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PLANNING AND DEVELOPMENT ACT 2005

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**SHIRE OF IRWIN**

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**LOCAL PLANNING SCHEME No. 5**

**DISTRICT ZONING SCHEME**



**PLANNING AND DEVELOPMENT ACT 2005**

## APPROVED LOCAL PLANNING SCHEME

*Shire of Irwin*

## Local Planning Scheme No. 5

Ref: 853/3/9/5

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 Irwin Local Planning Scheme No. 5 on 17 March 2008, the scheme text of which is published as a Schedule annexed hereto.

R. K. PARSONS, President.  
J. L. MERRICK, Chief Executive Officer.

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**Preamble**

This Local Planning Scheme of the Shire of Irwin 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.



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**PLANNING AND DEVELOPMENT ACT 2005****SHIRE OF IRWIN****LOCAL PLANNING SCHEME No. 5  
DISTRICT ZONING SCHEME**

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

**PART 1—PRELIMINARY****1.1 Citation**

1.1.1 The Shire of Irwin Scheme No. 5 (“the scheme”) comes into operation on its Gazettal date.

1.1.2 The following Scheme is revoked—

Shire of Irwin Town Planning Scheme No. 4 gazetted 4th February 1992

**1.2 Responsible Authority**

The Shire of Irwin 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 to 8)

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

**1.5 Purposes of Scheme**

The purposes of the Scheme are to—

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

**1.6 The Aims of the Scheme**

The aims of the Scheme are—

- (a) to assist the effective implementation of regional plans and policies including the State Planning Strategy;
- (b) to ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space;
- (c) to provide for housing choice and variety with a community identity and high levels of amenity;
- (d) to assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments as well as providing opportunities for home based employment;
- (e) to facilitate a diverse and integrated network of open space catering for both active and passive recreation, consistent with the needs of the community;
- (f) to promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities;

- (g) to protect and enhance the environmental values and natural inland and coastal resources of the Scheme area and to promote ecologically sustainable land use and development; and
- (h) to safeguard and enhance the character and amenity of the built and natural environment of the Scheme area.

### 1.7 Definitions

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

- (a) in the Planning and Development Act; 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.

## 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 Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under Clause 10.2.

### 2.4 Procedure for Making or Amending a Local Planning Policy

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

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

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

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

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

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

2.4.4 A Policy has effect on publication of a notice under Clause 2.4.3a.

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 a 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 two 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—

#### **4.2.1 Residential Zone**

- (a) To ensure that the Zone be predominantly residential in use.
- (b) To ensure that any non-residential uses permitted under the provisions of the Scheme, shall be of service to, compatible in character with and of a scale and operation which is not detrimental to the predominant residential use.
- (c) To ensure that any non-residential use which the local government may at its discretion permit in the Residential Zone, shall not detract from the amenity of the area or adversely affect the lifestyle expected in the predominantly residential environment.
- (d) To ensure that all residential development within the zone, shall be of a standard that does not adversely affect the overall amenity of other residential development in the zone.

#### **4.2.2 Special Residential Zone**

To provide a low density residential living and working environment in which development and land use is of a type and location compatible with the overall amenity of the area.

#### **4.2.3 Town Centre Zone**

- (a) To encourage development of a high visual, functional and environmental standard, serving both Town and Rural residents and the development of new buildings and or the modification/restoration of existing buildings in a manner which is compatible with the existing streetscape, the local government's Townscape Plan and or any adjoining land use of heritage value, in terms of scale, height, design, building materials, location and visual facade appearance.

- (b) To promote convenient and safe shopping facilities and relate these to the wide variety of civic, service, business, entertainment and social functions of the Town Centre.
- (c) To encourage the wide range of compatible uses within an accessible Town Centre which are necessary to promote this as a vibrant functional central node for the community it services.
- (d) To provide for safe pedestrian movement and the safe efficient flow of traffic and the adequate provision of car parking facilities.

#### 4.2.4 Neighbourhood Commercial Zone

- (a) To encourage development of high visual, functional and environmental standard serving residents and tourists.
- (b) To promote pleasant, convenient and safe shopping facilities/pedestrian environment for neighbourhood usage.
- (c) To support the revitalisation and economic competitiveness of the neighbourhood commercial centre within the zone.

#### 4.2.5 General Industry Zone

- (a) To encourage the consolidation and improvement of industrial development into an area which has been appropriately located and serviced for that purpose.
- (b) To protect the amenity of zones abutting the industrial zone via the establishment of landscaped buffers and the imposition of landscape and setback land use conditions on any planning approval issued for general industrial development.
- (c) To ensure that no person erects a building in this zone, unless the facade of the building is constructed of and/or clad in a building material, to a design and specification approved by the local government.
- (d) To discourage the establishment of non-industry related land uses in the zone.

#### 4.2.6 Light Industry Zone

- (a) To protect the amenity of zones abutting the Light Industrial Zone via the establishment of landscaped buffers and the imposition of landscape and setback land use conditions on any planning approval issued for light industrial development.

#### 4.2.7 General Farming Zone

- (a) To provide for rights of vehicular access, unfettered as to time, location and circumstance, to any land subject of a planning approval.
- (b) To ensure the preservation of the rural character and rural appearance of land within the zone.
- (c) 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.
- (d) 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 approval issued, in order to assist in balancing the greenhouse effect, provide shade, prevent erosion, reduce salinity and provide habitats for native fauna.
- (e) To ensure that natural drainage patterns/catchments throughout the Shire are paid regard to, via the appropriate location of man-made drainage networks.
- (f) To limit the number of dwellings to one per lot, unless for specific farm operation purposes, to discourage fragmentation or rural living use of agricultural land.

#### 4.2.8 Rural Residential Zone

- (a) To provide for the use of land for residential purposes in a rural setting for alternative residential lifestyle.
- (b) To preserve the amenity of such areas and control land use impacts.

#### 4.2.9 Rural Smallholdings Zone

- (a) To provide for the use of land for minor rural pursuits, hobby farms, conservation lots and alternative residential lifestyle purposes where part-time income from cottage industries, home occupation and the use of land for agriculture may be derived.
- (b) To preserve and enhance landscape quality, environmental values and conservation attributes.

#### 4.2.10 Special Use Zone

- (a) To provide specifically for a designated use or combination of uses which would not otherwise sit comfortably within any other zone in the Scheme.
- (b) To provide for concentrated and integrated development within each Special Use zone.

#### 4.2.11 Marine-Based Industry Zone

To consolidate industrial development associated with the fishing industry in an appropriately located area with close access to the Port Denison Harbour.

#### 4.2.12 Service Commercial Zone

To provide for retailing of bulky goods and for other service commercial and larger scale uses in a location adjacent to the Town Centre Zone.



	Residential	Special Residential	Town Centre	Service Commercial	Neighbourhood Commercial	General Industry	Light Industry	Marine-Based Industry	Rural Residential	Rural Smallholdings	General Farming
Amusement Parlour	X	X	D	A	A	X	X	X	X	X	X
Ancillary Accommodation	D	D	X	X	X	X	X	X	D	D	D
Animal Establishment	X	X	X	X	X	X	X	X	X	A	A
Animal Husbandry—Intensive	X	X	X	X	X	X	X	X	X	X	A
Aquaculture	X	X	X	X	X	D	D	D	A	D	P
Bed And Breakfast	A	D	D	X	X	X	X	X	D	D	D
Caravan Park	X	X	X	X	X	X	X	X	X	X	X
Caretaker's Dwelling	X	X	D	D	D	D	D	D	X	X	D
Carpark	X	X	P	D	D	D	D	X	X	X	X
Child Care Premises	A	X	D	A	X	X	X	X	X	X	X
Club Premises	X	X	D	D	X	X	X	X	X	X	D
Consulting Room(s)	A	A	P	P	P	X	X	X	X	A	X
Education Establishment	A	A	D	D	D	X	X	X	X	A	D
Family Day Care	A	X	D	X	X	X	X	X	D	D	X
Fast Food Outlet	X	X	D	X	D	X	X	X	X	X	X
Fuel Depot	X	X	X	X	X	P	X	X	X	X	X
Grouped Dwelling	P	X	D	X	X	X	X	X	X	X	X
Hardware Store	X	X	X	P	X	D	D	X	X	X	X
Holiday Accommodation	A	A	D	X	X	X	X	X	X	X	D
Home Business	D	D	P	X	X	X	X	X	D	D	D
Home Occupation	D	D	D	X	X	X	X	X	D	D	D
Hotel	X	X	D	X	X	X	X	X	X	X	X
Industry—Cottage	A	A	D	X	X	X	X	X	A	D	D
Industry—Extractive	X	X	X	X	X	X	X	X	X	A	D
Industry—General	X	X	X	X	X	P	X	D	X	X	X
Industry—Light	X	X	X	X	X	P	P	P	X	X	X
Industry—Rural	X	X	X	X	X	D	X	X	X	A	D
Industry—Service	X	X	A	X	X	P	D	D	X	A	X
Intensive Agriculture	X	X	X	X	X	X	X	X	A	D	A
Lodging House	A	A	D	X	X	X	X	X	X	X	X
Lunch Bar	X	X	D	X	D	D	D	D	X	X	X
Market	X	X	D	X	D	X	X	X	X	X	X
Medical Centre	X	X	D	P	A	X	X	X	X	X	X
Motel	X	X	D	X	X	X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales	X	X	D	D	X	P	D	D	X	X	X
Motor Vehicle Repair	X	X	X	X	X	P	X	X	X	X	X
Motor Vehicle Wrecking	X	X	X	X	X	D	X	X	X	X	X
Multiple Dwelling	A	X	A	X	X	X	X	X	X	X	X
Office	X	X	P	X	D	X	X	X	X	X	X
Plantation	X	X	X	X	X	X	X	X	X	X	D
Plant Nursery	X	A	A	D	X	D	D	X	X	D	D
Public Amusement	X	X	D	D	D	A	D	X	X	X	X
Public Utility	D	D	D	D	D	D	D	D	D	D	D
Reception Centre	X	X	D	D	X	X	X	X	X	A	A
Residential Building	D	D	D	X	X	X	X	X	X	X	X
Restaurant	X	X	D	X	D	X	X	X	X	A	A

	Residential	Special Residential	Town Centre	Service Commercial	Neighbourhood Commercial	General Industry	Light Industry	Marine-Based Industry	Rural Residential	Rural Smallholdings	General Farming
Restricted Premises	X	X	A	A	X	X	X	X	X	X	X
Rural Pursuit	X	X	X	X	X	X	X	X	A	D	P
Rural Workers Accommodation	X	X	X	X	X	X	X	X	X	A	D
Secondhand Dwelling	A	A	X	X	X	X	X	X	D	D	D
Service Station	X	X	A	A	D	D	X	X	X	X	X
Shop	X	X	P	X	P	X	X	X	X	X	X
Showroom	X	X	D	P	X	D	D	D	X	X	X
Single House	P	P	D	X	X	X	X	X	P	P	P
Tavern	X	X	D	X	A	X	X	X	X	X	X
Telecommunications Infrastructure	D	D	D	D	D	P	D	D	D	D	P
Transport Depot	X	X	X	X	X	P	A	X	X	X	A
Veterinary Clinic	X	A	D	D	D	P	X	X	A	A	D
Veterinary Hospital	X	X	X	A	X	P	X	X	A	A	D
Warehouse	X	X	D	P	X	P	P	D	X	X	X
Wayside Stall	X	A	X	X	X	X	X	X	A	D	D
Worship—Place Of	A	A	P	D	X	X	X	X	X	A	A

#### 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—

- the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- 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—

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

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

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

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

#### 4.10 Discontinuance of Non-Conforming Use

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

#### 4.11 Termination of a Non-Conforming Use

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

Note: Sections 190 and 191 of the Planning and Development Act enable the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a Local Planning Scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

#### 4.12 Destruction of Non-Conforming Use Buildings

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 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

5.3.1 Where an area is designated with an R Code R12.5, no residential development, other than a single dwelling house is permitted, except that the local government may approve a Grouped Dwelling development containing a maximum of 2 dwelling units, subject to R20 requirements, if the following conditions are satisfied—

- (i) the proposed development complying with all relevant provisions of the Scheme; and
- (ii) no existing grouped dwellings existing on any lot which abuts the proposed project site; and
- (iii) no existing grouped dwelling existing on the opposite street frontage for a distance of at least 40 metres either side of the points which are created by the prolongation of the side boundaries of the proposed project site to the road reserve boundary opposite the same.

