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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF PERENJORI

LOCAL PLANNING SCHEME
No. 2

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

Shire of Perenjori

Local Planning Scheme No. 2

Ref: TPS/0569

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005*, that the Minister for Planning approved the Shire of Perenjori Local Planning Scheme No. 2 on 11 July 2011, the scheme text of which is published as a schedule annexed hereto.

C. R. KING, Shire President.
S. SCOTT, Chief Executive Officer.

SHIRE OF PERENJORI
LOCAL PLANNING SCHEME NO. 2

Preamble

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

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

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

Scheme Details

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

Table of Contents

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

Schedules

- Schedule 1 Dictionary of defined words and expressions
Schedule 2 Additional uses

Schedule 3	Restricted uses
Schedule 4	Special use zones
Schedule 5	Exempted advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	does not apply to the Scheme.

PART 1—PRELIMINARY

1.1 Citation

1.1.1 The Shire of Perenjori Scheme No. 2 (**‘the Scheme’**) comes into operation on its Gazettal date.

1.1.2 The following is hereby revoked—

- Shire of Perenjori Town Planning Scheme No 1—Gazetted 20 May 1994.

1.2 Responsible authority

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

1.3 Scheme area

The Scheme applies to the Scheme area that covers the entire local government district of the Shire of Perenjori as shown on the Scheme Map.

1.4 Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (Sheets 1–19).

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 of the Planning and Development Act.

1.6 The aims of the Scheme

The aims of the Scheme are—

- To assist the effective implementation of regional plans and policies including the State Planning Strategy.
- To ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space.
- To assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments, as well as providing opportunities for home-based employment.
- To facilitate a diverse and integrated network of open space catering for both active and passive recreation, consistent with the needs of the community.
- To promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities.
- To protect and enhance the environmental values and natural resources of the local government area and to promote ecologically sustainable land use and development.
- To safeguard and enhance the character and amenity of the built and natural environment of the local government area.

1.7 Definitions

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

- (a) in the *Planning and Development Act 2005*; 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 in Schedule 1, the Model Scheme Text and the meaning of that word or expression in the Residential Design Codes—

- (a) in the case of a residential development, the definition in the Residential Design Codes prevails; and
- (b) in any other case the definition in Schedule 1 prevails.

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

1.8 Relationship with local laws

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

1.9 Development Schemes

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

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme determinations to conform to 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.

(A Local Planning Strategy has been prepared and endorsed under the Town Planning Regulations 1967.)

2.2 Local Planning Policies

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

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the Scheme area or in one or more parts of the Scheme area, and may amend or add to or rescind the Policy.

2.3 Relationship of Local Planning Policies to Scheme

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

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

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential 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 2.4.3(a).

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

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

2.5 Revocation of Local Planning Policy

A Local Planning Policy may be revoked by—

- (a) the adoption by a local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
- (b) publication of a notice of revocation by the local government once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

PART 3—RESERVES**3.1 Reserves**

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

3.2 Regional Reserves

There are no regional reserves in the Scheme area.

3.3 Local Reserves

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

3.4 Use and development of Local Reserves

3.4.1 A person must not—

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve, without first having obtained planning approval under Part 9 of the Scheme.

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

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

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

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

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

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

4.2 Objectives of the zones

The objectives of the zones are—

Residential zone

The objectives are;

- To provide for predominantly residential development with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes of Western Australia.
- Non-residential uses shall be compatible in character, scale and operation with the predominant residential use.
- A non-residential use shall only be permitted if the use does not detract from the amenity of the area.

Commercial zone

The objectives are;

- To maintain a coordinated, consolidated, compact and accessible centre.
- To centralise commercial, office, showroom, open air display and service functions.
- To maintain safety and efficiency of traffic flows and provide for adequate facilities for the storage and circulation of vehicles.
- To preclude the storage of bulky and unsightly goods where they may be in public view.
- To maintain the compatibility with the general streetscape for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.
- To reduce uses attracting large volumes of heavy vehicle traffic other than to service retail outlets.
- To provide for residential uses only where the residential uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level or location where it is impracticable or inappropriate to establish a shop or office.
- To provide street furniture, planting and sheltered places for pedestrians.
- To encourage the provision of public art to improve the amenity and ambiance of the town centre area.

