



**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, THURSDAY, 27 SEPTEMBER 2012 No. 170 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

© STATE OF WESTERN AUSTRALIA

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF GINGIN

**LOCAL PLANNING
SCHEME No. 9**

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

Shire of Gingin

LOCAL PLANNING SCHEME No. 9

Ref: TPS/0292/3

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 Gingin Local Planning Scheme No. 9 on 12 September 2012, the scheme text of which is published as a schedule annexed hereto.

M. ASPINALL Shire President.
D. BURT Chief Executive Officer.

Preamble

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

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

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

Table of Contents

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

Schedules

- Schedule 1—Dictionary of Defined Words and Expressions
- 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—Development Contribution Areas
- Schedule 11—Environmental Conditions

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF GINGIN

LOCAL PLANNING SCHEME No. 9**SCHEME DETAILS**

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

PART 1—PRELIMINARY**1.1 Citation**

1.1.1 The Shire of Gingin Local Planning Scheme No. 9 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following Scheme is revoked—

Shire of Gingin Town Planning Scheme No. 8 Gazetted on 20 December 1991.

1.2 Responsible authority

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

1.3 Scheme area

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

1.4 Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1—15).

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

1.6 The aims of the Scheme

The aims of the Scheme are to—

- (a) Promote the planned expansion of all townsites, and encourage the consolidation and expansion of services and facilities within townsites.
- (b) Encourage population growth to take place in townsites, particularly where reticulated infrastructure is available or planned, to maximise infrastructure utility and investment and create focused demand for infrastructure improvement.
- (c) Improve and expand infrastructure in all towns to lessen environmental degradation.
- (d) Encourage sewered residential development in all townsites where economically feasible.
- (e) Recognise the unique servicing, management, land use and socio-economic issues associated with rural residential settlement.
- (f) Protect the rural land resource by promoting a strong presumption against unplanned fragmentation of rural land.

- (g) Recognise the existing pattern of rural small holdings in proximity to the Moore River and Gingin Brook.
- (h) Facilitate more intensive and diversified use of rural land for higher value products, including horticulture, intensive animal husbandry and farm forestry, which are compatible with surrounding farming practices.
- (i) Ensure that the use and development of rural land is both compatible and complementary to traditional livestock, grazing and agricultural activities.
- (j) Support subdivision of rural land which is consistent with the preferred settlement strategy and which facilitates the ongoing productive rural use of the land.
- (k) Ensure that agricultural and urban land uses can be co-located efficiently with minimal conflict.
- (l) Promote processing and value adding industries to be located within the Shire.
- (m) Recognise the importance of the existing fishing industries within the coastal townships, particularly in the context of potentially competing pressures of urban growth and tourism.
- (n) Facilitate increased demand and diversification of local service industries.
- (o) Promote Gingin Shire as an opportune location for regional development of industry, infrastructure and other specialised regional facilities.
- (p) Enhance and protect Gingin's unique physical environment as an asset for sustainable and dynamic tourism opportunities.
- (q) Promote sustainable management and land use to ensure the quality and adequate supply of groundwater and surface water bodies within the scheme area.
- (r) Protect the natural environment and biodiversity while ensuring appropriate development opportunities within the scheme area are realised.
- (s) Minimise land degradation and vegetation loss through integration of landcare principles within the planning process.
- (t) Recognise the importance of highways and main roads (Brand Highway and Indian Ocean Drive) as transport corridors ensuring safe and efficient travel with minimised traffic interaction.

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 of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes—

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

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

1.8 Relationship with local laws

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

1.9 Relationship with other Schemes

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

PART 2—LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme determinations to conform with Local Planning Strategy

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

2.2 Local Planning Policies

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

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

and may amend or add to or rescind the Policy.

2.3 Relationship of Local Planning Policies to Scheme

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

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

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential 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 first 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**4.2.1 Residential Zone**

The objectives of the Residential Zone are to—

- (a) provide for a range of housing types and encourage a high standard of residential development;
- (b) maintain and enhance the residential character and amenity of the zone;
- (c) limit non-residential activities to those of which the predominant function is to service the local residential neighbourhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity; and
- (d) ensure that the density of development takes cognisance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors.

4.2.2 Town Centre Zone

The objectives of the Town Centre Zone are to—

- (a) promote, facilitate and strengthen the town centre zone as the principal focus of the district in terms of shopping, professional, administrative, cultural, entertainment and other business activities;
- (b) accommodate a diversity of commercial, cultural and residential facilities;
- (c) encourage the integration of existing and proposed facilities within the zone so as to promote ease of pedestrian movement and the sharing of infrastructure, as well as to retain the opportunity for any future expansion of the area;
- (d) provide for the efficient and safe movement and parking of vehicles; and
- (e) ensure that buildings, ancillary structures and advertising are of high quality and contribute to the uniqueness of the townscape.