5.3.2 Clause 5.22 allows the local government to require preservation of flora. Where the requirements of Clause 5.22 are inconsistent with the Residential Design Codes, Clause 5.22 shall prevail.

5.3.3 The local government may approve Ancillary Accommodation as per the provisions of the Zoning Table and provided the following requirements are satisfied—

- (a) the lot on which the Unit is proposed is to have an area not less than 800m<sup>2</sup>;
- (b) the total floor space of the Ancillary Accommodation does not exceed 60m<sup>2</sup> in area;
- (c) contains a living room and no more than one other habitable room that is capable of use as a bedroom as per the definition for a “*Single Bedroom Dwelling*” under the Residential Design Codes 2002.
- (d) the Ancillary Accommodation will only 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 the local government by the issue of annual written permit.

5.3.4 The owner of any premises for which approval has been granted for use as an Ancillary Accommodation shall notify the local government 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 an Ancillary Accommodation without prior approval of the local government.

5.3.5 Notwithstanding the provisions of the Residential Design Codes, the minimum permissible setback for a dwelling to a secondary street in land with an R10 or higher code shall be 3.75m.

5.3.6 Notwithstanding the provisions of the Residential Design Codes, the size and setbacks relating to outbuildings appurtenant to a dwelling shall be in conformity with Clause 5.17.

5.3.7 Clause 5.17 specifies requirements relating to outbuildings. Where the requirements of Clause 5.17 are inconsistent with the Residential Design Codes, Clause 5.17 shall prevail.

5.3.8 The general site requirements of Table 1 of the Residential Design Codes for Multiple Dwellings at the R35 code shall apply to any proposal for Multiple Dwellings on land coded R30. Notwithstanding Table 1, Multiple Dwellings are not permitted on land with a density coding below R30.



#### **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 Home Businesses, Home Occupations and Cottage Industries**

5.7.1 An approval to conduct a home business, home occupation or industry-cottage is issued on an annual basis only to a specific occupier of a particular parcel of land, it shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier on the land in respect of which a planning approval is issued the approval is cancelled.

5.7.2 If, in the opinion of the local government, any of the activities subject of Clause 5.7.1 is causing a nuisance or annoyance to owners or occupiers of land in the locality the local government may not re-issue an approval.

#### **5.8 Car Parking Standards**

5.8.1 The number of onsite car parking bays to be provided for specified developments shall be in accordance with Schedule 11. Where a car parking requirement is not specified for a particular development in Schedule 11 the local government shall determine the parking standard. The local government may also determine that a general car parking standard shall apply to a particular site or area irrespective of the development proposed in cases where it considers this to be appropriate.

5.8.2 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards Act AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed, marked, drained and thereafter maintained to the satisfaction of the local government.

#### **5.9 Car Parking—Cash in Lieu or Staging**

5.9.1 The local government may permit car parking to be provided in stages subject to the landowner setting aside an area of land sufficient to accommodate the total car parking requirement for the development and entering into a legal agreement to satisfactorily complete all the remaining parking when requested to do so by the local government.

5.9.2 The local government may accept a cash payment in lieu of the provision of any required parking area subject to being satisfied that there is adequate provision for car parking or a reasonable expectation that there will be adequate provision for public car parking in the proximity of the proposed development.

5.9.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area and is to include the value, as estimated by the local government, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be payable in such manner as the local government shall from time to time determine.

5.9.4 Any cash payment received by the local government pursuant to this Clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by the local government.

### **5.10 Secondhand/Transported Dwellings**

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

5.10.2 The local government shall only grant planning approval pursuant to Clause 5.10.1 if the transported dwelling—

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

### **5.11 Waste Disposal**

Land within the Scheme Area shall not be used for the purpose of storage or disposal of vehicle bodies, rubbish or industrial wastes (whether liquid or solid) without the written approval of the local government.

### **5.12 General Landscaping Requirements**

The following provisions apply to all development on zoned land, other than that subject to the Residential Design Codes, or within the General Farming, Rural Residential and Rural Smallholdings zones.

5.12.1 Unless otherwise specified in Schedules 2, 3, 4 or 11, a minimum of 8% of any lot or lots the subject of approved development shall be set aside, developed and maintained as landscaping, to a standard satisfactory to the local government. Where development occurs only over part of a lot, the landscaping requirement shall be 8% of the entire lot, unless otherwise approved by the local government. In addition the road verge adjacent to the lot shall be landscaped and maintained to the satisfaction of the local government.

5.12.2 When a proposed development includes a car parking area abutting a street, an area no less than 2 metres wide within the lot along all street alignments shall be set aside, developed and maintained as landscaping to a standard satisfactory to the local government. This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous subclause.

5.12.3 Where development occurs only over part of a lot, the local government may require that the undeveloped portion be screened from view from streets and other public places, where in the local government's opinion this is desirable to preserve or enhance the visual amenity of the area.

5.12.4 Landscape areas shall be designed and located to improve the visual appeal of the development from the street and other public spaces and the standard of amenity for those using the development. The use of endemic trees and shrubs is encouraged.

5.12.5 Shade trees shall be planted and maintained in car parking areas designed at the rate of one tree for every four (4) car parking bays, to the local government's satisfaction.

### **5.13 Screening of Development Storage Areas**

The owner of land on which there is stored, stacked or allowed to remain any materials which in the local governments opinion detract from the amenity of the area shall completely screen the said materials from adjoining properties and from streets in a manner specified by and to the satisfaction of the local government, by means of walls, fences, hedges or shrubs.

### **5.14 Development of Land Without Constructed Road Frontage**

Notwithstanding any other provisions of the Scheme, the local government's Planning Approval is required for the development of land abutting an unconstructed Crown road reserve or a lot which does not have frontage to a Crown road reserve.

In considering such an application, the local government may—

- (a) refuse the application until the road has been constructed or access by means of a constructed road is provided; or
- (b) grant approval to the application subject to a condition requiring the applicant to pay a sum of money in or towards the cost of constructing the road or part thereof and any other condition it considers fit to impose; or
- (c) require other legal arrangements are made for permanent access, to the satisfaction of the local government.

### **5.15 Land Liable to Flooding and the Irwin River Flood Plain**

5.15.1 In any zone laid down under the Scheme, the local government may refuse an application for planning approval for any building or development located on land which is considered by the local government as being liable to flooding or inundation.

5.15.2 In considering any application for planning approval on land within the Irwin River Flood Plain as defined by the Department of Environment, the local government will consult with the Department of Environment and take any advice given by that Department into account when determining the application.

5.15.3 Any development within the Irwin River floodway, as defined by the Department of Environment, shall only be permitted if of a recreational nature and shall be undertaken in a manner which does not adversely affect the flow of the river.

### 5.16 Development of Lots with More Than One Street Frontage

Where development is proposed on a lot with frontage to more than one street or road, and that lot is in a zone or zones other than Residential, the local government shall decide to which street frontage the street setback shall be applied and allow up to a 50% reduction in the street frontage setback to the other street provided that adequate sight lines for traffic are maintained and the requirements of Clause 5.23.4 are complied with.

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

The following requirements are applicable for outbuildings within the indicated zones. Planning approval is required for outbuildings in the Town Centre and Special Use zones. In other zones, planning approval is not required so long as the following requirements are complied with. Any proposal which does not comply requires an application for planning approval, which may be approved with or without conditions or refused at the discretion of the local government.

5.17.1 Outbuildings appurtenant to any dwelling shall be of single storey construction and shall be located behind any dwelling on a lot.

5.17.2 The following requirements apply within the Residential, Special Residential, Town Centre and Special Use Zones of the Shire, where the lot size is 2000m<sup>2</sup> or less in area—

- (a) The area of an outbuilding of zincalume construction shall not exceed 55m<sup>2</sup>.
- (b) An outbuilding of other than zincalume construction shall not exceed 75m<sup>2</sup>, and shall have no parapet wall longer than 8m.
- (c) 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.
- (d) 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.
- (e) An outbuilding will not be approved by the local government on a lot containing no dwelling.

5.17.3 The following requirements apply within the Residential, Special Residential, Town Centre, Rural Residential, Special Use zones where the lot size is over 2000m<sup>2</sup>, and on Rural Smallholdings—

- (a) The area of an outbuilding of zincalume construction shall not exceed 75m<sup>2</sup>;
- (b) The area of an outbuilding of non-masonry construction shall not exceed 150m<sup>2</sup>;
- (c) 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 200m<sup>2</sup>;
- (d) The wall height of any outbuilding, including any parapet walls, shall not exceed 4m. In the case of gable roof construction, the maximum building height shall not exceed 5m.
- (e) 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.

5.17.4 Outbuilding setbacks from boundaries in Residential, Special Residential, Town Centre, Rural Residential, Rural Smallholdings and General Farming Zones—

- (a) Brick construction—garages, patios, pergolas, sheds and all other outbuildings except carports—
  - (i) 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 Residential Design Codes.
    - If detached from a dwelling, the outbuilding shall be at least 1.8m clear of the dwelling, 1.0m from a side boundary, 1.0m from the rear boundary, with eaves no closer than 0.75m to a side boundary, measured from the outer edge of the gutter.
    - On sewerred lots all setbacks are subject to approval by the Water Corporation.
  - (ii) In the Special Residential, Rural Residential, Rural Smallholdings and General Farming Zones—
    - Boundary setbacks are as specified in the Residential Design Codes or provisions in this Scheme for those specific zones.
- (b) Metal or Wood Framed Construction—garages, patios, pergolas, sheds and all other outbuildings except carports—
  - (i) 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 to be 1.0m and to be at least 1.2m from any septic tank.
    - Patios and pergolas are to be setback at least 1.0m from any lot boundary unless otherwise approved by the local government.

- (ii) In the Special Residential, Rural Residential, Rural Smallholdings and General Farming Zones—
- Garages, sheds and all other outbuildings except patios and pergolas, are to be detached from and at least 1.8m clear of the dwellings and any leach drains and 1.2m clear of any septic tank.
  - Boundary setbacks are as specified in the Residential Design Codes or provisions in this Scheme for those specific zones.
- (c) Carports—
- In the case of the Residential, Town Centre and Special Use Zones—
- (i) 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 1.0m clear of all boundaries.
- (ii) In the Special Residential, Rural Residential, Rural Smallholdings and General Farming zone, boundary setbacks are as specified in the Residential Design Codes or provisions in this Scheme for those specific zones.
- (d) 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, the local government 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 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 within the Residential Design Codes, Schedule 11 or provisions in this Scheme for those specific zones.

### 5.18 Swimming Pools

The required minimum setback for swimming pools shall be either—

- (a) the maximum outbuilding setback applying in the given zone; or
- (b) the depth of the pool,

whichever is the greater.

### 5.19 Building Height

The maximum permissible height of any building shall be 10m, measured to the highest point of the building from mean natural ground level. Also, no building shall contain more than two storeys. The local government may at its discretion vary these requirements if in its opinion the variation will not adversely impact on the residential amenity of any nearby residential properties and is sympathetic to the scale and character of the surrounding built environment. The requirements may only be varied if the privacy of surrounding residential development is maintained in accordance with 3.8.1 of the Residential Design Codes.

### 5.20 Retaining Walls, Fence or Screen Wall Construction

5.20.1 No person shall construct a retaining wall with a height greater than 0.5m without first obtaining the Planning Approval of the local government.

5.20.2 No person shall construct a boundary fence other than in accordance with the local government's current Fencing By-Laws or any screen wall proposed within the front boundary setback of any lot or within 1.0m of any dividing lot boundary, without first obtaining the Planning Approval of the local government.

