones where the lot size is over 1500m².
- (i) The area of an outbuilding of zincalume construction shall not exceed 75m²;
 - (ii) The area of an outbuilding of non-masonry construction shall not exceed 150m²;
 - (iii) The area of an outbuilding of masonry construction, or of an outbuilding with walls constructed of the same materials and having the same appearance as an adjacent house on the same lot, shall not exceed 200m²;
 - (iv) The wall height of any outbuilding, including any parapet walls, shall not exceed 4m. In the case of a gable roof construction, the maximum building height shall not exceed 5m;
 - (v) A planning application will be required for parapet wall construction on any boundary. The applicant shall obtain written comments on the proposal from the adjacent landowners for the local government's consideration.
 - (vi) Any development application which does not comply with the above, shall be referred to Council for consideration.
- (c) Outbuilding Setbacks from Boundaries in Residential, Town Centre and Special Use.
- (i) Brick Construction—Garages, Patios, Pergolas, Sheds and all other outbuildings except Carports—
 - (a) In the Residential, Town Centre or Special Use Zones
 - If attached to a dwelling, 1.0m from side boundaries with eaves not closer than 0.75m to a side boundary, measured from the outer edge of the gutter. Setback to the rear boundary to be as specified for the dwelling under the R Codes.
 - If detached from a dwelling, the outbuilding shall be at least 1.8m clear of the dwelling, 1.0m from a side boundary, 1.2m from the rear boundary, with eaves not closer than 0.75m to a side boundary, measured from the outer edge of the gutter.
 - (ii) Metal or Wood Framed Construction—Garages, Patios, Pergolas, sheds and all other outbuildings except Carports—
 - (a) In the Residential, Town Centre or Special Use Zones—
 - Garages, Sheds and all other outbuildings except Patios and Pergolas are to be detached from and at least 1.8m clear of the dwelling and any leach drains. Clearance to side and rear boundaries and to any septic tanks on-site is to be at least 1.2m
 - Patios and Pergolas are to be setback at least 1.2m from any lot boundary unless otherwise approved by Council.
 - (iii) Carports—

In the case of the Residential, Town Centre or Special Use Zones—

 - (a) Columns of brick or steel may be erected on a boundary provided no more than 4 columns are used and roofing including guttering is at least 0.75m clear of the boundary.

Beams shall be of steel where within 0.75m of a boundary and a dividing fence forming a side wall of the carport shall not be higher than 1.8m.

Timber Framed Carports shall be sited 1200m clear of all boundaries.
 - (b) In the Rural/Mining Zone
 - All boundary setbacks are to be as specified in Table 3.
 - (iv) Corner Lots—

In the case of a Residential, Town Centre or Special Use zoned corner lot—

 - Where an outbuilding is constructed in brick or clad in colourbond, Council may permit a setback of 3.75m to the minor street.
 - Where an outbuilding is clad in zincalume a setback of 7.5m to the minor street shall apply.
 - In the case of a corner lot which is zoned other than Residential, Town Centre or Special Use the setback to the minor street shall be the same as the frontage setback laid down in Table 3.

- (v) In all other zones of the Shire or for buildings not appurtenant to a building in the Town Centre, Special Use to General Industrial Zones refer to Table 3.

5.18 Waste Disposal Sites

Land within the Scheme Area shall not be used for the purposes of storage or the disposal of rubbish, refuse or industrial wastes (whether liquid or solid) without the prior written approval of Council

5.19 Tree Preservation And Planting

In order that Council can achieve the following objectives—

- Reduction in Soil Salinity
- Prevention of Erosion
- Provision of Habitats for Native Fauna
- Provision of Aesthetic Pleasure
- Reduction of Roadside Noise
- Visual Amenity of the Locality

Tree planting and preservation will be imposed as a condition of planning consent for the purpose of conserving and enhancing natural beauty, convenience and amenity within each zone defined under the Scheme as considered necessary by Council.

- (a) In considering any rezoning or development proposal in any zone specified on the Scheme Map, Council may at its discretion unless otherwise specified in the provisions of the Scheme, require the preservation and/or planting of trees as a condition of planning consent or rezoning approval.
- (b) Areas of tree preservation and planting may constitute all or part of the minimum landscaping requirement where such a requirement applies under the Scheme. Required areas of tree preservation and planting may exceed the minimum landscaping requirement.
- (c) Within any area approved for tree preservation purposes as a condition of planning consent, no indigenous tree may be felled without the consent of Council, except—
 - (i) where trees are dead, diseased or dangerous;
 - (ii) for the purpose of a firebreak required by a Regulation or By-Law except that in order to preserve the amenity of the area Council may at its discretion vary the position of any required firebreak to avoid destruction of vegetation or due to the physical features of the subject land.
- (d) the Council may, by notice served upon individual landowners or upon a developer or subdivider of land within any zone of the Shire, require the preservation of groups of trees, and thereafter no landowner shall cut, remove or otherwise destroy any tree unless the Council rescinds the notice or orders.
- (e) Where any particular land is affected by the provisions of this clause, the local government may impose a condition on a planning approval, or request a condition of subdivision approval, requiring a written undertaking that prospective purchasers will be advised of the Scheme relating to tree preservation and planting;
- (f) No vegetation is to be cleared from any road reservation within the Shire without the written consent of Council.