4.2.3 Mixed Business Zone

The objectives of the Mixed Business Zone are to—

- (a) accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites;
- (b) provide for a wide range of light and service industries, wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones;
- (c) allow for commercial and light industrial uses that are compatible with nearby uses;
- (d) provide for the efficient and safe movement and parking of vehicles;
- (e) encourage new development that will enable future adaptation and re-use, and will enhance the visual amenity of the area; and
- (f) ensure that where any development adjoins zoned or developed residential properties, such development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.

4.2.4 Industry Zone

The objectives of the Industry Zone are to—

- (a) provide for industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses;
- (b) discourage non-industry related uses within industrial areas that may constrain industrial activities;
- (c) provide for the efficient and safe movement and parking of vehicles; and
- (d) encourage new industry to contain its emissions on-site and, if that is not possible, within the zone having due regard to nearby established premises.

4.2.5 Rural Industry Zone

The objective of the Rural Industry Zone is to—

- (a) provide for a range of industrial land uses on rural-living sized lots where people can work and live on the same property.

4.2.6 Rural Living Zone

The objectives of the Rural Living Zone are to—

- (a) protect the rural environment and landscape;
- (b) accommodate single dwellings at very low densities on individual allotments beyond the urban areas;

- (c) restrict and limit the removal of natural vegetation and encourage revegetation where appropriate;
- (d) prevent threats to the amenity of the zone and impacts on wildlife and native vegetation caused by the grazing of livestock;
- (e) avoid increased fire risk to life and property through inappropriately located and designed land use, subdivision and development; and
- (f) provide for a suitable level of physical and community infrastructure.

4.2.7 General Rural Zone

The objectives of the General Rural Zone are to—

- (a) manage land use changes so that the specific local rural character of the zone is maintained or enhanced;
- (b) encourage and protect broad-acre agricultural activities such as grazing and more intensive agricultural activities such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use;
- (c) maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage; and
- (d) provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the General Rural zone.

4.2.8 Tourism Zone

The objectives of the Tourism Zone are to—

- (a) promote and provide for tourism opportunities;
- (b) provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where such facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area;
- (c) allow limited residential uses where appropriate;
- (d) encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities;
- (e) ensure that short stay tourist and holiday accommodation are the predominant land uses in the zone; and
- (f) encourage tourism development that is generally sympathetic to the natural and built features of the surrounding area.

4.2.9 Future Development Zone

The objectives of the Future Development Zone are to—

- (a) designate land considered to be generally suitable for future development and to prevent such land being used or developed in a manner which could prejudice its possible future use for planned development;
- (b) provide for the sustainable development of land in an orderly manner with appropriate levels of physical infrastructure and human services; and
- (c) ensure the orderly development of the land, through a requirement for the preparation and endorsement of a Structure Plan in accordance with the provisions of section 5.7 of the Scheme, as a pre-requisite to subdivision or development of the land.

4.2.10 Conservation Zone

The objective of the Conservation Zone is to—

- (a) adequately protect areas considered high environmental value from urban development and environmental degradation.

4.3 **Zoning Table**

4.3.1 The Zoning Table (Table 1) 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.

4.8 Non-conforming uses

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

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

Note: “Land” has the same meaning as in the *Planning and Development Act 2005* and includes houses, buildings and other works and structures.

4.9 Extensions and changes to a non-conforming use

4.9.1 A person must not—

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

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

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

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

4.10 Discontinuance of non-conforming use

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

4.11 Termination of a non-conforming use

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

Note: Section 191 of the *Planning and Development Act 2005* enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a Local Planning Scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

4.12 Destruction of non-conforming use buildings

If a building used for a non-conforming use is destroyed to 75 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.

TABLE 1—ZONING TABLE

ZONES LAND USE CLASSES	RESIDENTIAL	TOWN CENTRE	MIXED BUSINESS	GENERAL INDUSTRY	RURAL INDUSTRY	RURAL LIVING	GENERAL RURAL	TOURISM	CONSERVATION	IN ACCORDANCE WITH APPROVED STRUCTURE PLAN	
										FUTURE DEVELOPMENT	
ABATTOIR	X	X	X	X	X	X	A	X	X		
AGED PERSONS ACCOMMODATION	P	P	X	X	X	X	X	X	X		
AGRICULTURE—EXTENSIVE	X	X	X	X	X	A	P	X	X		
AGRICULTURE—INTENSIVE	X	X	A	X	X	X	D	X	X		
AGROFORESTRY	X	X	X	X	X	X	P	X	X		
AMUSEMENT PARLOUR	X	D	D	X	X	X	X	A	X		
ANCILLARY ACCOMMODATION	D	X	X	X	D	D	P	A	X		
ANIMAL ESTABLISHMENT	X	X	A	X	X	A	P	X	X		
ANIMAL HUSBANDRY—INTENSIVE	X	X	X	X	X	A	A	X	X		
BED AND BREAKFAST	A	P	X	X	X	D	P	P	A		
BETTING AGENCY	X	D	X	X	X	X	X	X	X		
CABIN	X	X	X	X	X	X	A	P	X		
CARAVAN PARK	X	X	X	X	X	X	X	P	X		
CARETAKER'S DWELLING	X	X	D	X	D	X	D	D	A		
CARPARK	D	P	P	D	X	X	D	A	X		
CHALET	X	X	X	X	X	X	A	P	X		
CHILD CARE PREMISES	A	D	D	X	X	A	D	X	X		
CINEMA/THEATRE	X	D	D	X	X	X	X	X	X		
CIVIC USE	P	P	P	X	X	P	P	D	X		
CLUB PREMISES	X	D	D	A	X	A	D	X	X		