### 5.21 Traffic Entrances

- (a) The local government may refuse to permit more than one vehicular entrance or exit to or from any lot. The local government may require separate entrances and exits; or may require that entrances and exits be placed in positions nominated by it, if it considers such provision necessary to avoid or to reduce traffic hazards.
- (b) No new access to a lot for vehicles shall be permitted directly to or from major roads where access is available from side or rear streets. The local government may, as a condition of any approval for new development or change of use, require existing accesses to major roads to be closed where access from a secondary street is or can be made possible.
- (c) Where access to a lot abutting a major road is available only from that road, parking, servicing and circulation areas within the lot shall be designed and constructed so as to allow unhindered movement within the lot and to enable vehicles to enter and leave the site in forward gear.
- (d) In case of access to any road which is the responsibility of the Main Roads WA, that body is to be consulted prior to the construction/modification or closure of any vehicular access to such road.

## 5.22 Flora Preservation and Planting

Flora preservation and planting will be encouraged for the purpose of conserving and enhancing the natural beauty, convenience and amenity of all road and other reservations within the Shire and also each zone defined under the Scheme, in order to assist local government to realise the following benefits—

- Rehabilitation of rural land
- Reduction of soil salinity
- Reduction of erosion
- Provision of habitats for native fauna
- Reduction of roadside noise
- Visual amenity of the locality

5.22.1 No natural vegetation shall be cleared from any crown reservation or removed from any road reservation in the Shire whether or not such reservation has been developed with a constructed roadway, without the written approval of local government and/or any other responsible authority.

5.22.2 In considering any rezoning or development proposal in any zone specified on the Scheme Map, the local government may at its discretion unless otherwise specified in the provisions of the Scheme, require the preservation and or planting of flora as a condition of rezoning and or planning approval.

5.22.3 Areas of flora preservation and planting required by Clauses 5.22.1 and 5.22.2 may constitute all or part of the minimum landscaping requirement where such a requirement applies under the Scheme. Required areas of flora preservation and planting may exceed the minimum landscaping requirement.

5.22.4 Within any area approved for flora preservation purposes as a condition of planning approval, no indigenous flora may be felled without the approval of local government, except—

- (a) where the flora is dead, diseased or dangerous; and
- (b) for the purpose of a firebreak required by a Regulation or By-Law except that in order to preserve the amenity of the area the local government 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.

5.22.5 The local government may, by notice served upon individual landowners or developers of land, require the preservation of groups and/or corridors of flora and thereafter no landowner shall cut, remove or otherwise destroy any such flora unless the local government rescinds the notice or orders.

5.22.6 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 provisions of the Scheme relating to flora preservation or planting.

## 5.23 Residential Zone

### 5.23.1 Site Requirements

For residential use, in accordance with the Residential Design Codes. For non-residential use, as determined by the local government, though subdivision will not be permitted contrary to the requirements of the Residential Design Codes.

### 5.23.2 Outline Development Plans

5.23.2.1 The local government may prepare, or require the preparation of, an outline development plan prior to considering applications for subdivision or planning approval within the Residential Zone.

5.23.2.2 The outline development plan shall include sufficient detail to show the following—

- (a) topography of the area and demonstration of how the plan responds to this;
- (b) natural vegetation of the area and demonstration of how the plan responds to this;
- (c) existing road network in and adjacent to the subject land;
- (d) the location, width and standard of proposed roads and non-vehicular movement systems, and their context in terms of the road hierarchy;
- (e) where appropriate, the location and quantity of commercial, civic and public facilities proposed or any other non-residential land uses;
- (f) the approximate location of recreation and open space areas proposed, and their relation to natural landscape features;
- (g) the population, residential densities and generalised subdivision layout and development standards proposed;
- (h) servicing arrangements and schematic layouts, including reticulated sewerage, water, drainage and technology infrastructure provision;
- (i) if applicable, the proposed staging of subdivision and development;
- (j) fire hazard analysis and management;
- (k) relationship between proposed and existing nearby development and potential impact and response to these;
- (l) land capability analysis and response; and
- (m) such other information as may be required by the local government.

5.23.2.3 When an outline development plan has been prepared to the satisfaction of the local government, the local government shall advertise or require the proponent to cause the plan to be advertised for public inspection for a period of not less than 28 days, including notification in writing to all affected landowners.

5.23.2.4 The local government shall consider any submissions made under sub-clause 5.23.2.3 and may modify the outline development plan after consideration of such submissions or adopt the outline development plan without modification.

5.23.2.5 The local government shall, upon endorsement of an outline development plan, ensure its adoption as a local planning policy.

5.23.2.6 Notwithstanding the requirements of this Scheme, all development is to comply with the requirements of an endorsed outline development plan relating to the subject land.

5.23.2.7 The proponent of an outline development plan, required by this Clause, may make application for review under Part 14 of the Planning and Development Act against—

- (a) the failure of the local government to make a determination on the content and requirements of an outline development plan (or a proposed amendment to an outline development plan) within 60 days of receiving a request for direction;
- (b) a decision by the local government not to endorse an outline development plan (or a proposed amendment to an outline development plan); or
- (c) conditions of approval of the outline development plan (or alterations to an outline development plan).

5.23.2.8 The local government shall request the Commission to endorse outline development plans as the basis for approval of subdivision applications within areas covered by the plans.

5.23.2.9 Any departure from or alterations to development plans may, subject to the approval of the Commission, be permitted if the local government considers that the proposed departure or alteration will not prejudice the progressive subdivision and development of the area.

#### 5.23.3 Parking of Commercial Vehicles in the Residential Zone

Parking of a commercial vehicle on a lot in the Residential Zone, except for the purpose of delivering or loading normally associated with domestic residential use, requires planning approval. Any such planning approval will be valid for a period of 12 months. Renewals for a further 12 month period will be at the local government's discretion, and demonstrated nuisance or annoyance to residents in the locality may result in approval not being reissued.

- (a) No more than one commercial vehicle shall be parked on a lot in the Residential Zone provided that—
  - (i) the vehicle does not exceed 3 tonnes gross weight;
  - (ii) the vehicle is parked on a lot containing only a single house;
  - (iii) the vehicle forms an essential part of the occupation of an occupant of the dwelling;
  - (iv) any vehicle is screened from view from outside the lot;
  - (v) no vehicle is brought to or taken from the lot between the hours of 10.00pm and 6.30 am;
  - (vi) major repairs to the vehicle is not undertaken on the lot; and
  - (vii) any minor repairs, servicing or cleaning of the vehicle is carried out in areas which are screened from view from outside the lot.
- (b) An approval of the local government granted under paragraph (a) of this Clause—
  - (i) is personal to the person to whom it is granted;
  - (ii) is not capable of being transferred or assigned to any other person; and
  - (iii) does not run with the land in respect of which it was granted.
- (c) A person to whom an approval has been granted under paragraph (a) of this Clause shall not park or cause to be parked such vehicle on a lot in the Residential Zone other than on the lot in respect of which the approval was granted.

#### Use of front setback area

5.23.4 On Residential zoned land, except as specified elsewhere in the Scheme or in the Residential Design Codes, no person shall use the land between the street alignment and the front setback, otherwise than for—

- gardens, landscaping and building associated with the same;
- access driveways; and
- the parking of any motor vehicle or caravan for periods of not more than 8 hours consecutively.

#### 5.23.5 Lodging Houses Within the Residential Zone

Notwithstanding the Zoning Table, the local government shall not approve an application for a Lodging House on land coded R12.5 or below within the Residential Zone.

### 5.24 Special Residential Zone

#### 5.24.1 Site Requirements

No lot within the zone shall have a lot size of less than 2000m<sup>2</sup> and all lots with an area of less than 4000m<sup>2</sup> are to be connected to reticulated sewerage.

### 5.24.2 Development Requirements

The following requirements apply to all land in the Special Residential Zone. The outline development plan provisions of Clause 5.23.2 also apply to the Special Residential Zone. Any such outline development plan shall be consistent with these requirements—

- (a) The setback requirements for a single house are—

front boundary—10m;  
rear boundary—10m;  
side boundary—5m.

The setback requirements for any other building are—

front boundary—20m;  
rear boundary—10m;  
side boundary—5m

In the case of lots with frontage to more than one street, the local government shall at its discretion decide which is the front boundary and the setback requirement to any secondary street shall be 10m for all buildings.

- (b) No development, other than a single house, will be approved on a lot within the zone unless a single house exists on the lot, or is to be constructed as the first stage of the development proposal.
- (c) All buildings within the zone shall use materials approved by the local government. All roof and, where approved, wall cladding shall be finished in a non-reflective material.
- (d) All fencing proposed on any lot is to be of a material and located in a position approved by the local government.
- (e) At the time of subdivision, the local government may request the Commission to impose a condition requiring the identification, to the satisfaction of the local government, of a building envelope for any or all of the proposed lots to ensure development is clustered and the visual amenity of the locality and adjacent properties is protected. The location of the building envelope on any lot shall be consistent with setback requirements of the Scheme and pay regard to the topography and physical features of the lot. Any such building envelope shall not exceed 25% of the area of the lot or 1000m<sup>2</sup>, whichever is the lesser. No clearing of vegetation outside of the envelope shall be permitted, without the approval of the local government, except for—
- (i) the removal of vegetation that is dead, diseased or dangerous;
  - (ii) the provision of a firebreak or building protection zone, approved by the local government; or
  - (iii) access to the building envelope, approved by the local government.
- (f) All parking or loading and unloading of vehicles associated with any on-site activity other than those of single residential nature, shall take place in the lot area contained behind the 20m building line from the lot frontage.
- (g) The local government shall require, as a condition of planning approval for a single house, the planting of 20 drought-resistant indigenous trees capable of growing to a height of 5m.
- (h) Any advertising sign proposed on any lot is to be in compliance with the sign provisions which relate to Home Occupations and subject to approval in writing by the local government.

### 5.24.3 Parking of Commercial Vehicles in the Special Residential Zone

The provisions of Clause 5.23.3, referring to parking of commercial vehicles in the Residential Zone, also apply to the Special Residential Zone.

## 5.25 Town Centre Zone

### 5.25.1 Site Requirements

Site requirements shall be—

- (a) as specified in a precinct plan as outlined in Clause 5.25.2;
- (b) where there is no precinct plan in place, as specified in Schedule 11; or
- (c) where neither (i) or (ii) apply, at the discretion of the local government.

### 5.25.2 Precinct Plans

The local government shall prepare, or require to be prepared, precinct plans for various portions of the Town Centre Zone. Such precinct plans shall specify, to the satisfaction of the local government—

- (a) required building setbacks and locations;
- (b) the layout of vehicular and pedestrian movement systems, including any additional required roads;
- (c) car parking and landscaping requirements, including, if required by the local government, location of these;
- (d) acceptable or required architectural style(s), building materials and colours;
- (e) controls relating to height, scale and bulk of development, including maximum plot ratio and/or site coverage requirements;
- (f) the applicable residential density code under the Residential Design Codes, where residential use is acceptable;

- (g) if appropriate, specific land uses that are acceptable or not acceptable in particular locations; and
- (h) any other development requirements considered appropriate by the local government.

A precinct plan shall address the above points in a manner consistent with the objectives of the Town Centre Zone and the Shire of Irwin Dongara Denison Townscape Plan. Such plan is to identify mixed residential and commercial use on Lot 8 Moreton Terrace (corner of Brand Highway).

5.25.3 The precinct plan, in specifying acceptable and unacceptable land uses as provided for in sub-clause 5.25.2 (g) may prohibit uses classified as permissible (P) or discretionary (D or A) within the Town Centre Zone on Table 1 within some but not all of the Zone, but shall not permit a use that is prohibited (X) within the Town Centre Zone on Table 1.

5.25.4 A precinct plan shall be advertised for public comment, including referral in writing to affected landowners, for a period not less than 21 days. Comments on the precinct plan shall be taken into account by the local government when considering the precinct plan for adoption.

5.25.5 When a precinct plan is adopted by the local government, it is to forward the precinct plan to the Commission for its endorsement. As soon as practicable after receiving the proposed precinct plan, the Commission is to determine whether to endorse the proposed precinct plan.

5.25.6 Where a precinct plan has been adopted by the local government and endorsed by the Commission, all development shall be in accordance with the requirements of that precinct plan. The Commission will have regard to the precinct plan in considering any application to subdivide.

5.25.7 No development shall be permitted within that part of the Town Centre Zone south of the Irwin River, or Lot 8 Moreton Terrace (corner of Brand Highway), until such time as a precinct plan has been adopted and endorsed by the Commission over that area by the local government, and shall only be permitted in accordance with such a precinct plan.