5.20 Landscaping

The landscaping requirement referred to in the Scheme means an open area designed, developed and maintained as garden planting and areas for pedestrian use. At the discretion of Council natural bushland, swimming pools and areas under covered ways may be included within the landscaping requirement, however garbage collection and handling spaces and other open storage areas shall not be included. In considering the landscaping requirement of any application for planning consent, the following criteria shall apply—

- (a) Access driveways between a street alignment and any building may be included in the landscaping requirement but otherwise car parking areas and driveways shall not be included.
- (b) The Council may in a landscaped area restrict the use of concrete, gravel, pebble and similar hard materials and require in lieu thereof, the planting of drought resistant trees and shrubs of a type that require little maintenance.
- (c) Where a proposed development utilises less than 50% 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.
- (d) Except where the provisions of the Scheme specify otherwise, a requirement of the landscaping of any development is that one native or locally acceptable tree capable of growing to a height of at least 5m shall be planted for every 10m² of landscape area. Council may relax this requirement in the case of residential land use.
- (e) Landscaping required pursuant to this Scheme or pursuant to a conditional planning consent shall be carried out at the time of the development or at such other time as agreed in writing between the developer and the Council and shall thereafter be continually maintained to the satisfaction of Council.
- (f) The minimum landscaping requirement shall be 10% of the site area.

5.21 Development of Lots with More than One Street Frontage

Where development is proposed on a lot which has more than one street frontage the Council shall decide which street (if any) is the street frontage for the purposes of the Zoning and Development Table and the other provisions of the Scheme.

5.22 Use of Land Between Street Alignment and Front Building Setback

- (a) In any zone other than the Residential Zone a person shall not use the land between the street alignment and the front building setback unless otherwise approved by Council.
- (b) Within the Residential Zone person shall not use the land between the street alignment and the front building setback except for one or more of the following purposes—
 - (i) Gardens and other landscaping including pools/pergolas etc;
 - (ii) Access driveways; and
 - (iii) The parking of motor cars, commercial vehicles or caravans for periods of not more than 8 hours consecutively.

5.23 Caretakers Dwellings

5.23.1 A caretaker's dwelling shall not be constructed on any lot until an approved predominant use for that lot has been established and the local government has resolved that the dwelling is incidental to the predominant use of the lot and the future inhabitants will not be placed in an unduly hazardous position.

5.23.2 Where the local government approves the development of a caretaker's dwelling such dwelling is required to be located at the rear of the lot and screened from the road frontage unless otherwise approved by the local government.

5.23.3 The total floor area measurement of a caretakers dwelling from the external face of walls (including verandas) shall not be greater than 100m².

5.23.4 Only one caretakers dwelling is permitted on a given lot. This includes the provision of only one caretakers dwelling on a lot with existing and/or proposed strata lots.

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

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

5.23.7 The local government will not support the subdivision or development of land that will—

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

TABLE 2—CAR PARKING

Use	Number of Car Parking Spaces
Single House	As prescribed within the provisions of
Grouped Dwelling	The Residential Design Codes
Church/Public Worship	1 for every 5 persons accommodated
Consulting Room/Health Clinic	1 for every 30m ² of gross floor area + 1 for every person employed
Eating House/Restaurant	1 for every 4 persons accommodated
Industry Light	1 for every 50m ² floor space
General	1 for every 50m ² floor space
Warehouse/Showroom	1 for every 250m ² floor area
Licensed Hotel	1 for every bedroom + 1 for every
Hospital	4m ² public bar/lounge floor area
Industrial	1 for every 4 beds provided + 1 for every person employed
Library/Museum	As determined by Council
Motel	1 for every 35m ² floor area
Motor repair station	1 for every bedroom + 1 for every 25m ² gross floor area of service building
Office	2 for every working bay
Residential Building	1 for every 50m ² floor area
Restaurant	1 for every 4 persons accommodated
Service Station	1 for every 10m ² of gross floor area or 1 for every 4 seats provided, whichever is the greater
Shop	20 spaces required
Showroom	1 for every 15m ² retail floor space
Squash Court	1 for every 100m ² gross floor space
Take-away food outlet	3 for every court
Tavern	1 for every 10m ² retail floor area
	1 for every 4m ² public floor area

5.23 Development Requirements For Specific Zones

5.23.1 Town Centre Zone

5.23.1.2 Any non-residential building erected within a Town Centre Zone which has a common boundary with land in a Residential Zone shall be set back such a distance from any common boundary with that land as prescribed by the Residential Design Codes with respect to a residential building on that land.

5.23.1.3 Council shall require the applicant to submit, for Council approval, a detailed landscape plan showing all areas to be landscaped and the types of landscaping to be installed.

