



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, THURSDAY, 15 MARCH 2012 No. 39 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 2.30 PM

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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF VICTORIA PLAINS

LOCAL PLANNING SCHEME

No. 5

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

Shire of Victoria Plains

Local Planning Scheme No. 5

Ref: 853/3/18/5

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the Shire of Victoria Plains Local Planning Scheme No. 5 on 1 March 2012, the scheme text of which is published as a schedule annexed hereto.

G. ERICKSON, Shire President.
H. HAWKINS, Chief Executive Officer.

SCHEDULE

PLANNING AND DEVELOPMENT ACT 2005*Shire of Victoria Plains***LOCAL PLANNING SCHEME No. 5**

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

Preamble

This Local Planning Scheme of the Shire of Victoria Plains 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.

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- Part 3 **Reserves**—sets out the local reserves that 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 that 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 that 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
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PLANNING AND DEVELOPMENT ACT 2005*Shire of Victoria Plains***LOCAL PLANNING SCHEME No. 5****PART 1—PRELIMINARY****1.1 Citation**

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

1.1.2 The following are hereby revoked—

- Shire of Victoria Plains Local Planning Scheme No. 4—gazetted 9 April 1999.

1.2 Responsible authority

The Shire of Victoria Plains 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 Victoria Plains as shown on the Scheme Map.

1.4 Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (Sheets 1-10).

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 the Schedule Seven to the *Planning and Development Act 2005*.

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 Relationship with other Schemes

There are no other Schemes of the Shire of Victoria Plains 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.

Objectives of the Local Reserves

Conservation Local Reserves

The objectives are—

- To ensure proper management procedures are in place to protect the biodiversity of the Reserves for the future;
- To ensure the protection and conservation of existing Crown Land regardless of the use for which the Reserve is vested.
- To prohibit any new use or development that is considered to be contrary to the continued conservation or intended conservation of the land.
- To provide for areas requiring improved environmental management measures or upgrades due to degradation or inappropriate use.

Parks and Recreation Local Reserves

The objectives are—

- To provide for formal and structured recreational activities and sporting facilities that are deemed appropriate to service the surrounding residents.
- To provide for passive recreational uses, parklands, amenities and buffer areas that are deemed appropriate for use and enjoyment by the surrounding residents.

Public Purposes Local Reserves

The objectives are—

- To provide public facilities, uses and other purposes that are required to service urban development.
- To protect land from activities considered inappropriate to the successful continued use of public purpose facilities.

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 Local 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.
- To ensure that any moveable buildings are either finished to the Council's satisfaction, or are removed where not completed to the Council's satisfaction.

Commercial zone

The objectives are—

- To maintain a compact and accessible centre.
- To centralise commercial 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 provide sheltered places for pedestrians.
- To reduce uses attracting large volumes of heavy vehicle traffic other than to service retail outlets.
- To provide for residential uses only where the uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level where it is impracticable or inappropriate to establish a shop or office.

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 should be separated from residential areas.
- To provide a location for diverse industries that would otherwise have a detrimental impact on the other uses in the town.
- 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.

Service Industry zone

The objectives are—

- To provide for service industries and light industries that will not have a detrimental affect on nearby residential areas.
- To provide a transition zone for uses that are not general industrial but may require buildings with an industrial appearance.

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 residential development and a range of commercial, industrial and other uses considered appropriate in small towns.

Special Use zone

The objectives are—

- 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 which 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 encourage 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 in conventional subdivision subject to a general minimum lot size of 2 hectares with an average minimum lot size of approximately 4 hectares and providing greater flexibility for lots created within appropriate cluster subdivisions or by strata title subdivision, dependent upon the special physical 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 which 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 which would detract from the rural character and amenity of the area.
- To prevent any development which may affect the viability of a holding.