#### Residential Use

5.25.8 Subject to any contrary requirements in an adopted precinct plan as outlined in sub-clauses 5.25.2 (vi) and (vii), which shall prevail where there is any inconsistency with this Clause, the local government may approve residential development up to the maximum density permissible under, and in accordance with the requirements of, the R60 code under the Residential Design Codes, provided that it is satisfied that the proposed development will not adversely affect the amenity and character of the area and that measures will be taken to minimise potential conflicts between residential and non-residential land uses.

#### Other Requirements

5.25.9 For any part of Town Centre Zone north of the Irwin River where an adopted precinct plan is not in place, the requirements of Schedule 11 shall apply. However, these may be varied by the local government, if the local government is satisfied that the proposal adequately addresses all applicable matters specified in Clause 10.2.

5.25.10 The local government will encourage the use of reciprocal access right across lots within the zone wherever practical to minimise the number of vehicular access points to roads, and encourage integrated car parking provision across lots.

### **5.26 Neighbourhood Commercial Zone**

#### **5.26.1 Site Requirements**

As per Schedule 11, and at the discretion of the local government where not specified in that Schedule.

#### **5.26.2 Development Requirements—**

- (a) In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the local government shall have regard to the following, in addition to those matters in Clause 10.2:-
  - (i) the colour and texture of external building materials;
  - (ii) building size, height, bulk, roof pitch;
  - (iii) setback and location of the building on its lot;
  - (iv) architectural style and design details of the building;
  - (v) function of the building; and
  - (vi) relationship to surrounding development.
- (b) Landscaping shall be provided to complement the appearance of the proposed development and its setting.
- (c) The local government may require the building facade and side walls to a building depth of 3 metres to be constructed in masonry.
- (d) All new commercial use of land within the Neighbourhood Centre Zone, including a premises licensed under *Liquor Control Act 1988*, shall incorporate a paved access way for vehicles from a street to the rear of the building for the purpose of loading and unloading.
- (e) The local government will encourage the use of reciprocal access right across lots within the zone wherever practical to minimise the number of vehicular access points to roads, and encourage integrated car parking provision across lots.

#### **5.26.3 Holiday Accommodation in the Neighbourhood Commercial Zone**

The local government may only approve an application for Holiday Accommodation in the Neighbourhood Commercial Zone if such use is part of a mixed use development in which it is



integrated with other commercial uses, in order to maintain the primary retail/commercial focus of the zone. The local government may impose a condition of such development approval requiring that the Holiday Accommodation component of the development not be used until another commercial use is operating on the site.

### **5.27 General Industry Zone**

#### **5.27.1 Site Requirements—**

- (a) The minimum lot size which will be supported by local government is 2000m<sup>2</sup> with a minimum effective frontage of 25m.
- (b) The required minimum building setbacks are—
  - Front—11.0m
  - Rear—7.5m
  - Sides—as per Building Code of Australia
- (c) The maximum building site coverage, subject to compliance with other requirements, is 50%.

#### **5.27.2 Development Requirements—**

- (a) Car parking—at the discretion of the local government.
- (b) Street verge landscaping and maintenance—to the satisfaction of the local government.
- (c) The landscaping required by Clause 5.12 shall include the first 5m of the front setback area and the first 3m of the rear setback area.
- (d) All development shall incorporate—
  - (i) a paved access way for vehicles from a street to the rear of the building for the purpose of loading and unloading;
  - (ii) sufficient manoeuvring area for vehicles to enter and leave the site in forward gear; and
  - (iii) on-site stormwater disposal.

### **5.28 Light Industry Zone**

#### **5.28.1 Site Requirements—**

- (a) The minimum lot size which will be supported by local government is 1000 m<sup>2</sup> with a minimum effective frontage of 25m.
- (b) The required minimum building setbacks are—
  - Front—11.0m
  - Rear—7.5m
  - Sides—as per Building Code of Australia
- (c) The maximum building site coverage, subject to compliance with other requirements, is 50%.

#### **5.28.2 Development Requirements—**

- (a) Car Parking—At the discretion of the local government
- (b) Street verge landscaping and maintenance—To the satisfaction of the local government.
- (c) The landscaping required by Clause 5.12 shall include the first 5m of the front setback area and the first 3m of the rear setback area.
- (d) All development shall incorporate—
  - (i) a paved access way for vehicles from a street to the rear of the building for the purpose of loading and unloading;
  - (ii) sufficient manoeuvring area for vehicles to enter and leave the site in forward gear; and
  - (iii) on-site stormwater disposal.

### **5.29 Rural Residential Zone**

#### **5.29.1 Site Requirements—**

- (a) Lot sizes within the Rural Residential Zone shall range from a minimum of 1ha to a maximum of 4ha. However, where consistent with endorsed structure planning in existence prior to the gazettal of this Scheme, lot sizes of up to 6ha may be approved.
- (b) Reticulated water shall be provided to all lots within the Rural Residential Zone, with the exception that the Commission may waive this requirement for the creation of lots not less than 2ha in the subdivision of the Springfield Rural Residential area, if in its opinion it would be onerous to require reticulated water given the amount of subdivision that has taken place without reticulated water prior to the gazettal of this Scheme.
- (c) The minimum building setbacks are—
  - Front—15.0m
  - Rear—7.5m
  - Side—5.0m
- (d) Minimum effective lot frontage shall be—50.0m.

#### **5.29.2 Development Requirements**

The following provisions shall apply to all land included in a Rural Residential zone in addition to any provisions which are more generally applicable to such land under this scheme.

5.29.2.1 In addition to other applicable provisions of the Scheme, specific provisions for controlling subdivision and development in each individual Rural Residential zone shall be as laid down in Schedule 13 to the Scheme, and future subdivision will generally accord with the Subdivision Guide Plan for the specified area referred to in the Schedule.

5.29.2.2 Subdivision of the lots shall be generally in accord with an approved subdivision guide plan. Once the land is subdivided in accordance with an approved subdivision guide plan, then the local government shall not support any further subdivision. The subdivision guide plan shall identify suitable building areas, or a building envelope, for each proposed lot. Any such building envelope shall be sited so as to ensure development is clustered and the visual amenity of the locality and adjacent properties is protected.

5.29.2.3 Where a subdivision guide plan does not identify building envelopes, at the time of subdivision, the local government may request the Commission to impose a condition requiring the identification, to the satisfaction of the local government, of a building envelope for each of the proposed lots. For any lot where a building envelope has not been identified on a subdivision guide plan at subdivision stage, a building envelope shall be identified at the stage of planning approval.

5.29.2.4 No clearing of vegetation outside of the envelope is permitted, without the approval of the local government, except for—

- (a) the removal of vegetation that is dead, diseased or dangerous;
- (b) the provision of a firebreak or building protection zone, approved by the local government; or
- (c) access to the building envelope, approved by the local government.

5.29.2.5 The keeping of animals shall be in accord with maximum stocking rates laid down by the Department of Agriculture.

5.29.2.6 Prior to any stocking of land, all areas which include remnant native vegetation, including vegetation along any natural feature, shall be fenced with stock proof fencing to the specification and satisfaction of the local government. All fences are to be maintained in a stock proof condition by the landowner to the satisfaction of the local government.

5.29.2.7 Groundwater extraction must comply with any requirements of the Department of Environment. All stormwater runoff from buildings, structures or hard surfaces shall be retained on site. Notwithstanding anything else in the Scheme, the local government shall not approve any application for a use which, in its opinion, having regard to any advice from the Department of Environment, is likely to increase export of nutrients to watercourses or groundwater.

5.29.2.8 At the time of subdivision, the local government may request the Commission to impose a condition requiring that the subdivider make arrangements to the satisfaction of the Fire and Emergency Service of Western Australia and the local government to ensure that adequate bushfire management measures are taken by the subdivider to protect all proposed lots from the risk of fire.

5.29.2.9 Prior to commencement of any development on any lot, the local government will require the preparation of a tree planting and maintenance program with the intent of rehabilitation and revegetating the land.

5.29.2.10 All dwellings, outbuildings and effluent disposal areas shall be constructed within the building envelope identified for the lot pursuant to Clause 5.29.2.2 or 5.29.2.3.

5.29.2.11 At the time of subdivision, the local government may request the Commission to impose a condition requiring that the subdivider erect uniform fencing to a standard as specified in the Shire of Irwin Fencing By-Laws.

5.29.2.12 At the time of subdivision, the local government may request the Commission to impose a condition requiring that the subdivider make satisfactory arrangements to ensure that prospective purchasers are advised of all provisions relating to the Rural Residential Zone.

5.29.3 Only one dwelling is permitted on any lot within the Rural Residential zone, although the local government may, at its discretion also approve one ancillary accommodation unit.

5.29.4 Proposed amendments to this Scheme to zone additional land Rural Residential will be considered having regard to the endorsed Shire of Irwin Local Planning Strategy and the supply of, and demand for, rural residential land within the Shire. This Clause should not be interpreted as implying that any particular requested Scheme Amendment will be approved. A request for such Scheme Amendment shall be accompanied by a submission addressing the criteria in both Parts A and B of Appendix 2 of State Planning Policy No. 2.5.

### **5.30 Rural Smallholdings Zone**

#### **5.30.1 Site Requirements**

- (a) This zone relates primarily to Policy Areas D and G as contained in the Shire of Irwin Local Planning Strategy. The minimum lot size within Area D shall be 15ha. The minimum lot size within Area G shall be 20ha. For land in and adjacent to the Irwin Townsite, the minimum lot size shall be 10ha.
- (b) The minimum building setbacks are—
  - Front—15m
  - Rear—15m
  - Side—5m

#### **5.30.2 Development Requirements**

5.30.2.1 Subdivision shall be generally in accordance with an approved subdivision guide plan. Once the land is subdivided in accordance with an approved subdivision guide plan, the local government

shall not support any further subdivision. The subdivision guide plan shall identify suitable building areas, or a building envelope, for each proposed lot. Any such building envelope shall be sited so as to ensure development is clustered and the visual amenity of the locality and adjacent properties is protected.

5.30.2.2 Where a subdivision guide plan does not identify building envelopes, at the time of subdivision, the local government may request the Commission to impose a condition requiring the identification, to the satisfaction of the local government, of a building envelope for each of the proposed lots. For any lot where a building envelope has not been identified on a subdivision guide plan or at subdivision stage, a building envelope shall be identified at the stage of planning approval or application for a Building Licence.

5.30.2.3 No clearing of vegetation outside of the building envelope is permitted, without the approval of the local government, except for—

- (a) the removal of vegetation that is dead, diseased or dangerous;
- (b) the provisions of a firebreak or building protection zone, approved by the local government; or
- (c) access to the building envelope, approved by the local government.

5.30.2.4 The keeping of animals shall be in accord with maximum stocking rates laid down by the Department of Agriculture.

5.30.2.5 Prior to any stocking of land, all areas which include remnant native vegetation, including vegetation along any natural feature, shall be fenced with stock proof fencing to the specification and satisfaction of the local government. All fences are to be maintained in a stock proof condition by the landowner to the satisfaction of the local government.

5.30.2.6 Groundwater extraction must comply with any requirements of the Department of Environment. All stormwater runoff from buildings, structures or hard surfaces shall be retained on site. Notwithstanding anything else in the Scheme, the local government shall not approve any application for a use which, in its opinion, having regard to any advice from the Department of Environment, is likely to increase export of nutrients to watercourses or groundwater.

5.30.2.7 At the time of subdivision, the local government may request the Commission to impose a condition requiring that the subdivider make arrangements to the satisfaction of the Fire and Emergency Services Authority of Western Australia and the local government to ensure that adequate bushfire management measures are taken by the subdivider to protect all proposed lots from the risk of fire.

5.30.2.8 Prior to commencement of any development on any lot, the local government will require the preparation of a tree planting and maintenance program with the intent of rehabilitation and revegetating the land, in conjunction with any farming operations.

5.30.2.9 All dwellings, outbuildings and effluent disposal systems shall be constructed within the building envelope as identified for the lot pursuant to Clause 5.30.2.1 or Clause 5.30.2.2.