Light Industry zone

The objectives are;

- To provide for service industries and light industries that will not have a detrimental affect on nearby residential or other sensitive uses.
- To provide for a range of employment opportunities.
- To preclude the storage of bulky and unsightly goods where they may be in public view.
- To ensure the appropriate use of setback areas and the provision of landscaping to the Council's satisfaction.

General Industry zone

The objectives are;

- To provide for general industry, the storage and distribution of goods and associated uses, which by the nature of their operations may need to be separated from residential and other sensitive areas.
- To provide a location for diverse industries that would otherwise have a detrimental impact on the other uses in close vicinity.
- To encourage the provision of landscaping to ensure the industrial development is appropriately screened from the main road.
- To provide a location where separate heavy vehicular access is provided.
- To provide a location for depots, warehouses, and large vehicle parking and servicing areas.
- To provide for a range of employment opportunities.

Townsite zone

The objectives are;

- To maintain a small town atmosphere.
- To allow a variety of uses necessary to service the normal functions of a small townsite.
- To provide for a mix of residential development and a range of commercial, light industrial and other uses considered appropriate in small towns.

Special Use zone

The objectives are;

- To provide for the preparation of a Structure Plan, to be adopted by the local government, to ensure proper and orderly planning.
- To provide an area where special uses can be operated under the specific control of the local government in order to maintain the safety, health and welfare of surrounding users.
- To enable the local government to impose specific conditions to restrict the use and operation of any development that would normally not fit within the ambit of any other zone in this Scheme.

Rural Residential zone

The Objectives are;

- To encourage development for the purpose of closer settlement on land that is suitable for such a purpose, without impacting on the continued rural operation of adjoining land.
- To ensure that development maintains the rural character of the locality, maintains a high level of amenity and minimises disturbance to the landscape through construction of buildings and structures, clearing, earthworks and access roads.
- To discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone.
- To encourage rural residential subdivision where it is reasonable and economic to provide, or extend, services and facilities.
- To promote and encourage cluster subdivision and other innovative rural residential designs, having consideration for conservation values.
- To ensure the provision of community facilities and emergency services in the vicinity of rural residential developments.
- To encourage the provision of vegetation and fauna corridors and the revegetation of the land to adequately protect any areas or sites of conservation value within the design.
- To encourage rural residential subdivision by permitting a range of lot sizes thereby providing flexibility for subdivision to appropriately recognise any demonstrated special characteristics of the land.
- To ensure the land is provided with road, electricity, communication services and, where appropriate and practical, water services.

Rural zone

The objectives are;

- To provide for a range of rural pursuits that are compatible with the capability of the land and retain the rural character and amenity of the locality.
- To protect land from urban uses that may jeopardise the future use of that land for other planned purposes that are compatible with the zoning.
- To protect the land from closer development that would detract from the rural character and amenity of the area.
- To prevent any development that may affect the viability of a holding.
- To encourage small scale, low impact tourist accommodation in rural locations.
- To encourage a diversification of rural activities that will reduce the dependency of the rural sector on traditional crops.
- To support mining activities where an environmental management plan has been prepared and is acceptable to the Council and EPA.
- To preclude the disposal of material that may be detrimental to the quality of the land.

4.3 Table 1—Zoning Table

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

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

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

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

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

Note: 1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.

2. The local government will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.

3. In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 10.2.

4. The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.

4.4 Interpretation of the Zoning Table

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

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

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

4.5 Additional uses

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

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

4.6 Restricted uses

Despite anything contained in the Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

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

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.