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

4.3 Zoning Table

4.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various local reserves and 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.*

TABLE I—ZONING TABLE

Use Classes	Zones						
	Residential	Commercial	Service Industry	Industry	Townsite	Rural Residential	Rural
RESIDENTIAL							
Aged or dependent persons dwelling	P	X	X	X	D	X	X
Caretaker's dwelling	X	D	D	D	X	X	X
Grouped dwelling	P	D	X	X	D	X	X
Home business	D	D	D	D	D	D	D
Home occupation	D	D	D	D	D	D	D
Home office	D	D	D	D	D	D	D
Home store	A	D	D	D	D	D	A
Park home park	X	A	X	X	A	X	X
Residential building	A	X	X	X	D	X	X
Single house	P	A	X	X	P	P	P
TOURIST AND ENTERTAINMENT							
Amusement parlour	X	D	X	A	A	X	X
Bed and breakfast	A	D	X	X	D	D	D
Short stay accommodation	X	D	X	X	D	X	A
Hotel	X	P	X	X	A	X	X
Motel	X	D	X	X	A	X	X
Tavern	X	P	X	X	A	X	X
COMMERCE							
Betting agency	X	P	X	X	A	X	X
Cinema/theatre	X	P	X	X	A	X	X
Consulting rooms	X	D	X	X	A	X	X
Convenience store	A	P	X	X	A	X	X
Fast food outlet	X	D	X	X	A	X	X
Lunch bar	X	P	X	D	A	X	X
Market	X	D	X	D	D	X	X
Medical centre	X	D	X	X	D	X	X
Motor vehicle wash	X	D	X	P	A	X	X
Motor vehicle, boat or caravan sales	X	D	X	D	A	X	X
Night club	X	D	X	X	X	X	X
Office	X	P	X	X	D	X	X
Reception centre	X	P	X	X	A	X	X
Restaurant	X	P	X	X	A	X	A
Restricted premises	X	P	X	X	A	X	X
Service station	X	D	X	P	A	X	X
Shop	X	P	X	X	A	X	X
Showroom	X	D	P	P	A	X	X
Trade display	X	D	P	P	A	X	X
OTHER							
Funeral parlour	X	A	X	P	A	X	X
Essential service utility	D	D	D	D	D	D	D
Telecommunications infrastructure	D	D	D	P	D	A	D
Veterinary centre	X	A	D	P	A	X	A
INDUSTRY							
Fuel depot	X	X	X	A	X	X	X
Industry—cottage	A	D	X	P	D	A	A
Industry—extractive	X	X	X	X	X	X	D
Industry—general	X	X	X	D	X	X	X

Use Classes	Zones						
	Residential	Commercial	Service Industry	Industry	Townsite	Rural Residential	Rural
Industry—light	X	X	P	P	A	X	X
Industry—mining	X	X	X	A	X	X	P
Industry—rural	X	X	A	P	X	X	D
Industry—service	X	D	P	P	A	X	X
Motor vehicle repair	X	D	P	P	A	X	X
Storage	X	D	P	P	D	X	X
Warehouse	X	D	P	P	A	X	X
Winery	X	X	X	X	A	X	D
CIVIC AND COMMUNITY							
Child care premises	X	D	X	X	D	X	X
Civic use	D	D	X	D	D	X	X
Club premises	D	D	X	D	A	X	X
Community purpose	A	P	X	A	D	X	X
Educational establishment	X	P	X	A	A	X	X
Exhibition centre	X	D	D	X	A	X	X
Family day care	A	D	X	X	D	A	A
Recreation—private	D	D	D	D	D	D	D
RURAL							
Agriculture—extensive	X	X	X	X	X	X	P
Agriculture—intensive	X	X	X	X	X	X	D
Agroforestry	X	X	X	X	X	X	A
Animal establishment	X	X	X	A	A	X	A
Animal husbandry—intensive	X	X	X	A	X	X	A
Plantation	X	X	X	X	X	X	D
Rural home business	X	X	X	X	D	D	D
Rural pursuit	X	X	X	X	X	D	D

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—

- determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- 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
- determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 Additional uses

There are no additional uses which apply to the Scheme.

4.6 Restricted uses

There are no restricted uses which apply to the Scheme.

4.7 Special use zones

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

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

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

4.8 Non-conforming uses

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

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

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

4.9 Extensions and changes to a non-conforming use

4.9.1 A person must not—

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

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

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

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

4.10 Discontinuance of non-conforming use

Where a non-conforming use of any land 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 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 per cent 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 'Residential' and 'Commercial' shall be R10/25 unless otherwise indicated on the Scheme Maps.
- (b) Residential development with the R10/25 code shall be permitted at the R10 density, however the Council may approve developments up to the R25 density as an 'D' use.
- (c) 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 or is otherwise in accordance with the provisions of any Government Sewerage Policy.

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 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.