5.30.2.10 A prerequisite to the creation of, or development of a dwelling on, any lot in the Rural Smallholdings Zone shall be the provision of an adequate sustainable potable water supply for domestic use, and provision of a separate water supply for land management and firefighting purposes.

5.30.2.11 At the time of subdivision, the local government may request the Commission to impose a condition requiring that the subdivider make satisfactory arrangements to ensure that prospective purchasers are advised of all provisions relating to the Rural Smallholdings Zone.

5.30.3 Only one dwelling is permitted on any lot within the Rural Smallholdings Zone, although the local government may, at its discretion, also approve one ancillary accommodation unit.

5.30.4 At the time of subdivision guide plan approval, the local government may request that the Commission support lot sizes under the specified minimum lot size area in the interests of proper and responsible site planning. This will allow Council and the Western Australian Planning Commission flexibility to ensure the best road networks and lot designs is achieved.

### 5.31 General Farming Zone

#### 5.31.1 Site Requirements

- (a) Subdivision of land within the General Farming Zone will not be supported, unless it specifically complies with one or more of the criteria set out in section 3.2.1 of the Commission's Policy DC 3.4 (Subdivision of Rural Land).
- (b) Subdivision in Policy Area E will only be supported as outlined in section 6.5 of the Local Planning Strategy, and after rezoning of the land to Rural Smallholdings and Special Use.
- (c) The minimum setbacks shall be—
  - Front—15m
  - Rear—15m
  - Side—5m
- (d) In Policy Area E uniform fencing to a standard as specified in the Shire of Irwin Fencing By-Laws is to be erected.

#### 5.31.2 Development of Agroforestry and Plantations—

5.31.2.1 In determining an application for Agroforestry or a Plantation, the local government will have regard to the following, as appropriate—

- the provisions of the *Code of Practice for Timber Plantations in Western Australia*, as amended;

- the need to encourage farm forestry in locations where it is significant to the State, regional and local economies;
- the benefits of farm forestry in addressing land degradation, including soil erosion, waterlogging and salinity;
- the role of farm forestry in protecting water quality and preventing adverse effects on groundwater recharge;
- the impact on the natural environment and visual amenity;
- the compatibility of farm forestry with adjacent land uses; and
- the objectives of the zone or special control area.

5.31.2.2 Agroforestry and Plantations shall comply with a list of planning criteria/provisions mutually developed by the key industry and local and State government stakeholders and adopted by the local government, to complement the *Code of Practice for Timber Plantations in Western Australia*, as amended.

5.31.2.3 Agroforestry and Plantations shall comply with a silviculture plan, a timber harvesting plan (as described in the Code of Practice) and a transport strategy, which shall be submitted to the local government for consideration and approval prior to the commencement of any site works or planting. Where required, a revised timber harvesting plan (as described in the Code of Practice) shall be submitted to the local government eighteen months prior to the anticipated harvesting date.

5.31.2.4 A transport strategy required under Clause 5.31.2.3 is to include the following information—

- title details of the subject land;
- name of the landowner, plantation management company and plantation manager;
- area of land to be planted to trees and subsequently to be harvested;
- anticipated season/s and year/s of harvest;
- anticipated tonnage of product at harvest;
- whether trucked product is likely to be in the form of logs or chips or other;
- anticipated haul routes on local and district roads;
- proposed destination of haulage; and
- contribution towards the upgrading/rehabilitation of the local and district road system.

5.31.2.5 Agroforestry and Plantations shall comply with the *Guidelines for Plantation Fire Protection*, as amended.

5.31.2.6 Agroforestry and Plantations shall comply with any regional and/or local road transport strategy mutually developed and agreed to by the key industry and local and State government stakeholders and adopted by the local government, including making any contributions or repairs set out in formulae under those strategies.

5.31.3 No more than one dwelling shall be permitted on any lot within the General Farming 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.

### 5.32 Special Use Zone

5.32.1 Where Schedule 4 does not specify development requirements for a particular Special Use Zone relating to architectural style, plot ratio, car parking, setbacks, landscaping or other matters addressed by development requirements elsewhere in the Scheme, these requirements may be applied by the local government at its discretion.

5.32.2 Unless otherwise specified in Schedule 4, no subdivision of land will be supported, as the intention of the zone is to provide for concentrated and integrated development.

5.32.3 All new commercial use of land within a Special Use Zone, including a premises licensed under the *Liquor Control Act 1988*, shall incorporate a paved access way for vehicles from a street to the rear of the building for the purpose of loading and unloading.

### 5.33 Marine-Based Industry Zone

5.33.1 Notwithstanding Table 1—Zoning Table, uses within this zone with the exception of Public Utility, are only permitted if the use of the land is directly related to the fishing industry or marine activities. All other uses are prohibited.

5.33.2 Lot size, frontage, setback, building site coverage, landscaping and vehicular access and manoeuvring requirements are as specified for the Light Industry Zone. However, where additional or more stringent setback or landscaping requirements are appropriate to protect the residential amenity of adjacent Residential or Special Residential zoned lots, the local government may impose such requirements.

### 5.34 Service Commercial Zone

#### 5.34.1 Site Requirements

Site requirements shall be as specified in a precinct plan as outlined in Clause 5.34.2.

### Precinct Plan

5.34.2 The local government shall prepare, or require to be prepared, a precinct plan over the Service Commercial Zone. The precinct plan shall specify, to the satisfaction of the local government—

- (a) required building setbacks and locations;
- (b) the layout of vehicular and pedestrian movement systems, including any additional required roads;
- (c) car parking and landscaping requirements, including, if required by the local government, location of these;
- (d) acceptable or required architectural style(s), building materials and colours;
- (e) controls relating to height, scale and bulk of development, including maximum plot ratio and/or site coverage requirements;
- (f) if appropriate, specific land uses that are acceptable or not acceptable in particular locations, and
- (g) any other development requirements considered appropriate by the local government.

The precinct plan shall address the above points in a manner consistent with the objectives of the Service Commercial Zone and the Shire of Irwin Dongara Denison Townscape Plan.

5.34.3 The precinct plan, in specifying acceptable and unacceptable land uses as provided for in sub-clause 5.34.2 (f) may prohibit uses classified as permissible (P) or discretionary (D or A) within the Service Commercial Zone on Table 1 within some but not all of the Zone, but shall not permit a use that is prohibited (X) within the Service Commercial Zone on Table 1.

5.34.4 A precinct plan shall be advertised for public comment, including referral in writing to affected landowners, for a period not less than 21 days. Comments on the precinct plan shall be taken into account by the local government when considering the precinct plan for adoption.

5.34.5 When a precinct plan is adopted by the local government, it is to forward the precinct plan to the Commission for its endorsement. As soon as practicable after receiving the proposed precinct plan, the Commission is to determine whether to endorse the proposed precinct plan.

5.34.6 No development shall be permitted within the Service Commercial Zone unless in accordance with the requirements of a precinct plan adopted by the local government and endorsed by the Commission. The Commission will have regard to the precinct plan in considering any application to subdivide.

5.34.7 The local government will encourage the use of reciprocal access right across lots within the zone wherever practical to minimise the number of vehicular access points to roads, and encourage integrated car parking provision across lots.

### **5.35 Urban Expansion Investigation Areas**

Urban expansion investigation areas are shown on the Strategic Plan Map in the Local Planning Strategy. In considering applications for development or use within these areas, the local government will have regard for the potential future use of the land for expansion of the Dongara-Port Denison urban area to ensure that development or use does not adversely affect potential future urban expansion.

### **5.36 Caretaker's Dwellings**

The provisions of this Clause apply for all caretaker's dwellings in the General Industry, Light Industry and Marine-Based Industry Zones—

- (a) a caretaker's dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;
- (b) only one caretaker's dwelling is to be permitted on a lot; for the purposes of this Clause "lot" excludes a strata lot or survey-strata lot created under the *Strata Titles Act 1985*;
- (c) a caretaker's dwelling is to have a total floor area that does not exceed 100m<sup>2</sup> measured from the external face of walls; and
- (d) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100m<sup>2</sup> referred to in paragraph c).

## **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 Maps—

1. Water Supply 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 Water Supply Protection Area**

6.2.1 The purpose of the Water Supply Protection Area is to protect groundwater resources which provide a potable water supply to residents of the Shire and the region.

6.2.2 Planning approval is required for any proposed use or development within the Water Supply Protection Area, except for a Single House.

6.2.3 Applications for planning approval for a use or development involving the following within the Water Supply Protection Area shall be referred to the Department of Environment for comment—

- (a) the potential for increased nutrient loading, particularly having a point source for nutrients, such as a poultry farm or piggery;
- (b) intensification of the application of fertilisers and pesticides;
- (c) storage of chemicals, fuels and other potentially polluting substances;
- (d) a substantial increase in runoff; and
- (e) any other impact which the local government considers could have an impact on the quality of public drinking water.

6.2.4 In determining any application for planning approval within the Water Supply Protection Area, the local government shall—

- (a) have regard to the Water and Rivers Commission Water Quality Protection Note: *Land Use Compatibility in Public Drinking Water Source Areas*;
- (b) have regard to State Planning Policy No. 2.7 (*Public Drinking Water Source Policy*);
- (c) have regard to any advice from the Department of Environment; and
- (d) endeavour to ensure that the proposed use or development will not have a detrimental impact on the water resource.

6.2.5 Notwithstanding that a use or development may be classified as “P” on the Zoning Table, where the Department of Environment advises that a use or development should be refused on the basis of potential impact on surface and/or groundwater resources, the local government may refuse that use or development.

## PART 7—HERITAGE PROTECTION

### 7.1 Heritage List

7.1.1 The local government has established and shall 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 7.2.3b) is to specify—

- (a) the area subject to 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*;
  - (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 the proposal—
  - (i) necessitates the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes;
  - (ii) is located in a Heritage Area designated under the Scheme;
  - (iii) is on land abutting a Major Highway or Important Local Road Reserve or in the Town Centre, Special Residential or Rural Residential zones;
  - (iv) is for development of a lot abutting an unconstructed road or a lot which does not have frontage to a constructed road.
- (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 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*;
  - (iii) included on the Heritage List under the Scheme;
  - (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 on the Heritage List or in a Heritage Area.

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

## 8.3 Amending or Revoking a Planning Approval

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

## 8.4 Unauthorised Existing Developments

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

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful 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—APPLICATION FOR PLANNING APPROVAL

### 9.1 Form of Application

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

- (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 4.4.2b)
- (e) alteration or extension of a non-conforming use under Clause 4.9;
- (f) a change of a non-conforming use under Clause 4.9;
- (g) continuation of a non-conforming use under Clause 4.12;
- (h) variation of a site or development requirement under Clause 5.5;
- (i) commencement of development under Clause 8.1;



- (j) continuation of development already commenced or carried out under Clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under Clause 10.8.1; and
- (l) the erection, placement or display of an advertisement;

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

9.1.2 Applications 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 shall be accompanied by—

- (a) a plan or plans to a scale of not less than 1:500 showing—
  - (i) the location of the site including street names, lot number(s), north point and the dimensions of the site;
  - (ii) the existing and proposed ground levels over the whole of the land subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - (v) the location, number, dimensions and layout of all 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 the 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 under Clause 4.3.2; or
- (b) a use not listed in the Zoning Table;

the local government shall not grant approval to that application unless notice is given in accordance with provisions of 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 servicing of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

## PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1 Consultations with Other Authorities

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

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

### 10.2 Matters to be Considered by the Local Government

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

- (a) the aims and provisions of the Scheme and any other relevant town or local planning scheme operating within the Scheme Area;
- (b) the requirements of orderly and proper planning including any relevant proposed new town or local planning scheme or amendment which has been granted consent for public submissions to be sought;
- (c) any approved State 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 planning policy adopted by the Government of the State of Western Australia;
- (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 within its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land, including but not limited to, the likely visual impact of the height, bulk, scale, orientation, architectural style, colour and appearance of materials used, and the degree of consistency or sympathy with the design and appearance of existing adjacent buildings;
- (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 planning 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) any other planning or townscape consideration the local government considers relevant;
- (zb) the Irwin Coastal Plan, Central Coast Regional Strategy, Batavia Coast Strategy and Shire of Irwin Coastal Development Strategy.