An area of at least 10% of the site shall be developed and maintained as a landscaped area in accordance with the approved plan relating thereto. Council, may in a particular case, reduce this requirement if the applicant agrees to establish and maintain landscaping of the road verge, or contributes to some other form of landscaping and street furniture, in accordance with an agreed plan.

5.23.1.4 Car parking spaces shall be provided, designed, constructed and maintained in accordance with the provisions of this scheme and the approved plans relating thereto. Cross overs shall be constructed of bitumen or concrete to the satisfaction and specifications of Council. Parking areas and crossovers shall be constructed and drained to ensure that storm water is disposed of on site.

5.23.1.5 All buildings shall be located, designed and constructed so that the external appearance arising from height, bulk, method of construction, materials used, colour and texture do not have an adverse impact on the locality.

5.23.2 General Industrial Zone

5.23.2.1 When considering any application for Planning Approval for any Industrial Use, Council;

- (a) may require the applicant to provide a report on such matters as the effect of the proposal on the air quality, the levels of dust and other airborne pollutants, the quality of the ground water, road traffic and the amenity of the area as well as other matters which in the opinion of Council needs to be covered.
- (b) may consult and shall have regard to the advice of the Department of Health, the Department of Environment and the Environmental Protection Authority for clarification of any aspect of the proposal.

5.23.2.2 The setback requirements for General Industrial Zones are listed in Table 3.0

5.23.2.3 Council may by absolute majority vary the minimum setback to less than that shown in Table 3.0 subject to the following requirements being met—

- (a) The reduced setback applies to not more than one lot boundary per free standing building and not more than two boundaries per lot.
- (b) The wall facing the boundary to which a reduced setback is granted does not exceed 6m in height.

5.23.2.4 Council shall require the applicant to submit, for Council approval, a detailed landscape plan showing all areas to be landscaped, type of landscaping and treatments proposed. Council may in a particular case reduce this requirement by up to 50% if the applicant agrees to establish and maintain landscaping of the road verge in accordance with an agreed plan.

5.23.2.5 Car parking spaces shall be provided, designed, constructed and maintained in accordance with the provisions of this scheme and the approved plans relating thereto.

5.23.2.6 Crossovers shall be constructed of bitumen or concrete to the satisfaction and specifications of Council. Parking areas and crossovers shall be constructed and drained to ensure that storm water is disposed of on site.

5.23.2.7 In considering an application for Planning Approval Council will have consideration for the affect on the amenity of nearby land in other zones and the possible result such a development may have on the soil and subsoil of the area as well as possible pollutant affects.

5.23.2.8 Where a security fence is proposed on a front lot boundary or a side boundary fronting onto a road, it shall be setback a distance of 1.5m from the lot boundary and landscaping shall be established and maintained between these lines by the owner to the satisfaction of Council.

5.23.2.9 All buildings within the General Industrial Zones shall be located, designed and constructed so that the external appearance arising from height, bulk, method of construction, materials used, colour texture of the external appearance do not have an adverse impact on the locality.

5.23.2.10 Within the General Industrial Zones the front facade of the building shall be constructed of Masonry, Brick, Stone or such other material as approved by Council.

As required under this Schedule or by Council for the predominant use in the locality in which the use is to be located.

TABLE 3 SET BACK AND DEVELOPMENT REQUIREMENTS

ZONE	USE	MIN LOT AREA (M ²)	MIN EFFECT FRONTAGE (M)	MIN BOUNDARY SETBACK (m)			MIN LANDSCAPING % OF SITE	OTHER REQUIREMENTS
				FRONT	REAR	SIDE		
1. RESIDENTIAL	Residential	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes
	All Other Permitted Uses	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or 10% as per minimum requirements	As Listed in this Schedule or as determined by Council
2. TOWN CENTRE	Residential	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes	See Residential Design Codes
	Shop	-	-	11 or 20	7.5	Nil or 2m if abutting a Residential Zone	-	As Determined by Council
	Office	-	-	11 or 20	7.5	Nil or 2m if abutting a Residential Zone	-	As Determined by Council
	Eating House	-	-	11 or 20	7.5	Nil or 2m if abutting a Residential Zone	-	As Determined by Council
	Hotel	1 Ha	80	20	15	10/Storey	25	As Determined by Council
	Tavern	4,000	40	20	15	10/Storey	25	As Determined by Council
	Motel	4,000	80	20	15	10/Storey	20	As Determined by Council
	Educational Establishment	To Be Determined by Council	30m	20	10	5	10	As Determined by Council
	Service Station	1,500 (Roadhouse 2000)	25	11 or 20	7.5	5	10	Boundary Setbacks Apply to Pumps, Canopy, Buildings
	Place of Worship	2000	20	11 or 20	7.5	2	10	
	All Other Permitted Uses	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or 10% as per minimum requirements	As Listed in this Schedule or as determined by Council
3. GENERAL INDUSTRIAL	General Industrial	2000	25	11 or 20	7.5	5m on One Side	10	As Determined by Council
	Light/Service Industrial	1000	25	11 or 25	7.5	5m on One Side	10	As Determined by Council
	All Other Permitted Uses	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or 10% as per minimum requirements	As Listed in this Schedule or as determined by Council
4. SPECIAL USE	Any Permitted Use	As required under this schedule or by Council for the predominant use in the locality in which the use is to be located	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or as determined by Council	As Listed in this Schedule or 10% as per minimum requirements	As Listed in this Schedule or as determined by Council
5. RURAL/MINING	Rural	Based on Locally Acceptable Farm Units	200m	15	15	5	10	As Determined By Council
6. RURAL -RESIDENTIAL	Any Permitted Use	As Determined By Council	As Determined By Council	10	10	10	10	As Determined By Council
7. RURAL TOWNSITE	Any Permitted Use	As Determined By Council	As Determined By Council	As Determined By Council	As Determined By Council	As Determined By Council	10	As Determined By Council