TABLE 1—ZONING TABLE (Part 1 of 3)

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

TABLE 1—ZONING TABLE (part 2 of 3)

USE CLASSES	ZONES						
	RESIDENTIAL	COMMERCIAL	LIGHT INDUSTRY	GENERAL INDUSTRY	TOWNSITE	RURAL RESIDENTIAL	RURAL
COMMERCE							
Betting agency	X	P	X	X	A	X	X
Cinema/theatre	X	P	X	X	D	X	X
Consulting rooms	X	D	D	X	A	X	X
Convenience store	A	P	X	X	A	X	X
Dry cleaning premises	X	D	D	D	A	X	X
Fast food outlet	X	D	X	X	A	X	X
Garden Centre	X	P	P	D	A	X	X
Lunch bar	X	P	P	D	A	X	X
Market	X	D	D	X	A	X	X
Medical centre	A	D	X	X	A	X	X
Motor vehicle, boat or caravan sales	X	D	D	X	A	X	X
Motor vehicle repair	X	D	P	P	X	X	X
Motor vehicle wash	X	D	P	P	A	X	X
Night club	X	A	X	X	A	X	X
Office	X	P	D	X	A	X	X
Plant nursery	X	D	D	X	A	A	A
Reception centre	X	P	X	X	A	X	X
Recreation - private	X	A	A	X	A	X	A
Restaurant	X	P	X	X	A	X	D
Restricted premises	X	D	D	X	A	X	X
Service station	X	D	D	P	A	X	X
Shop	X	P	X	X	A	X	X
Showroom	X	P	P	X	A	X	X
Trade display	X	D	P	D	A	X	X
Transport depot	X	X	P	P	A	X	D
Winery	X	D	D	D	A	A	A
OTHER							
Carpark	D	P	D	P	P	X	D
Funeral parlour	X	A	D	P	A	X	X
Service utility	D	D	D	D	D	D	D
Telecommunication infrastructure	A	D	D	P	D	A	D
Veterinary centre	X	A	D	X	A	X	A

TABLE 1—ZONING TABLE (part 3 of 3)

USE CLASSES	ZONES						
	RESIDENTIAL	COMMERCIAL	LIGHT INDUSTRY	GENERAL INDUSTRY	TOWNSITE	RURAL RESIDENTIAL	RURAL
INDUSTRY							
Fuel depot	X	X	X	A	A	X	X
Industry	X	X	X	P	X	X	X
Industry - cottage	A	D	D	X	D	A	A
Industry - extractive	X	X	X	P	X	X	A
Industry - general	X	X	X	D	X	X	X
Industry - hazardous	X	X	X	A	X	X	X
Industry - light	X	X	P	D	A	X	X
Industry - mining	X	X	X	D	X	X	A
Industry - rural	X	X	A	P	A	X	P
Industry - service	X	D	P	P	A	X	X
Storage	X	D	P	P	A	X	X
Warehouse	X	D	P	P	A	X	X
CIVIC AND COMMUNITY							
Child care premises	A	A	X	X	D	X	X
Civic use	D	D	D	X	A	X	X
Club premises	A	D	X	X	A	X	X
Community purpose	A	P	X	X	A	X	X
Corrective institution	X	X	X	X	X	X	X
Educational establishment	A	A	A	X	A	X	X
Exhibition centre	X	D	A	X	A	X	X
Family day care	A	D	X	X	A	X	X
Hospital	X	X	X	X	A	X	X
Place of worship	A	A	X	X	A	X	X
RURAL							
Agriculture - extensive	X	X	X	X	X	X	P
Agriculture - intensive	X	X	A	D	X	X	A
Agroforestry	X	X	X	X	X	X	A
Animal establishment	X	X	A	A	X	X	A
Animal husbandry - intensive	X	X	X	D	X	X	A
Plantation	X	X	X	X	X	X	D
Rural pursuit	X	X	X	X	A	D	D
Stockyards	X	X	X	X	A	X	D
Wayside stall	X	X	X	X	D	X	D

4.8 Non-conforming uses

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

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

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

4.9 Extensions and changes to a non-conforming use

4.9.1 A person must not—

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use, without first having applied for and obtained planning approval under the Scheme.

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

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

4.10 Discontinuance of non-conforming use

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

4.11 Termination of a non-conforming use

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

Note: Part 11, Sections 190 and 191 of the Planning and Development Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

4.12 Destruction of non-conforming use buildings

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

PART 5—GENERAL DEVELOPMENT REQUIREMENTS

5.1 Compliance with development standards and requirements

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

5.2 Residential Design Codes

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

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

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

5.3 Special application of Residential Design Codes

- (a) The Residential Design Code for land zoned 'Commercial' shall be R10/30 unless otherwise indicated on the Scheme Maps.
- (b) The Residential Design Code for land zoned 'Townsite' shall be R10 unless otherwise shown. Where no Residential Design Code is shown, development of more than a single dwelling will not be supported.
- (c) Residential development with the R10/30 code shall be permitted at the R10 density, however the Council may approve developments up to the R30 density as an 'D' use.
- (d) The Council shall not approve a residential development with a density exceeding R10 unless the Council is satisfied that an alternative sewerage disposal system can be installed and managed to its satisfaction.