### **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 shall 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 use or the 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;
- (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, or 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 the expiration of two years beginning with the date of the first approval, or such other period as 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 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 and 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

### 10.10 Right of Review

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

## PART 11—ENFORCEMENT AND ADMINISTRATION

### 11.1 Powers of the Local Government

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

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the Planning and Development Act; and
- (c) deal with or dispose of any land which it has acquired under the 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 authorised by the local government may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

### 11.2 Removal and Repair of Existing Advertisements

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

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

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

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

- (a) the advertisement the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, not being 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 apply under Part 14 of the Planning and Development Act for review of the determination of the local government.

### 11.3 Delegation of Functions

11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the Chief Executive Officer, 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 Chief Executive Officer may delegate to any employee of the local government the exercise of any of the Chief Executive Officer's powers or the discharge of any of the Chief Executive Officer'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 218 of the Planning and Development Act provides that a person who—

- (a) contravenes or fails to comply with the provisions of a town or local planning scheme; or  
 (b) commences or continues to carry out any development which is required to comply with a town or 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 Section 173 of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

### 11.6 Purchase or Taking of Land

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

11.6.2 The local government may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used, and preserved, for a use compatible with the 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, 60 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.

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## 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 purpose 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 Code of Australia:** means the Building Code of Australia 1996 published by the Australia Building Codes Board.

**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.

**Commission:** means the Western Australian Planning Commission constituted under the *Planning and Development Act 2005*.

**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 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 Irwin.

**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 Act 1967* and amended from time to time.

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

**minerals:** has the same meaning as in the *Mining Act 1978*.

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

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

**non-conforming use:** has the same meaning as it has in Section 172 of the Planning and Development Act.

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

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

**place:** in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*.

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

**plot ratio:** in the case of residential dwellings has the same meaning as in the Residential Design Codes.

**precinct:** means a definable area where particular planning policies, guidelines or standards apply.

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

**premises:** means land or buildings.

**Residential Design Codes:** means State Planning Policy No. 3.1—Residential Design Codes of Western Australia, published in the *Government Gazette* on 4 October 2002, together with any amendments thereto.

**restoration:** means any work or process on at or in respect of a building structure or place which wholly or partly brings back the building structure or place to its original condition or which reinstates its historic or natural character either by rebuilding or repairing its fabric or by removing accretions or additions.

**retail:** means the sale or hire of goods or services to the public.

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

**wholesale:** means the sale of goods or materials to be sold by others.

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

## 2. Land Use Definitions

In the Scheme—

**Abattoir:** means premises used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

**Aged persons village:** means a building or group of buildings designed for residential occupation by aged persons and includes buildings and parts of buildings used for communal facilities, food preparation, dining, recreation, laundry or medical care.

**Agriculture—extensive:** means premises used for the raising of stock or crops but does not include agriculture—intensive or animal husbandry—intensive.

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

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

**Agroforestry:** means land used commercially for both tree production and agriculture where trees are planted in blocks of more than 1ha.

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

**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 two amusement machines operating within the premises.

**Ancillary accommodation:** means self contained living accommodation on the same site as a single dwelling, intended to accommodate a family member of the occupier of the main dwelling.

**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:** shall have the same meaning as given to the term in and for the purposes of the *Fish Resources Management Act 1994*.

**Bed and breakfast:** means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

**Camping area:** means land used for the lodging of persons in tents.

**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.

**Chalet Park:** Site occupied by individual self-contained units usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of 3 months in any 12-month period.

**Child care premises:** has the same meaning as in the *Child Care Services Act 2007*.

**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.

**Commercial vehicle:** means a vehicle whether licensed or not which is used or designed for use for business, trade, commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or earthmoving machine whether self propelled or not. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck

which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes.

**Constructed road:** means a track which has been graded and stabilised within a dedicated road reserve.

**Consulting room(s):** 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.

**Education establishment:** means premises used for the purpose of education and includes a school, tertiary institution, business college, academy or other educational centre.

**Family day care:** means premises used to provide family day care within the meaning of the *Child Care Services Act 2007*.

**Farm forestry:** means any commercial tree production on farmland.

**Fast food outlet:** means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar.

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

**Grouped dwelling:** shall have the same meaning given to the term in the Residential Design Codes.

**Hardware store:** means premises offering for sale products and materials used in home and building construction and maintenance, including but not limited to tools, fasteners, fittings, parts of machinery and associated appliances.

**Hobby farm:** means premises used for the keeping of farm animals or the growing of vegetables, fruit or flowers for non-commercial purposes or sale.

**Holiday accommodation:** means premises used for accommodation and recreation for holiday purposes but does not include a hotel, motel, bed and breakfast or caravan park.

**Home business:** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

- (a) does not employ more than two people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50m<sup>2</sup>, except that for land in the General Farming zone the local government may permit an area up to 200m<sup>2</sup>;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight, except that for land in the General Farming zone under the Scheme the local government may permit the presence and use of up to 3 vehicles of more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone.

**Home occupation:** means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

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

**Home office:** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which—

- (a) does not entail clients or customers traveling to and from the dwelling;
- (b) does not involve any advertising signs on the premises; and
- (c) does not require any external changes to the appearance of the dwelling.

**Hotel:** means premises providing accommodation the subject of a hotel license 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—

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

incidental to any of those industrial operations.

**Industry—cottage:** means a trade or light industry producing arts and crafts goods which cannot be carried out under the provisions relating to a home occupation and which—

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an outbuilding which is compatible within the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50m<sup>2</sup>;
- (e) does not display a sign exceeding 0.2m<sup>2</sup> in area.

**Industry—extractive:** means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar materials 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; and
- (b) the establishment or conduct of which does not, or do 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 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 premises having a retail shop front and used as a depot for receiving goods to be serviced.

**Lodging house:** shall have the same meaning to the term in and for the purposes of the *Health Act 1911*.

**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.

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

**Multiple dwelling:** has the same meaning as in the Residential Design Codes.

**Museum:** means premises used to exhibit cultural or historical artifacts.

**Office:** means premises used for administration, clerical, technical, professional or other like business activities.

**Open air display:** means the use of a site external to a building for the display and/or sale of goods and equipment.

**Park home:** shall have the same meaning given to the term in the *Caravan Parks and Camping Grounds Act 1995*.

**Park home park:** shall have the same meaning given to the term in the *Caravan Parks and Camping Grounds Regulations 1995*.

**Plantation:** has the same meaning given to the term in the Code of Practice for Timber Plantations in Western Australia, as amended.

**Plant nursery:** means premises used for the propagation, rearing, and sale of plants and the storage and sale of products associated with horticultural and garden activities.

**Potable water:** means water in which levels of physical, chemical and microbiological constituents do not exceed to guideline values set out in the National Health and Medical Research Council publication *Australian Drinking Water Guidelines 1996*.

**Private recreation:** means premises used for indoor and outdoor leisure, recreation and sport which are normally open to the public without charge.

**Public amusement:** means premises used for the amusement or entertainment of the public, with or without charge.

**Public recreation:** means premises used for public park, public gardens, playground or other grounds for recreation which are normally open to the public without charge.

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

**Reception centre:** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes.

**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*; or
- (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.

**Secondhand dwelling:** means a dwelling which has not been specifically designed as a transportable residence and has previously been located at any place other than on the lot upon which it is erected.

**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 and beauty therapist) but does not include a showroom or fast food outlet.

**Showroom:** means premises used for 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.

**Stable:** means premises used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities.

**Stock yards:** means premises used for the holding and/or sale of animal stock.

**Storage yard:** means premises used for the storage of goods, equipment, plant or materials related to a particular trade.

**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 any part of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, or in connection with a telecommunications network.

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

**Veterinary Clinic:** means a building in which a Veterinary Surgeon or Veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight.

**Veterinary Hospital:** means a building used in connection with the treatment of sick animals, including farm animals and includes the accommodation of those animals.

**Warehouse:** means premises used to store or display goods and which may include sale by wholesale.

**Wayside stall:** means a building situated on private land which offers for sale to the general public produce or any commodity which is produced on the land upon which the buildings are located.

**Winery:** means premises used for the production of viticultural produce and which may include the sale of produce.

**Worship, place of:** means premises used for religious activities such as a church, chapel, mosque, synagogue and temple.

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*Schedule 2*

**ADDITIONAL USES**

No.	Description of Land	Additional Use	Conditions

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*Schedule 3*

**RESTRICTED USES**

No.	Description of Land	Restricted Use	Conditions

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*Schedule 4*

**SPECIAL USE ZONES**

No.	Location	Land Particulars	Permitted Uses	Specific Conditions
1	Wakeford Road Bookara	Lot 2	Tourism and Recreation Resort compromising— <ul style="list-style-type: none"> <li>• Resort Centre/Hotel/Motel Accommodation (Licensed)</li> <li>• Clubhouse</li> <li>• Mediterranean (Seaside) Villas</li> </ul>	1. Subdivision to create a maximum of five superlots may be supported if demonstrated to be necessary to facilitate the development of the zone for the uses intended. The layout

No.	Location	Land Particulars	Permitted Uses	Specific Conditions
			<ul style="list-style-type: none"> <li>• Holiday Villas and Lake</li> <li>• Resort Shopping</li> <li>• Camping Area</li> <li>• Caravan Park</li> <li>• Horse Riding Farm</li> <li>• Dormitories</li> <li>• Function and Convention Centre</li> <li>• Resort Community Facilities</li> <li>• 18 hole Golf Course</li> <li>• Model Tourist Farm</li> <li>• Rural Pursuits</li> <li>• Incidental uses to the permitted uses</li> </ul>	<p>of such subdivision shall reflect the site's topography and minimise the environmental impact, in particular vegetation clearing and potential erosion damage, of development and vehicular and pedestrian access.</p> <p>2. At the time of subdivision, the local government may request the Commission to impose a condition requiring preparation and implementation of a foreshore management plan, addressing matters including pedestrian access to the beach and rehabilitation of areas susceptible to erosion.</p>
2	Waldeck Street Dongara	Lot 14	<ul style="list-style-type: none"> <li>• Caravan/Chalet Park</li> <li>• Camping Ground</li> <li>• Incidental uses to the permitted uses</li> </ul>	
3	Brand Highway Dongara	Lot 10	<ul style="list-style-type: none"> <li>• Roadhouse</li> <li>• Managers Accommodation</li> <li>• Public Restaurant</li> <li>• Incidental uses to the permitted uses</li> </ul>	
4	Cave Way and Criddle Road Dongara	Lot 13	<ul style="list-style-type: none"> <li>• Private Club/Institution</li> <li>• Incidental uses to the permitted uses</li> </ul>	
5	Brady Road and Church Street, Dongara	Lot 60, 70	<ul style="list-style-type: none"> <li>• Activities and Processes associated with the Fishing Industry</li> <li>• Incidental uses to the permitted uses</li> </ul>	
6	Church Street Dongara	Lot 1	<ul style="list-style-type: none"> <li>• Caravan/Chalet Park</li> <li>• Camping Ground</li> <li>• Holiday Accommodation</li> <li>• Incidental uses to the permitted uses</li> </ul>	
7	Church Street Dongara	Lots 2 and Reserve No. 25412	<ul style="list-style-type: none"> <li>• Holiday Accommodation</li> <li>• Incidental uses to the permitted uses</li> </ul>	
8	Ocean Drive	Pt Victoria Loc 688	<ul style="list-style-type: none"> <li>• Local Authority and Community uses</li> <li>• Incidental uses to the permitted uses</li> </ul>	