5.23.3 Rural-Residential Zone

5.23.3.1 Development in a Rural-Residential Zone shall comply with the requirements for the following—

- (i) the lot size shall range from 1 ha to 10 ha.
- (ii) in addition to a Building Licence, the Councils prior approval to commence development is required for all development including a single dwelling house and such application shall be made in conformity with the provisions of the Scheme.
- (iii) In order to conserve the rural environment or features of natural beauty all trees shall be retained unless their removal is authorised by the Council and where such vegetation is dead or diseased, or where the clearing is required for the purpose of firebreak, development within a building envelope and access to the envelope, or for a fence.

5.23.3.2 Setbacks shall be in accordance with those listed in Table 3.0. In addition to those listed in Table 3.0. No building shall be located less than 50m from the Midlands Road and Mingenew-Morawa Road.

5.23.3.3 The creation of any lot below 4ha will require connection to a reticulated potable water supply to an appropriate standard as determined by the licence holder. A dwelling shall not be permitted where reticulated water is not available unless the catchment and storage of at least 110,000 litres of water is provided for domestic purposes.

5.23.3.4 In considering an application for Planning Consent, Council shall ensure that the proposed development will not result in an increase of nutrient export from the site to any wetland, watercourse or under ground water aquifer. Council may, where deemed necessary, apply conditions of approval to prevent nutrient run off.

5.23.3.5 Septic Systems shall be located at least 100m from any water course or wet land and 30m or more from any bore, with a minimum 2m vertical separation between the base of the leach drain or soakwell and the highest known ground water level or bedrock.

5.23.3.6 Council may permit temporary accommodation of a building or structure, provided that Council has at the same time approved plans for the construction of a house. This approval shall be for a period of not more than 12 months.

5.23.3.7 Advice shall be sought from the Department of Agriculture regarding the maximum acceptable stocking rate and associated development controls.

5.23.4 Rural/Mining Zone

5.23.4.1 Council will only support subdivision of rural land that is consistent with Commission Policy DC 3.4 "Subdivision of Rural Land".

5.23.4.2 Council will not approve any development of land where, in the opinion of Council, such development would adversely affect the rural landscape or be contrary to the continued agricultural usage of the land.

5.23.4.3 Setbacks shall be in accordance with those listed in Table 3.0. In considering any application Council shall have regard for potential adverse impact on rivers, wetlands and groundwater aquifers from activities including the application of fertilisers or methods proposed for the disposal of effluent

5.23.4.4 Council may permit temporary accommodation of a building or structure, provided that Council has at the same time approved plans for the construction of a house. This approval shall be for a period of not more than 12 months.

5.23.4.5 In determining the establishment of intensive agricultural pursuits, and extractive industries on land zoned Rural/Mining, Council shall seek to ensure that the environmental and landscape qualities of the locality are not detrimentally affected, that adequate provision is made for any intensive use of rural roads, and that there is no conflict with existing rural activities undertaken in the area.

5.23.4.6 The development of an airstrip on rural land shall be considered in accordance with the "A" advertising procedures of Clause 9.4 of this scheme to ensure that the amenity of the locality is not detrimentally affected.

5.23.4.7 Development for short-stay tourist accommodation may be permitted on the basis that it is secondary to the agricultural use of the land, and is restricted to farm-stay accommodation, or experiential activities and ancillary uses to rural activities where the use is conducted wholly on the lot.

5.23.4.8 When making a decision on any application for Planning Approval, the Council shall require fencing of remnant vegetation and water bodies where this is considered necessary by Council in order to protect these features from degradation or allow for rehabilitation of degraded areas.

5.23.4.9 A dwelling shall not be permitted, where scheme water is not available, unless the catchment and storage of at least 110,000 litres of water is provided for domestic purposes.

5.23.4.10 Septic Systems shall be located at least 100m from any water course or wet land and 30m or more from any bore, with a minimum 2m vertical separation between the base of the leach drain or soakwell and the highest known ground water level or bedrock.

5.23.4.11 Advice shall be sought from the Department of Agriculture regarding the maximum acceptable stocking rate and associated development controls.