5.7.1 Development Requirements

Where development standards for a particular use are not set out in this Scheme, the development standards applicable shall be determined by the local government.

5.7.2 Combined Uses

Where 2 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).

TABLE II—DEVELOPMENT TABLE

Controls Use	Minimum Boundary Setback (metres)			Maximum Plot Ratio	Minimum Landscaped Area (%)	Minimum number of on-site car parking bays
	Front	Rear (Average)	Sides			
Child Care Centre	7.5	7.5	*	*	*	1 for each employee.
Club Premises	*	*	*	.5	*	1 for every 45m ² of gross floor area.
Community Purpose	*	*	*	*	10	1 for every 4 persons whom the building is designed to accommodate.
Consulting Rooms	*	*	*		30 in Res Zone	1 for every 30m ² of gross floor area, plus 1 for each person employed.
Educational Establishment	9	7.5	5	*	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).

Controls Use	Minimum Boundary Setback (metres)			Maximum Plot Ratio	Minimum Landscaped Area (%)	Minimum number of on-site car parking bays
	Front	Rear (Average)	Sides			
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	9	7.5	3 per storey	1	30	1 per unit, plus 1 space per 25m ² of service area.
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	7.5	7.5	*	*	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.

5.7.4 Rural Residential Development

5.7.4.1 Only 1 dwelling will be permitted on any lot in the Rural Residential zone.

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

5.7.4.3 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.

5.7.4.4 The local government may require a Development Plan be prepared by the proponent and endorsed by the local government in the Rural Residential Zone prior to any development being approved or subdivision being recommended for approval.

5.7.5 Rural Zone

Notwithstanding the right to develop a single house on an existing lot, residential development in the 'Rural' Zone shall comply with the specific requirements of the Council, however these shall not be lesser than those specified for the Residential Design Code 'R2'.

5.8 Caretaker's Dwelling

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

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

5.8.2 Only a single caretaker's dwelling shall be permitted on each lot and it shall be located at the rear of a lot zoned Industrial.

5.8.3 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.

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

5.8.5 A caretaker's dwelling shall have a maximum floor area of 100 square metres measured from the external face of the walls.

5.8.6 Open verandahs may be permitted but are not to be enclosed by any means unless the total floor area remains less than 100 square metres.

5.9 Moveable Buildings

Where the Council determines an application for planning approval for a moveable building within the Shire, it may impose a condition requiring the lodgement of a bond. The value of the bond may be calculated on either on the cost of completing the building so moved to its satisfaction, or the removal of the building where it is not satisfied that the building can be satisfactorily completed.

5.10 Outline Development Plan

5.10.1 The local government or the Western Australian Planning Commission may require the preparation of an outline development plan prior to considering any subdivision or development proposal in any zone.

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

5.10.3 Any departure or alterations to outline 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.

5.10.4 A proposed outline development plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and where the proposed outline development plan becomes an outline development plan, the local government is to have due regard to such reserves, zones or Residential Design Codes when recommending subdivision or approving development of land within. In the absence of an endorsed outline development plan the symbols in the Zoning Table will apply.

5.10.5 Advertising of outline development plans

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

5.10.6 Adoption of outline development plans

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

5.10.7 Right of Review

The proponent of an outline development plan required by this Scheme may make application for review under Part 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 an outline development plan (or an amendment to a outline development plan) within 120 days of receiving a request for direction;
 - (b) A decision by the local government not to endorse an outline development plan (or an amendment to an outline development plan); and
 - (c) Conditions of approval of the outline development plan (or an amendment to an outline development plan).
- 5.10.8 An outline development plan shall address, but is not limited to, the following—
- (a) lot sizes, dimensions and identification of building envelopes of building exclusion areas;
 - (b) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc, as may be considered appropriate;
 - (c) strategic firebreaks;
 - (d) any catchment management plan recommendations;
 - (e) any part of the natural environment which is required to be protected from degradation, including tree planting to counteract salinity;
 - (f) any facilities which the purchasers of the lots will be required to provide (eg. liquid or solid waste disposal);
 - (g) areas where conventional septic tanks may not be suitable;
 - (h) the description of joining land(s), connections to adjoining land(s) and their uses;
 - (i) remnant vegetation and any land affected by rare and endangered flora and fauna; and
 - (j) location of water courses, drainage lines and areas of inundation and the distance of any infrastructure from these.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of special control areas

6.1.1 The following special control areas apply to the Scheme as shown on the Scheme Map.

There are no Special control areas.