No.	Location	Land Particulars	Permitted Uses	Specific Conditions
9	Point Leander Drive and Francis Road	Lot 9	<ul style="list-style-type: none"> <li>• Holiday Accommodation</li> <li>• Incidental uses to the permitted uses</li> </ul>	Development of the site shall comply with the requirements of the Residential Design Codes for the R30 code. This does not imply that any subdivision of the site will be supported.
10	Blenheim Road, Port Denison	Lot 30	<ul style="list-style-type: none"> <li>• Aged Persons Village</li> </ul>	
11	Point Leander Drive Port Denison	Pt Sub Lot 54	Place of Worship— <ul style="list-style-type: none"> <li>• Residential Accommodation ancillary to the Place of Worship</li> <li>• Incidental uses to the permitted uses</li> </ul>	
12	Point Leander Drive Port Denison	Pt Sub Lot 48	<ul style="list-style-type: none"> <li>• Public Restaurant</li> <li>• Holiday Accommodation</li> <li>• Tavern: provided it is incidental to the other permitted uses</li> <li>• Incidental uses to the permitted uses</li> </ul>	
13	Point Leander Drive Port Denison	Pt Sub Lot 49	<ul style="list-style-type: none"> <li>• Caravan/Chalet Park</li> <li>• Incidental uses to the permitted uses</li> </ul>	
14	Ocean Drive and Point Leander Drive Port Denison	Lot 915 Reserve No 37184	<ul style="list-style-type: none"> <li>• Aged Persons Village</li> </ul>	
15	Ocean Drive Port Denison	Lot 946 Reserve 25826	<ul style="list-style-type: none"> <li>• Caravan/Chalet Park</li> <li>• Camping Ground</li> <li>• Incidental uses to the permitted uses</li> </ul>	
16	Hampton Street Port Denison	Lot 947	<ul style="list-style-type: none"> <li>• Eating House</li> <li>• Incidental uses to the permitted uses</li> </ul>	
17	Corner George and Carnarvon Street, Port Denison	Lot 3000 Reserve No. 32182	<ul style="list-style-type: none"> <li>• Caravan/Chalet Park</li> <li>• Camping Ground</li> <li>• Incidental uses to the permitted uses</li> </ul>	Development is to be generally in accordance with an adopted Outline Development Plan. The ODP shall define the Coastal Foreshore Reserve consistent with SPP No. 2.6 and include a Foreshore Management Plan.
18	Corner Fletcher and George Street Port Denison	Lot 742	<ul style="list-style-type: none"> <li>• Aged Persons Village</li> </ul>	
19	Corner Blenheim Road, Golf Course Road and Point Leander Drive, Port Denison	Lot 1	<ul style="list-style-type: none"> <li>• Ambulance Centre</li> <li>• Night Accommodation Staff</li> <li>• Incidental uses to the permitted uses</li> </ul>	

No.	Location	Land Particulars	Permitted Uses	Specific Conditions
20	Brand Highway, Dongara	Lots 7, 8 and 13	<ul style="list-style-type: none"> <li>• Roadhouse</li> <li>• Managers Accommodation</li> <li>• Public Restaurant</li> <li>• Incidental uses to the permitted uses</li> </ul>	
21	Brand Highway, Dongara	Lot 15	<ul style="list-style-type: none"> <li>• Roadhouse</li> <li>• Managers Accommodation</li> <li>• Public Restaurant</li> <li>• Incidental uses to the permitted uses</li> </ul>	
22	Waldeck Street (Corner Brand Highway)	Lot 11	<ul style="list-style-type: none"> <li>• Tourist Accommodation</li> <li>• Public Restaurant</li> <li>• Shop</li> <li>• Reception Centre</li> <li>• Public Amusement</li> <li>• Incidental uses to the permitted uses</li> </ul>	
23	Waldeck Street (north of Clementina Road)	Lot 12	<ul style="list-style-type: none"> <li>• Motel</li> <li>• Public Restaurant</li> <li>• Incidental uses to the permitted uses</li> </ul>	
24	Moreton Terrace	Lot 23	<ul style="list-style-type: none"> <li>• Hotel</li> <li>• Motel</li> <li>• Tavern</li> <li>• Club Premises</li> <li>• Public Utility</li> <li>• Betting Agency</li> <li>• Telecommunications Infrastructure</li> <li>• Public Restaurant</li> <li>• Incidental uses to the permitted uses</li> </ul>	
25	St Dominics Road	Lot 6	<ul style="list-style-type: none"> <li>• Licensed Historic Inn</li> <li>• Holiday Accommodation</li> <li>• Lodging House,</li> <li>• Restaurant</li> <li>• Incidental uses to the permitted uses</li> </ul>	

Schedule 5

**EXEMPTED ADVERTISEMENTS**

Land Use and/or Development Requiring Advertisement	EXEMPTED SIGN TYPE AND NUMBER (Includes the Change of Posters or Poster Signs and applies to Non-Illuminated Signs otherwise stated)	Maximum Area of Exempted Sign
Dwellings	One professional name-plate as appropriate	0.2m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
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 <sup>2</sup>

Land Use and/or Development Requiring Advertisement	EXEMPTED SIGN TYPE AND NUMBER (Includes the Change of Posters or Poster Signs and applies to Non-Illuminated Signs otherwise stated)	Maximum Area of Exempted Sign
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 <sup>2</sup>
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5m from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting Local 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 and excluding signs which are connected to a pole, wall, or other building.  A maximum of 2 free-standing advertisements signs not exceeding 5m in height above ground level.	Total area of such advertisement shall not exceed 15m <sup>2</sup>  Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup> .
Showrooms, Racecourses, major racing tracks, sports stadia, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public and streets.	Not Applicable
Public Places and Reserves	(a) Advertisement signs (illuminated or non-illuminated) relating to the functions of Government, a public authority or a local government excluding those of a promotional nature constructed or exhibited by, on behalf of any such body, and	Not Applicable
	(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or a local government, and	Not Applicable
	(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.	Not Applicable
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons or at upon railway station.	No sign shall exceed 2m <sup>2</sup> in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	Not Applicable
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>

Land Use and/or Development Requiring Advertisement	EXEMPTED SIGN TYPE AND NUMBER (Includes the Change of Posters or Poster Signs and applies to Non-Illuminated Signs otherwise stated)	Maximum Area of Exempted Sign
<p>Building Construction Sites (advertisement signs displayed only for the duration of construction) as follows—</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height</p>	<p>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above</p> <p>One additional sign showing the name of the project builder</p>	<p>2m<sup>2</sup> (a)</p> <p>5m<sup>2</sup> (b)</p> <p>10m<sup>2</sup> (c)</p> <p>5m<sup>2</sup> (c)</p>
<p>Sale of goods or livestock</p>	<p>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.</p>	<p>2m<sup>2</sup></p>
<p>Property transactions</p> <p>Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows—</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large properties comprised of shopping centres, buildings in excess of four (4) storeys and rural properties in excess of five (5) hectares.</p>	<p>One sign per street frontage for each property relating the Sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above.</p>	<p>Each sign shall not exceed an area of 2m<sup>2</sup></p> <p>Each sign shall not exceed an area of 5m<sup>2</sup></p> <p>Each sign shall not exceed an area of 10m<sup>2</sup></p>
<p>Display Homes</p> <p>Advertisement signs displayed for the period over which homes are on display for public inspection.</p>	<p>(a) One sign for each dwelling on display.</p> <p>(b) In addition to (a) above 1 sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.-</p>	<p>2m<sup>2</sup></p> <p>5m<sup>2</sup></p>



**Schedule 6**  
**FORM OF APPLICATION FOR PLANNING APPROVAL**  
*Shire of Irwin*  
**APPLICATION FOR PLANNING APPROVAL**

<b>Owner Details</b>		
Name:		
Address:		
Postcode:		
Phone: (Wk): Mob:	(H):	Fax:                      Email:
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>		

<b>Applicant Details</b>		
Name:		
Address:		
Postcode:		
Phone: (Wk): Mob:	(H):	Fax:                      Email:
Contact Person:		
Signature:		Date:

<b>Property Details</b>		
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:		

<b>Existing Building/Land Use:</b>
Description of proposed development and/or use:
Nature of any existing buildings and/or use:
Approximate cost of proposed development:
Estimated time of completion:

<b>OFFICE USE ONLY</b>	
Acceptance Officer's Initials:	Date Received:
Local government Reference No.:	

**Schedule 7**  
**ADDITIONAL INFORMATION FOR ADVERTISEMENTS**  
*Shire of Irwin*

*Note: to be included in addition to the Application for Planning Approval form.*

<p>1. Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:</p> <p>.....</p> <p>.....</p>
<p>2. Details of proposed sign:</p> <p>(a) Type of structure on which advertisement is to be erected (ie. 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"> <li>• (to top of advertisement) .....</li> <li>• (to underside) .....</li> </ul> <p>(e) Materials to be used: .....</p> <p>.....</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> <p>.....</p>
<p>3. Period of time for which advertisement is required:</p> <p>.....</p>
<p>4. Details of signs (if any) to be removed if this application is approved:</p> <p>.....</p> <p>.....</p> <p>.....</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): .....</p> <p>(If different from land owners) .....</p> <p>Date: .....</p>

**Schedule 8**  
**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**  
*Shire of Irwin*  
 Local Planning Scheme No. 5  
**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

<p>The local government has received an application to use and/or develop land for the following purpose and public comments are invited.</p>		
Lot No.	Street:	Suburb:
<p>Proposal: .....</p> <p>.....</p> <p>.....</p>		
<p>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 .....</p>		
Signed:	Dated:	
.....	.....	
<p>For and on behalf of the Shire of Irwin</p>		

**Schedule 9**  
**NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**  
*Shire of Irwin*  
 Local Planning Scheme No. 5  
**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 reason(s):	
Conditions/reasons for refusal:	
.....	
.....	
.....	
Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval 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 appeal under Part 14 of the Planning and Development Act.	
Application for a review must be lodged within 28 days of the determination.	
Signed:	Dated:
.....	.....
for and on behalf of the Shire of Irwin.	

**Schedule 10**  
**ENVIRONMENTAL CONDITIONS**

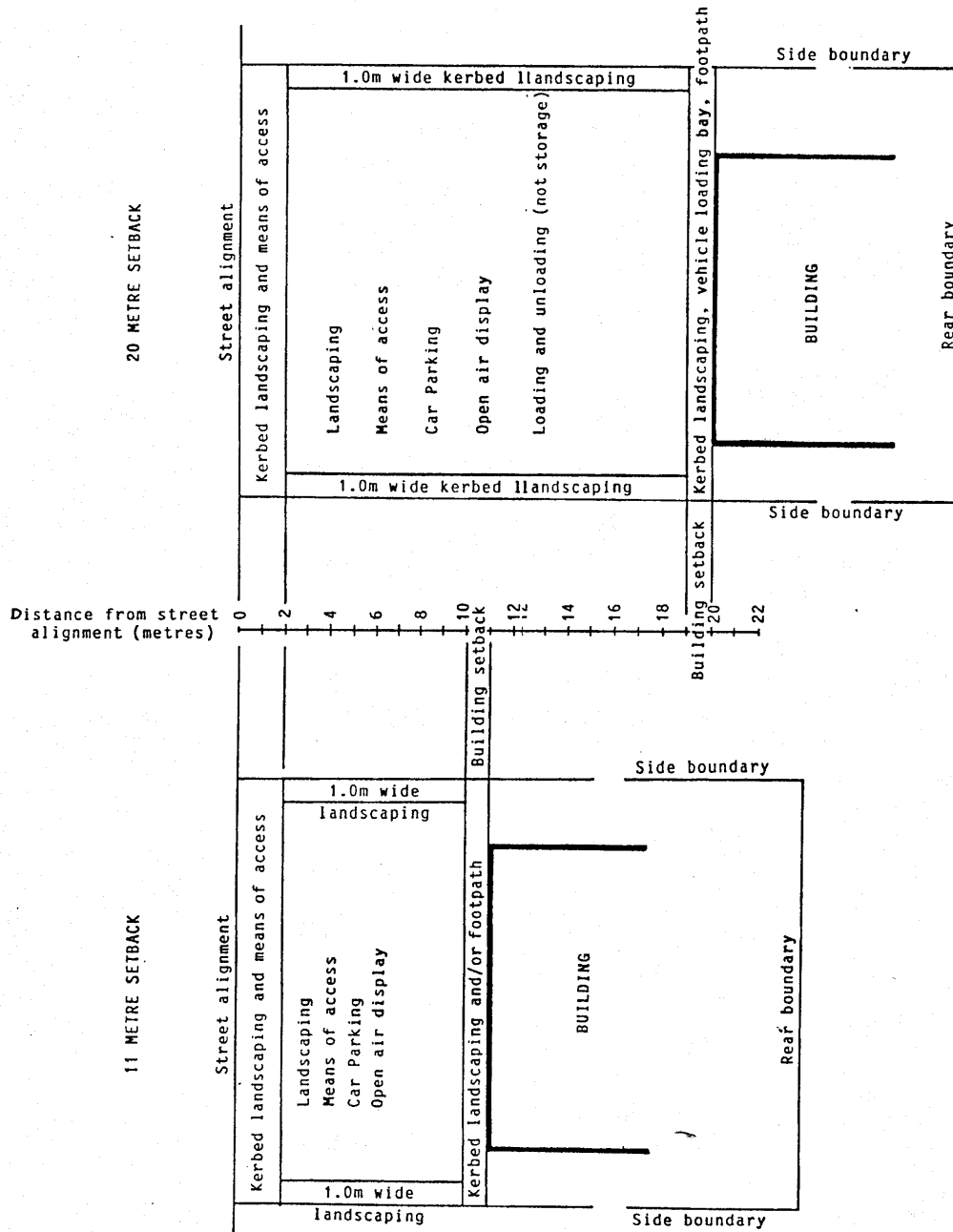
Scheme or Amendment No.	Gazettal Date	Environmental Conditions