5.23.4.12 In determining an application for extractive industry 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 of the extractive industry.

5.23.4.13 No more than one dwelling shall be permitted on any lot within the Rural/Mining Zone unless the additional dwelling(s) provides rural workers accommodation, as defined in the Scheme. All such dwellings, including the single house, should be clustered in one location, to avoid future subdivision pressure and minimise constraints on adjoining uses. All services to the dwellings from the lot boundary, including vehicular access, shall be shared as far as practicable.

5.23.5 Rural Townsite Zone

5.23.5.1 In accordance with the Residential Design Codes for residential development and the relevant standards from appropriate zones. For all residential development a density of R 5 shall apply.

5.23.5.2 Council shall have regard to the appropriateness of the proposal in terms of location and compatibility with existing land uses.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of special control areas

6.1.1 The following special control areas are shown on the scheme map—

- Public Drinking Water Source Protection Area

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

6.2 Public Drinking Water Protection Source Area- PDWPSA

6.2.1 Purpose of the Special Control Area.

The purpose of the Public Drinking Water Source Protection Areas is to—

- identify the proclaimed Public Drinking Water Source Protection Areas; and
- ensure that land use and development within the Public Drinking Water Source Protection Area is compatible with the protection and long term management of water resources for public water supply.

6.2.2 Relevant Considerations

In determining land uses and development proposals within the PDWSPA Special Control Area, the Council will have due regard to relevant State Government policies and the most recent Department of Environment Land Use Compatibility Tables for PDWSPAs.

Notwithstanding the permissibility of land uses in the Zoning Table, the following uses are not permitted within the PDWSPA Special Control Areas—

- Abattoir
- Piggery
- Power Station
- Fish Processing
- Tannery
- Woolscourer

In determining proposals, the Council is to have due regard to any comments or recommendations from the Department of Environment and may impose relevant conditions to prevent or minimise the potential risk of groundwater contamination. Council should also have regard to the management direction provided by the priority classification of the PDWSPA Special Control Area, noting that Priority (P2) areas are defined to ensure there is no increased risk of pollution to the water source.

6.2.3 Referral of Applications

The Council is required to refer any development application which involves the following activities to the Department of Environment for advice prior to determination of the application—

- potential for increased nutrient loading, in particular point source for nutrients, e.g. poultry farm, piggery;
- intensification of application of fertilisers and pesticides;
- storage of chemicals, fuels and other potentially polluting substances;
- substantial increase in runoff;
- any other impact which Council considers could have an impact on the quality of public drinking water.

PART 7—HERITAGE PROTECTION

7.1. Heritage List

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

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

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

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

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

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

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

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

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

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

7.2. Designation of a heritage area

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

7.2.2. The local government is to—

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

7.2.3. If a local government proposes to designate an area as a heritage area, the local government is to—

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

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

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

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

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

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

7.2.7. The local government may modify or revoke a designation of a heritage area.

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

7.3. Heritage agreements

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

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

7.4. Heritage assessment

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

7.5. Variations to Scheme provisions for a heritage place or heritage area

Where desirable to—

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

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

PART 8—DEVELOPMENT OF LAND

8.1. Requirement for approval to commence development

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

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

8.2. Permitted development

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

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
 - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where—
 - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes;
 - (ii) the development will be located in a heritage area designated under the Scheme;
 - (iii) the dwelling contains 2 storeys or a second storey addition is proposed;
 - (iv) the building is a transportable building;
 - (v) proposed on a lot in the Rural/Mining zone which already contains a single house; or
 - (vi) proposed on a lot in the Rural Residential zone.
- (c) the demolition of any building or structure except where the building or structure is—
 - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
 - (iii) included on the Heritage List under clause 7.1 of the Scheme; or
 - (iv) located within a heritage area designated under the Scheme;
- (d) a home office;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.

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

8.3. Amending or revoking a planning approval

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

8.4. Unauthorized existing developments

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

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

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

PART 9—APPLICATIONS FOR PLANNING APPROVAL

9.1. Form of application

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

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

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

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

9.2. Accompanying material

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

- (a) a plan or plans to a scale of not less than 1:500 showing—
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (v) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
 - (viii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;

- (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the local government may require to enable the application to be determined.

9.3. Additional material for heritage matters

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

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

9.4. Advertising of applications

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

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

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

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

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

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

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

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

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

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

10.1. Consultation with other authorities

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

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

10.2. Matters to be considered by local government

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

- (a) the aims and provisions of the Scheme and any other relevant Local Planning Schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new Local Planning Scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;

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

10.3. Determination of applications

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

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

10.4. Form and date of determination

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

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

10.5. Term of planning approval

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

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

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

10.6. Temporary planning approval

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

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

10.7. Scope of planning approval

Planning approval may be granted—

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

10.8. Approval subject to later approval of details

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

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

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

10.9. Deemed refusal

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

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

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

10.10. Applications for Review

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

PART 11—ENFORCEMENT AND ADMINISTRATION**11.1. Powers of the local government**

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

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

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

11.2. Removal and repair of existing advertisements

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

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

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

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

- (a) the advertisement the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and

- (c) the period, being not less than 60 days from the date of the local government's determination, within which the action specified is to be completed by the advertiser.