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 Site and Development Requirements

Any development that is permitted under the provisions of Part 3 and Part 4 of this Scheme shall conform to the requirements for that use as specified in Table II—Development Table, or in the Residential Design Codes for residential development.

TABLE II DEVELOPMENT TABLE

Controls Use Class	Minimum Boundary Setback (Metres)			Maximum Plot Ratio	Minimum Landscaped Area (%)	Minimum Number of Car Parking Bays
	Front	Rear (Average)	Sides			
Club premises	*	*	*	0.5	*	1 for every 45m ² of gross floor area.
Consulting Rooms	*	*	*	0.4 in Res Zone 0.5 elsewhere	30 in Res Zone	1 for every 30m ² of gross floor area, plus 1 for each person employed.
Child Care Premises	7.5	7.5	*	*	*	1 for each employee.
Educational Establishment	9.0	7.5	5.0	*	30	1 per full time employee, plus bays for students as determined by the Council.
Funeral Parlour	*	*	*	*	10	As determined by the Council, (minimum 6).
Community purpose	*	*	*	*	10	1 for every 4 persons whom the building is designed to accommodate.
Hotel/Tavern	*	*	*	*	10	1 for every bedroom plus 1 per 2m ² of bar and lounge area.
Industrial—Service	7.5	7.5	*	*	10	1 per 2 employees.
Industrial—Light	7.5	7.5	*	*	10	1 per 2 employees.
Industrial—General	7.5	7.5	*	*	15	1 per 2 employees.
Motel	11.0	7.5	3.0 per storey	1.0	30	1 per unit, plus 1 space per 25m ² of service area.

Controls Use Class	Minimum Boundary Setback (Metres)			Maximum Plot Ratio	Minimum Landscaped Area (%)	Minimum Number of Car Parking Bays
	Front	Rear (Average)	Sides			
Motor Vehicle, Boat or Caravan Sales	*	*	*	*	5	1 for every 250m ² of sales area, plus 1 for every person employed on site.
Office	*	*	*	*	*	1 for every 30m ² plot ratio area.
Restaurant	*	*	*	*	*	1 for every 10m ² of gross floor area or 1 for every 4 seats provided, whichever is the greater.
Service Station	11.0	7.5	5	*	5	1 for every working bay, plus 1 for each person employed on site.
Shop	*	*	*	*	*	1 for every 15m ² of gross floor area.
Showroom	*	*	*	*	10	1 for every 100m ² of gross floor area.

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

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

5.7.1 Development Requirements

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

5.7.2 Combined Uses

Where two or more uses are combined in a single development, the development shall conform to the requirements for each use respectively, or where such requirements are inappropriate, to such requirements as the local government shall determine.

5.7.3 Industrial Development

Unsewered industrial development will be restricted to 'dry industry' type (ie. industries predicted to generate wastewater for disposal on-site of a daily rate of less than 540 litres per 1000m²).

5.7.4 Residential Development in the Rural Zone

In the Rural zone, unless otherwise approved by the Council, a dwelling should be setback—

Minimum Setbacks (m)		
Primary Street	Secondary Street	Other/rear
20	10	10

5.7.5 Car Parking

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

5.7.6 Landscaping

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

5.8 Caretaker's dwelling

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

5.8.1 a caretakers dwelling should be incidental to the predominant industrial use of the site.

5.8.2 only one caretaker's dwelling is permitted on a lot and that dwelling should be on the same lot as the associated industrial use;

5.8.3 a caretaker's dwelling is to have a total floor area that does not exceed 100 square metres measured from the external face of walls;

5.8.4 open verandas may be permitted but must not be enclosed by any means unless the floor area remains within the 100 square metres referred to in clause 5.8.3.