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.

PART 7—HERITAGE PROTECTION

7.1 Heritage List

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

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

- (a) have regard to the municipal inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and

- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

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

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

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

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

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

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

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

2 A 'place' is defined in Schedule 1 and may include works, buildings and contents of buildings.

7.2 Designation of a heritage area

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

7.2.2 The local government is to—

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

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

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

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

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

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

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

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

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

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

7.3 Heritage agreements

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

Note: 1 A heritage agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.

2 Detailed provisions relating to heritage agreements are set out in the *Heritage of Western Australia Act 1990*.

7.4 Heritage assessment

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

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

Where desirable to—

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1, the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.5.2.

PART 8—DEVELOPMENT OF LAND

The provisions of part 8 of the Model Scheme Text as current including any amendments apply.

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.

Schedule 1—Dictionary of defined words and expressions

The general definitions and land use definitions in schedule 1 of the Model Scheme Text as current including any amendments apply.

‘Essential service utility’—means any work or undertaking constructed or maintained by a service agency as may be required to provide water, sewerage, electricity, gas, drainage or other similar essential services.

‘Rural Home Business’—means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

- (a) Does not employ more than 2 people not members of the occupier’s household;
- (b) Will not cause injury to or adversely affect the amenity of the area;
- (c) Does not occupy an area greater than 200 square metres;
- (d) Does not involve the retail sales, 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 area, and does not involve the presence, use or calling of more than 3 vehicles, with vehicles not being more than 25 tonnes gross weight; and
- (f) Does not involve the use of an essential service of greater capacity than normally required in the zone.

‘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 3 months in any 12-month period and excludes those uses more specifically defined elsewhere.

Schedule 2—Additional uses

There are no additional uses that apply to the Scheme.

No.	Description of land	Additional use	Conditions

Schedule 3—Restricted uses

No.	Description of land	Restricted use	Conditions
RU1	Lot 23 Emmanuel Street, Bolgart	Those uses which may be permitted within the Industry Zone, as set out in Table I—Zoning Table with the following modifications— 1 Motor vehicle wash, service station, showroom, Industry-service and motor vehicle repair from 'P' to 'D'. 2 Fuel depot, industry—rural and industry—mining to become not permitted ('X').	Planning Approval is required. Applications for approval shall address the potential impact of the industrial use on the adjoining sensitive uses, including EPA buffer requirements.

Schedule 4—Special Use zones

No.	Description of land	Special use	Conditions
1	Lot 1 of Melbourne Loc 1991	Satellite Communications Facility (European Space Agency)	As determined by the Council

Schedule 5—Exempted advertisements

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 2 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 .

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

Land use and/or Development	Exempted Sign ¹	Maximum Size
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	<p>(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</p> <p>(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government of a local government, and</p> <p>(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
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

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 advertising in schedule 7 of the Model Scheme Text as current including any amendments applies.

Schedule 8—Notice of public advertisement of planning proposal

The form of public advertisement of planning proposal 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.

Schedule 10—Environmental conditions

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

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

Schedule 11 —Rural Residential Zones

Land Description	Rural Resid No.	Special Conditions

ADOPTION—**Planning and Development Act 2005***Shire of Victoria Plains*

LOCAL PLANNING SCHEME No. 5

Adopted by resolution of the Council of the Shire of Victoria Plains at the Ordinary Meeting of the Council held on the 15th day of August 2006.

G. ERICKSON, Shire President.

Date: 13 February 2012.

H. HAWKINS, Chief Executive Officer.

Date: 13 February 2012.

FINAL APPROVAL—

Adopted for final approval of the Shire of Victoria Plains at the meeting of Council held on the 17th day of May 2011 and the Common Seal of the Shire of Victoria Plains was hereunto affixed by the authority of a resolution of the Council in the presence of—

G. ERICKSON, Shire President.

Date: 13 February 2012.

H. HAWKINS, Chief Executive Officer.

Date: 13 February 2012.

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL—

DANIEL STEVENS, Delegated under S.16 of PD Act 2005.

Date: 21 February 2012.

FINAL APPROVAL GRANTED—

JOHN DAY, Minister for Planning.

Date: 1 March 2012.