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

11.3. Delegation of functions

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

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

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

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

11.4. Person must comply with provisions of Scheme

A person must not—

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

Note: Section 214 of the Planning and Development Act provides that a person who—

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

is guilty of an offence.

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

11.5. Compensation

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

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

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

Note: 1. A claim for compensation under 11(1) of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

11.6. Purchase or taking of land

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

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

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

11.7. Notice for removal of certain buildings

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

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

Schedules

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

Schedules 3 and 10 do not apply to the Scheme.

Schedule 1—Dictionary of defined words and expressions

1. General definitions

In the Scheme—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“non-conforming use” has the same meaning as it has in section 174 of the Planning and Development Act;

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

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

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

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

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

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

“premises” means land or buildings;

“region scheme” means a regional planning scheme made under the *Planning and Development Act 2005*, as amended from time to time;

“Residential Design Codes” means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission State Planning Policy (Variation No. 2), as amended from time to time;

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

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

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

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

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

2. Land use definitions

In the Scheme—

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

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

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

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

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

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

“animal husbandry—intensive” means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) and other livestock in feedlots;

- “**aquaculture**” 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.
- “**bed and breakfast**” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;
- “**betting agency**” means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;
- “**camping area**” means any land used for the lodging of persons in tents or other temporary shelter.
- “**caravan park**” has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;
- “**caretaker’s dwelling**” means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;
- “**carpark**” means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;
- “**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 3 cats over the age of 3 months for reward or profit.
- “**child care premises**” has the same meaning as in the *Child Care Services (Child Care) Regulations 2006*;
- “**cinema/theatre**” means premises where the public may view a motion picture or theatrical production;
- “**civic use**” means premises used by a government department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purposes;
- “**club premises**” means premises used by a legally constituted club or association or other body of persons united by a common interest;
- “**community purpose**” means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations involved in activities for community benefit;
- “**consulting rooms**” means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;
- “**convenience store**” means premises—
- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
 - (b) operated during hours which include, but may extend beyond, normal trading hours;
 - (c) which provide associated parking; and
 - (d) the floor area of which does not exceed 300m² net lettable area;
- “**corrective institution**” means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;
- “**dog kennel**” 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.
- “**drycleaning premises**” means any land or buildings used for the cleaning of garments and other fabrics by chemical processes.
- “**educational establishment**” means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;
- “**equestrian centre**” means land and equipment used or intended to be used for private or commercial purposes for the training or exercising of horses or the training of riders, drivers or jockeys in the art of horsemanship or in the care of horses and which may include as an incidental use with Council approval the accommodation of patrons.
- “**exhibition centre**” means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;
- “**factory unit building**” means a building or structure, or a group of buildings or structures on one lot, in which are carried on 2 or more separate industries not owned or managed by the same persons, or in which provision is made for the carrying on of 2 or more separate industries not owned or managed by the same person.
- “**family day care**” means premises used to provide family day care within the meaning of the *Child Care Services (Child Care) Regulations 2006*;
- “**fast food outlet**” means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;
- “**fish shop**” means a building where wet fish and similar foods are displayed and offered for sale.
- “**fuel depot**” means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;

- “funeral parlour”** means premises used to prepare and store bodies for burial or cremation;
- “health centre”** means any building used as a maternal or x-ray centre, a district clinic, masseur’s establishment, or a medical clinic.
- “health studio”** means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.
- “holiday accommodation”** means accommodation comprising two or more cabins, apartments, part of a residence, or chalets which, by way of trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than by the proprietor.
- “home business”** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—
- does not employ more than 2 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 50m²;
 - does not involve the retail sale, display or hire of goods of any nature;
 - in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
 - does not involve the use of an essential service of greater capacity than normally required in the zone;
- “home occupation”** means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—
- does not employ any person not a member 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 20m²;
 - does not display a sign exceeding 0.2m²;
 - does not involve the retail sale, display or hire of goods of any nature;
 - in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
 - does not involve the use of an essential service of greater capacity than normally required in the zone;
- “home office”** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not—
- entail clients or customers travelling to and from the dwelling;
 - involve any advertising signs on the premises; or
 - require any external change to the appearance of the dwelling;
- “home store”** means any shop with a net lettable area not exceeding 100m² attached to a dwelling and which is operated by a person resident in the dwelling;
- “hospital”** means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;
- “hotel”** means premises providing accommodation the subject of a hotel licence under the *Liquor Control Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;
- “industry”** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for—
- the storage of goods;
 - the work of administration or accounting;
 - the selling of goods by wholesale or retail; or
 - the provision of amenities for employees,
- incidental to any of those industrial operations;
- “industry—cottage”** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which—
- does not cause injury to or adversely affect the amenity of the neighbourhood;
 - where operated in a residential zone, does not employ any person other than a member of the occupier’s household;
 - is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
 - does not occupy an area in excess of 50m²; and
 - does not display a sign exceeding 0.2m² in area;