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

5.8.6 a caretaker's dwelling shall be located at the rear of the lot.

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

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

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

5.9 Rural Residential Zone

5.9.1 Only one dwelling will be permitted on any lot in the Rural Residential zone.

5.9.2 All dwellings shall be developed in accordance with all provision of the R2 requirements of the Residential Design Codes, with the exception of lot area.

5.9.3 Lot sizes within the Rural Residential zone shall generally be between 1ha and 4ha in area

5.9.4 Provision must be made for all dwellings to be connected to a reticulated potable water supply or have appropriate provision for alternative potable water supply to the satisfaction of the appropriate authority.

5.9.5 In order to conserve the features of the rural environment, all trees shall be retained unless their removal is authorised by the Local Government.

5.9.6 Appropriate effluent disposal or domestic waste water systems are required to be installed to the satisfaction of the local government and the Department of Health.

5.10 Structure Plans

5.10.1 The local government or the Western Australian Planning Commission may prepare or may require the preparation of a Structure Plan prior to considering any subdivision or development proposal in any zone.

5.10.2 Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, the local government is to forward a copy of the proposed structure plan to the Commission.

5.10.3 The Commission may provide comments as to the suitability of the proposed structure plan.

5.10.4 Notwithstanding the requirements of this Scheme, all development is to comply with the requirements of any endorsed structure plan/s.

5.10.5 Any departure or alterations to structure 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.

5.10.6 Advertising of Structure Plans

The local government may within 30 days of receiving the structure plan require that it be advertised in accordance with clause 9.4.

5.10.7 Adoption of Structure Plans

Following adoption of the structure plan, with or without modifications, the local government may request the Commission to endorse the structure plan as the basis for approval of subdivision applications within areas covered by the plan.

5.10.8 Right of Review

The proponent of a structure plan required by this Scheme seek right of review under Section 14 of the *Planning and Development Act 2005*.

- (a) The failure of the local government to make a determination on the content and requirement of a development plan (or an amendment to a development plan) within 120 days of receiving a request for direction;
- (b) A decision by the local government not to endorse a development plan (or an amendment to a development plan);
- (c) Conditions of approval of the development plan (or alterations to a development plan).

PART 6—SPECIAL CONTROL AREAS

There are no Special Control Areas which apply to the Scheme.

PART 7—HERITAGE PROTECTION

The provisions of part 7 of the Model Scheme Text as current including any amendments apply.

PART 8—DEVELOPMENT OF LAND

The provisions of part 8 of the Model Scheme Text as current including any amendments apply. In addition to clauses 8(b)(i) and (ii) the classes in the following sub-clause 8(b)(iii) will require planning approval—

- (iii) the development is a transportable dwelling or a relocated structure intended to be modified for use as a dwelling.

PART 9—APPLICATIONS FOR PLANNING APPROVAL

The provisions of Part 9 of the Model Scheme Text as current including any amendments apply.

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

The provisions of Part 10 of the Model Scheme Text as current including any amendments apply.

PART 11—ENFORCEMENT AND ADMINISTRATION

The provisions of part 11 of the Model Scheme Text as current including any amendments apply.

Schedules

Schedule 1	Dictionary of defined words and expressions
Schedule 2	Additional uses
Schedule 3	Restricted uses
Schedule 4	Special use zones
Schedule 5	Exempted advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	does not apply to the Scheme.

Schedule 1—Dictionary of defined words and expressions

The general definitions in Schedule 1 of the Model Scheme Text as current including any amendments apply. The land use definitions in Schedule 1 of the Model Scheme Text as current including any amendments apply with the following exception: The definition of Rural Pursuit is amended to exclude the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens and the definition of plant nursery is added.

'Camping ground' has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;

'Dry cleaning premises'—means land and buildings used for the cleaning of garments and other fabrics by chemical processes;

'Garden centre'—means land and buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture or prefabricated garden buildings;

'Industry: hazardous'—means an industry which by reason of the processes involved or the method of manufacture or the nature of the materials used or produced requires isolation, due to danger or risk, from other activities or buildings;

'Plant nursery'—means the growing of trees, plants, shrubs or flowers, for replanting in domestic, commercial or industrial gardens;

'Rural Pursuit' means any premises used for—

- the rearing or agistment of animals;
- the stabling, agistment or training of horses; or
- the sale of produce grown solely on the lot,

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

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

'Short-Stay Accommodation' means a building, or group of buildings forming a complex, designed for the accommodation of short-stay guests and which provides on-site facilities for the convenience of guests and for management of the development, where occupation by any person is limited to a maximum of three months in any 12-month period and excludes those uses more specifically defined elsewhere.