**Schedule 11**  
**ZONE/USE DEVELOPMENT TABLE**

ZONE	USE	Min. Lot Area (m <sup>2</sup> )	Min. Effect Frontage (m)	Min. Boundary Setbacks (m)			Min. Car Parking Spaces	Min. Landscaping % of Site	Other Requirements
				Front	Rear	Side			
Residential	Residential All other Permitted Uses	See Residential Design Codes and Clauses 5.20 and 5.30 As Listed in this Schedule or as Determined By the local government.							
Special Residential	Any Permitted Use	Clause 5.24 applies							
Town Centre and Service Commercial	Residential	See Residential Design Codes							
	Shop	At the discretion of the local government				Nil or 2m if abutting a Residential Zone	1 per 10m <sup>2</sup> of gross leasable area	As determined by local government Clause 5.12 applies	
	Office	"	"	"	"	"	1 per 3m <sup>2</sup> of Public Area	"	
	Eating House	"	"	"	"	"	"	"	
	Hotel	1ha	80	20	15	10/Storey	1 per bedroom + 1 per 3m <sup>2</sup> of Public Area	25	
	Tavern	4000	40	20	15	10/Storey	1 per 3m <sup>2</sup> of Public Area	25	
	Motel	4000	80	20	15	10/Storey	1.5 per Accommodation Unit	20	
	Educational Establishment	To be determined by the local government	30	20	10	5/Storey	As Determined by Local Government	As determined by Local Government	As determined by Local Govt
	Service Station	1500	25	11 or 20	7.5	5	20	As determined by Local Government	Boundary Setbacks apply to Pumps, Canopy, Buildings
	Public Worship Place of All other permitted uses	2000	20	11 or 20	7.5	2	1 per 5 seats	8	
		Determined by the local government							
Neighbourhood Commercial zone	All permitted uses.	At the discretion of the Local Government Clause 5.26 applies				Nil or 2m if abutting a Residential Zone	1 per 10m <sup>2</sup> of gross leasable area	Clause 5.12 applies	
General Industry	Any Permitted Use	2000	25	See Clause 5.27			As determined by the Local Government	As determined by the Local Government	Clause 5.34 applies

ZONE	USE	Min. Lot Area (m <sup>2</sup> )	Min. Effect Frontage (m)	Min. Boundary Setbacks (m)			Min. Car Parking Spaces	Min. Landscaping % of Site	Other Requirements
				Front	Rear	Side			
Light Industry and Marine Based Industry	Any Permitted Use	1000	25	See Clause 5.28 and 5.26					Clause 5.35 applies
Rural Residential	Any Permitted Use (and see Schedule 13)	Clause 5.29 Applies							
Rural Smallholdings	Any Permitted Use	Clause 5.30 applies							
General Farming	Any Permitted Use	Based on Locally Acceptable Farm Units and Local Planning Strategy	Clause 5.31 applies						
Special Use	Any Permitted Use	As required under this Schedule or by the Local Government based on the Predominant use in the locality in which the use is to be located. Clause 5.32 applies							
		Note: 1. For Special Application of the Residential Design Codes, see Clause 5.3 2. For Carparking criteria, see Clauses 5.8 and 5.9 3. For Home Occupations and Cottage Industries, see Clause 5.7 4. For Outbuildings and Setbacks, Size and Construction Type, see Clause 5.17							

**Schedule 12**  
**INDICATIVE USE OF SETBACK AREAS IN NON-RESIDENTIAL ZONES**



Note—

1. The above diagrams are examples of 11m and 20m front setback usage.
2. The local government may approve setbacks other than these detailed above where a development proposal is being undertaken in sympathy with Town Centre and or Neighbourhood Commercial Development.
3. Where development is on a lot which adjoins any Residential Zone, the local government may impose specific landscape and setback provisions in accordance with the provisions of sub-Clause 4.2.5b of the Scheme.

**Schedule 13**  
**RURAL RESIDENTIAL ZONES—SPECIFIED AREAS**

No.	SPECIFIED AREA	SPECIAL PROVISIONS
1	NORTH DONGARA	<p>(a) Subdivision To be in general accord with the overall plan of subdivision for the area as required under Clause 5.29.2.2.</p> <p>(b) Development Criteria The following requirements apply in addition to those in Clause 5.29.</p> <ul style="list-style-type: none"> <li>(i) The local government will require as a condition of development, the planting and maintenance of a 10m wide belt of native or locally acceptable trees and shrubs along the alignment of the Brand Highway, inside the boundary of the lots.</li> <li>(ii) The local government will require the owner as a condition of development, to plant and maintain a minimum of 20 native or locally acceptable trees capable of growing to a height of 5m, around the buildings erected on site.</li> <li>(iii) Should it appear to the local government that, by virtue of its use or stocking, any land is in, or is approaching a condition where wind or water erosion could occur it may, pursuant to the provisions of this Scheme, serve notice upon the owners and/or occupiers of the land specifying the action which must be taken by the reduction of stock and/or at the expense of the owner or occupier to remedy the condition of the land to the local government's satisfaction.</li> </ul>
2	SPRINGFIELD	<p>(a) Subdivision</p> <ul style="list-style-type: none"> <li>(i) To be in general accord with the endorsed overall plan of subdivision for the area, but having regard for the other provisions of this Schedule and— <ul style="list-style-type: none"> <li>(a) recommendations of the Water Corporation, Department of Environment and Conservation and any other relevant authority with respect to the creation of lots potentially affected by the operation of the Waste Water Treatment Plant (WWTP). Any variation to this overall plan of subdivision shall require the endorsement of the local government and the Commission and will be considered having regard to the landscape and environmental values of the area, access, draining, servicing, capability for on-site effluent disposal, and the requirements of the WWTP buffer;</li> <li>(b) the Department of Industry and Resources and Department of Environment and Conservation and any other relevant authority regarding the creation of lots potentially affected by the lime sand mine and process plant buffers as shown on the Scheme Map and the Local Planning Strategy.</li> </ul> </li> <li>(ii) All new lots created within 500m of the boundary of Reserve 22459 (as shown in the Local Planning Strategy) to be created with Memorials on Title informing prospective purchasers of presence of the mobile dune which is a natural feature and of the mining operations. This is an interim measure until such time as the mobile sand is mined and the area revegetated. The Memorials to state as follows: <p style="margin-left: 2em;"><i>“This lot is adjacent to a naturally occurring mobile sand dune that is subject to quarrying operations and the use and enjoyment of the land may be affected by natural dune movement as well as by the quarrying or factors related to the quarrying.”</i></p> </li> </ul>

No.	SPECIFIED AREA	SPECIAL PROVISIONS
		<p>(iii) All new lots created within 2km of Cockburn Cements Lime Sand process plan (as shown in the Local Planning Strategy) are to be created with Memorials on Title informing prospective purchasers of those operations. The memorials to state as follows:</p> <p><i>“This lot is near an operating lime sand processing plant and the use and enjoyment of this land may be affected by those operations or other factors relating to those operations.”</i></p> <p>(iv) Subdivision of properties that include land within 1.5km of Cockburn Cement’s plant is to minimise (without reducing) the potential for development within the area;</p> <p>(b) Development Criteria The following requirements apply in addition to those in Clause 5.29.</p> <p>(i) No development being supported within a 500m radius of the mobile dune toe over Reserve 22459 as shown on the Scheme Map, but allowing for any natural movement from that time, until the mobile dune is stabilized to the satisfaction of DoIR and there are no potential impacts from mining.</p> <p>(ii) No development being supported within 1.25km of Cockburn Cement’s Lime Sand processing Plant on Kailis Drive, as shown on the Scheme Map.</p> <p>(iii) No building envelope shall be located within the WWTP buffer indicated on Scheme Maps 3 and 4 unless agreed to by the local government, the Water Corporation, Department of Environment and any other relevant authority.</p> <p>(iv) A prerequisite to the creation of, or development of a dwelling on, any lot in the Springfield Rural Residential Zone not connected to reticulated water shall be the provision of an adequate sustainable potable water supply for domestic use, and provision of a separate water supply for land management and firefighting purposes.</p> <p>(v) The developer of any lot is to address to the satisfaction of the local government, the aspect of best management practice with regard to effluent disposal, in order that ground water quality is protected. In certain cases the local government could require a development to be connected to an alternative on-site effluent disposal system as approved by the Department of Health.</p> <p>(vi) No building, other than fencing, shall be constructed without a building licence being issued by the local government.</p> <p>(vii) The floor level of all buildings shall not be less than 2m above the highest known ground water level, as determined at the time of application of a building licence, and where necessary shall also pay regard to the Floodplain development strategy for the Irwin River as defined by the Department of Environment.</p> <p>(viii) At the time of the building application for each lot, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the local government, which shall show site contours, existing trees and vegetation to be removed and retained, and proposals for tree planting, maintenance, and lot rehabilitation.</p> <p>Where considered necessary, the local government will as a condition of development, require an applicant to plant and maintain a specified number of native or locally acceptable drought resistant trees.</p>



No.	SPECIFIED AREA	SPECIAL PROVISIONS
		<p>(ix) The keeping of horses, sheep, goats and other grazing animals, shall be subject to the prior approval of the local government, and these animals shall be restricted to any lot area defined by the local government. Approval to keep animals shall not exceed the stocking rates recommended by the Department of Agriculture for the lot concerned.</p> <p>In approving the grazing of animals on any lot, the local government must be satisfied that such approval will not result in the removal or damage of vegetation and trees, or result in soil erosion and dust pollution. As a condition of approval the local government may require the animals to be stabled, or corralled, and areas of vegetation to be fenced with stock proof fencing in a manner satisfactory to the local government.</p> <p>Where in the opinion of the local government the continued presence of animals on any portion of land in the area is likely to contribute, or is contributing to the dust pollution or soil erosion, notice may be served on the owner of the said land, requiring the immediate removal of these animals specified in the notice for a period specified in the notice.</p> <p>When notice has been served on a landowner in accordance with this Clause, the local government may also require the land to be fully rehabilitated within 3 months of the serving of the notice.</p> <p>(x) It is expected that each subdivider will make a cash-in-lieu contribution for Public Open Space at the time of subdivision. Such contribution being based on 5% of the gross value of their land area. All monies received by the Local Authority as cash-in-lieu contributions will be held in Trust and used for the purchase of land for recreational purposes and/or development of recreational/leisure facilities on suitably located reserved land within the sphere of influence of the Special Rural Zone.</p>

ADOPTION

Adopted by Resolution of the Shire of Irwin at the meeting of the Council held on the 12th day of November 2002.

R. PARSONS, President.

Date: 3 January 2008.

J. MERRICK, Chief Executive Officer.

Date: 3 January 2008.

FINAL APPROVAL

1. Adopted by Resolution of the Shire of Irwin at the meeting of the Council held on the 26th day of June 2007 and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of:

R. PARSONS, President.

Date: 3 January 2008.

J. MERRICK, Chief Executive Officer.

Date: 3 January 2008.

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

2. Recommended/submitted for final approval:

G. MUSTO, delegated under s.16 of the PD Act 2005.

Date: 13 March 2008.

3. Final approval granted:

ALANNAH MacTIERNAN, Minister for Planning and Infrastructure.

Date: 17 March 2008.