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

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

“**industry—light**” means an industry—

(a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;

(b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

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

“**industry—rural**” means—

(a) an industry handling, treating, processing or packing rural products; or

(b) a workshop servicing plant or equipment used for rural purposes;

“**industry—service**” means—

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

(b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

“**liquor store**” means any land or buildings the subject of a Store Licence granted under the provisions of the *Liquor Control Act 1988*;

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

“**marina**” means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina;

“**marine filling station**” means premises used for the storage and supply of liquid fuels and lubricants for marine craft;

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

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

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

“**motor vehicle, boat or caravan sales**” means premises used to sell or hire motor vehicles, boats or caravans;

“**motor vehicle repair**” means premises used for or in connection with—

(a) electrical and mechanical repairs, or overhauls, to vehicles; or

(b) repairs to tyres,

but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;

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

“**motor vehicle wrecking**” means any land or buildings used for the storage, breaking up or dismantling or 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;

“**night club**” means premises—

(a) used for entertainment with or without eating facilities; and

(b) licensed under the *Liquor Control Act 1988*;

“**nursery**” means a building or place primarily used for the propagation growth or display of plants of all kinds and includes sale by retail, whether or not seeds, equipment, soil, sand, rocks or the like, or other associated products are also produced, displayed or sold therein, but does not include—

(a) the carrying on of any rural pursuit other than horticulture;

(b) a business selling predominantly cut flowers;

(c) the sale, storage, or handling of any manure other than in packages approved by the Council;

- (d) the sale, storage or handling of any manure in bulk;
 - (e) a use falling more appropriately within the definition of the term “garden centre”;
- “**office**” means premises used for administration, clerical, technical, professional or other like business activities;
- “**park home park**” has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;
- “**place of worship**” means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;
- “**plantation**” has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;
- “**public amusement**” means and land or buildings used for the amusement or entertainment of the public, with or without charge;
- “**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;
- “**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 premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;
- “**recreation—private**” means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;
- “**resort**” means any land or buildings used for the overnight or holiday accommodation of patrons in self contained units and/or shared accommodation and may include incidental on-site recreational facilities such as golf, swimming, bike riding, tennis, bowls, fishing, restaurants, shops, function rooms and entertainment facilities, administration offices, caretaker facilities. It includes dormitory style accommodation, hostel/backpackers, tourist lodging/guest houses, motel and hotel;
- “**residential building**” has the same meaning as in the Residential Design Codes;
- “**restaurant**” means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*;
- “**restricted premises**” means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
 - (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;
- “**rural pursuit**” means any premises used for—
- (a) the rearing or agistment of animals;
 - (b) the stabling, agistment or training of horses;
 - (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
 - (d) the sale of produce grown solely on the lot,
- but does not include agriculture—extensive or agriculture—intensive;
- “**rural workers accommodation**” means premises used for accommodation by a person or persons and the spouse and dependants of that person or persons engaged in agriculture, intensive agriculture, animal husbandry, piggeries or poultry farm on the same land and the term shall include both permanent dwellings and temporary accommodation for seasonal workers;
- “**salvage yard**” means and 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;
- “**secondhand building**” means a building that is constructed from re-used materials and does not include a transportable building;
- “**service station**” means premises used for—
- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
 - (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles,
- but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;
- “**shop**” means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

- “**showroom**” means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;
- “**storage**” means premises used for the storage of goods, equipment, plant or materials;
- “**tavern**” means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;
- “**telecommunications infrastructure**” means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;
- “**theatre/cinema**” means any land or building where the public may view a motion picture or theatrical production;
- “**trade display**” means premises used for the display of trade goods and equipment for the purpose 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 that is pre-fabricated and can be relocated to another site or is relocated from another site but does not include a secondhand building or caravan;
- “**veterinary centre**” means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;
- “**veterinary consulting room**” 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 premises used to store or display goods and may include sale by wholesale;
- “**wayside stall**” means a stall located adjacent to a street in which only fruit, vegetables and artefacts grown, produced or made on the land upon which it is located are sold or offered for sale;
- “**winery**” means premises used for the production of viticultural produce and may include sale of the produce.