'Stockyards'—means land, buildings and other structures for the holding or sale or both of livestock;

'Transport depot'—means land or a building or buildings used for the parking or garaging of road motor vehicles (including taxis) which are used or intended to be used for the carriage of passengers or goods, or land or a building or buildings used for the transfer of goods from one such motor vehicle to another of such motor vehicles and includes the maintenance or repair of such vehicles;

'Wayside stall'—means a stall located adjacent to a street in which only fruit, vegetables and artifacts grown, produced or made on the land are sold or offered for sale;

Schedule 2—Additional uses

[cl. 4.5]

No.	Description of land	Additional use	Conditions
A1	Lot 74 Russell Street, Perenjori	Medical centre	In accordance with Council requirements.

Schedule 3—Restricted uses

[cl. 4.6]

No.	Description of land	Restricted use	Reason for Restriction	Map Label
1	Lands as shown on Scheme Map	No sensitive uses (including dwellings) are permitted; otherwise uses permitted in accordance with Table 1—Zoning Table.	Rubbish tip	<i>RU1</i>

Schedule 4—Special use zones

[cl. 4.7.1]

No	Description of land	Special use	Conditions	Map Label
1	Lot 47 Fowler Street, Perenjori	Church	Compliance with the Council's approval	Ch
2	Lots 201 and 202 Oversby Road, Perenjori	Church	Compliance with the Council's approval	Ch
3	Lot 137 Crossing Road, Perenjori	Caravan Park	Compliance with the Council's approval	CP
4	Lot 3 Oversby Street, Perenjori	Chalet Development	Development shall only be permitted in accordance with the adopted Structure Plan.	CD

Schedule 5—Exempted advertisements

[cl. 8.2 (f)]

Land Use and/or Development	Exempted Sign ¹	Maximum Size
Dwellings	One professional name-plate as appropriate.	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ² .
Shops, Showrooms and other uses appropriate to a Shopping Area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements, shall not exceed 15m. Maximum permissible total area shall not exceed 10m ² and individual advertisement signs shall not exceed 6m ² .
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A
Public Places and Reserves	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government a public authority or local government of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and (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	N/A N/A

Land Use and/or Development	Exempted Sign ¹	Maximum Size
	Government department, public authority or the local government of a local government, and (c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m ² in area.
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m ²

¹ Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated.

Schedule 6—Form of application for planning approval

The form of application for planning approval in Schedule 6 of the Model Scheme Text as current including any amendments applies.

Schedule 7—Additional information for advertisements

The form of additional information for advertisements in Schedule 7 of the Model Scheme Text as current including any amendments applies.

Schedule 8—Notice of public advertisement of planning proposal

The notice of public advertisement in Schedule 8 of the Model Scheme Text as current including any amendments applies.

Schedule 9—Notice of determination on application for planning approval

The notice of determination on application for planning approval in Schedule 9 of the Model Scheme Text as current including any amendments applies.

ADOPTION

Adopted by resolution of the Council of the Shire of Perenjori at the Ordinary Meeting of the Council held on the 20th day of May 2010.

CHRIS KING, Shire President.
S. SCOTT, Chief Executive Officer.

Date 10 June 2010.

FINAL APPROVAL

Adopted for final approval of the Shire of Perenjori at the meeting of Council held on the 18th day of November 2010 and the seal of the Municipality was pursuant to that resolution affixed in the presence of—

CHRIS KING, Shire President.
S. SCOTT, Chief Executive Officer.

[L.S.]

Date 9 February 2011.

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

J. BREEZE.
Delegated under S.16 of PD Act 2005.

Date 29 June 2011.

FINAL APPROVAL GRANTED

JOHN DAY, Minister for Planning.

Date 11 July 2011.