Schedule 2—Additional uses

No.	Description of land	Additional use	Conditions
1	Lots 94-100 William Street	Holiday Accommodation and Lodging House	As determined by Council

Schedule 3—Restricted uses

No.	Description of land	Restricted use	Conditions

Schedule 4—Special use zones

No.	Description of land	Special use	Conditions
1.	Lot 1 Eleanor Street	Stock Saleyards	Nil
2.	Lot 72 Midlands Road	Wildflower Demonstration Plot/Tourist Activities/Caretaker's dwelling /garden centre/intensive agriculture	Nil
3.	Lots 267/268/1 Res. 957	Caravan Park/Park Land	Nil
4.	Lots 66 Victoria Street and Lot 43 Shenton Street	Age Persons Units	Nil

Schedule 5—Exempted advertisements

Land use and/or development	Exempted sign	Maximum size
Dwellings	One professional name-plate as appropriate.	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ²
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs, Hoarding and Bill Posting By-laws.	Not Applicable
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building.	Total area of any such advertisement shall not exceed 15m.
	A maximum of 2 free-standing advertisement signs not exceeding 5m in height above ground level.	Maximum permissible total area shall not exceed 10m ² and individual advertisement signs shall not exceed 6m ²
Showroom, race courses, major racing tracks, sports stadium, major sporting grounds and complexes. Public Places and Reserves	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	
	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or council of a municipality excluding	N/A

Land use and/or development	Exempted sign	Maximum size
	those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	
	(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, carpark, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the council of a municipality, and	N/A
	(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station	No sign shall exceed 2m ² in area.
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	1.2m ²
Building Construction Sites (advertisement signs displayed only for the duration of the construction) as follows—		
(i) Dwellings	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m ²
(ii) Multiple Dwellings, Shops, Commercial & Industrial Projects	One sign as for (i) above.	5m ²
(iii) Large development or re-development involving shopping centres, office or other buildings exceeding 3 storeys in height	One sign as for (i) above. One additional sign showing the name of the project builder.	10m ² 5m ²
Sale of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m ²

Land use and/or development	Exempted sign	Maximum size
Property Transactions.		
Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows:		
(a) Dwellings	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.	Each sign shall not exceed an area of 2m ²
(b) Multiple dwellings, shops, Commercial & Industrial Properties.	One sign as for (a) above.	Each sign shall not exceed an area of 5m ²
(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5 ha.	One sign as for (a) above.	Each sign shall not exceed an area of 10m ²
Display Homes.		
Advertisement signs displayed for the period over which homes are on display for public inspection.	(i) One sign for each dwelling on display.	2m ²
	(ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the project company and details of the range of dwellings on display.	5m ²

Schedule 6—Form of application for planning approval

Application for planning approval

Owner details			
Name:			
Address:			Postcode:
Phone: (work): (mobile):	(home):	Fax:	E-mail:
Contact person:			
Signature:			Date:
Signature:			Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>			

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

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection:		
Existing building/land use:		
Description of proposed development and/or use:		
Nature of any existing buildings and/or use:		
Approximate cost of proposed development:		
Estimated time of completion:		
OFFICE USE ONLY		
Acceptance Officer's initials:		Date received:
Local government reference no:		

Schedule 7—Additional information for advertisements

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

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:
2.	<p>Details of proposed sign:</p> <p>(a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other):</p> <p>(b) Height: Width: Depth:</p> <p>(c) Colours to be used:</p> <p>(d) Height above ground level:</p> <ul style="list-style-type: none"> • (to top of advertisement): • (to underside): <p>(e) Materials to be used:</p> <p>Illuminated: Yes / No</p> <p>If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:</p>
3.	Period of time for which advertisement is required:
4.	<p>Details of signs (if any) to be removed if this application is approved:</p> <p>Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.</p> <p>Signature of advertiser(s): (if different from land owners)</p> <p>Date:</p>

Schedule 8—Notice of public advertisement of planning proposal
Planning and Development Act 2005
Shire of Mingenew

Notice of public advertisement of planning proposal

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No.:	Street:	Suburb:
Proposal:		
Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the day of		
Signed:		Dated:
for and on behalf of the Shire of Mingenew.		

Schedule 9—Notice of determination on application for planning approval
Planning and Development Act 2005
Shire of Mingenew

Determination on application for planning approval

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development:	
The application for planning approval is:	
<input type="checkbox"/> granted subject to the following conditions: <input type="checkbox"/> refused for the following reasons(s):	
Conditions/reasons for refusal:	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant is aggrieved by this determination there is a right of review under Part 14 of the <i>Planning and Development Act 2005</i> . An application for review must be lodged within 60 days of the determination.
Signed:	
Dated:	
for and on behalf of the Shire of Mingenew	

Schedule 10—Environmental conditions

Scheme or Amendment No.	Gazettal date	Environmental Conditions

ADOPTION

Adopted by the resolution of the Council of the Shire of Mingenew at the Ordinary meeting held on 20th day of February 2002.

M. A. BAGLEY, President.

Date: 18 January 2008.

I. FITZGERALD, Chief Executive Officer.

Date: 18 January 2008.

FINAL APPROVAL

Adopted by the resolution of Council of the Shire of Mingenew at the ordinary meeting of Council held on the 16th day of August 2006 and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

M. A. BAGLEY, President.

Date: 18 January 2008.

I. FITZGERALD, Chief Executive Officer.

Date: 18 January 2008.

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

G. MUSTO, Delegated under S.16 of PD Act 2005.

Date: 26 February 2008.

FINAL APPROVAL GRANTED

A. MacTIERNAN, Minister for Planning and Infrastructure.

Date: 9 March 2008.