ZONES LAND USE CLASSES	IN ACCORDANCE WITH APPROVED STRUCTURE PLAN										FUTURE DEVELOPMENT
	RESIDENTIAL	TOWN CENTRE	MIXED BUSINESS	GENERAL INDUSTRY	RURAL INDUSTRY	RURAL LIVING	GENERAL RURAL	TOURISM	CONSERVATION		
COMMUNITY PURPOSE	A	P	P	A	X	A	A	A	X	X	X
CONSULTING ROOMS	A	P	X	X	X	D	D	D	X	X	X
CONVENIENCE STORE	A	P	X	X	X	X	X	X	X	X	X
CORRECTIVE INSTITUTION	X	X	X	X	X	X	A	A	X	X	X
EDUCATIONAL ESTABLISHMENT	A	D	D	X	X	A	D	D	X	X	X
EXHIBITION CENTRE	A	P	D	X	X	A	D	D	D	X	X
FAMILY DAY CARE	D	D	X	X	X	D	P	P	X	X	X
FAST FOOD OUTLET	X	D	X	X	X	X	X	X	X	X	X
FISH PROCESSING	X	X	A	A	X	X	A	A	X	X	X
FUEL DEPOT	X	X	A	A	A	X	A	A	X	X	X
FUNERAL PARLOUR	X	D	D	D	X	X	X	X	X	X	X
GUEST HOUSE	A	X	X	X	X	X	A	A	P	X	X
GROUPED DWELLING	D	D	X	X	X	X	X	X	D	X	X
HOLIDAY HOUSE	D	X	X	X	X	X	D	D	P	X	X
HOLIDAY HOUSE (LARGE)	D	X	X	X	X	X	D	D	P	X	X
HOME BUSINESS	A	P	X	X	P	D	P	P	D	X	X
HOME OCCUPATION	P	P	X	X	P	P	P	P	D	X	X
HOME OFFICE	P	P	X	X	P	P	P	P	D	X	X
HOME STORE	A	A	X	X	X	X	X	X	X	X	X
HOSPITAL	A	A	A	X	X	X	X	X	X	X	X
HOTEL	X	D	X	X	X	X	X	X	P	X	X

ZONES LAND USE CLASSES	IN ACCORDANCE WITH APPROVED STRUCTURE PLAN										FUTURE DEVELOPMENT
	RESIDENTIAL	TOWN CENTRE	MIXED BUSINESS	GENERAL INDUSTRY	RURAL INDUSTRY	RURAL LIVING	GENERAL RURAL	TOURISM	CONSERVATION		
OFFICE	X	P	X	X	D	X	X	X	D	X	X
PARK HOME PARK	X	X	X	X	X	X	X	X	D	X	X
PLACE OF WORSHIP	A	D	D	A	X	A	D	D	X	X	X
PLANTATION	X	X	X	X	X	X	D	D	X	X	X
PLANT NURSERY	X	D	D	D	D	D	D	D	X	X	X
PUBLIC UTILITY	D	D	D	D	D	D	D	D	D	X	X
RECEPTION CENTRE	X	D	D	X	X	X	A	D	D	X	X
RECREATION—PRIVATE	A	D	D	A	A	A	D	D	X	X	X
RESIDENTIAL BUILDING	A	D	D	X	X	A	D	D	D	A	A
RESORT	X	X	X	X	X	X	X	X	P	X	X
RESTAURANT	A	P	X	X	X	X	D	D	P	A	A
RESTRICTED PREMISES	X	A	A	A	X	X	X	X	X	X	X
RETIREMENT VILLAGE	D	D	X	X	X	X	X	X	X	X	X
RURAL PURSUIT	X	X	X	X	D	D	P	P	X	X	X
SERVICED APARTMENT	X	A	X	X	X	X	X	X	P	X	X
SERVICE STATION	X	A	D	D	X	X	X	X	X	X	X
SHOP	A	P	X	X	X	X	X	X	D	X	X
SHOWROOM	X	D	P	P	X	X	X	X	X	X	X
SINGLE HOUSE	P	D	X	X	D	P	P	P	D	A	A
STAFF/WORKERS ACCOMMODATION	X	X	X	X	X	X	X	X	A	A	X
STORAGE	X	D	P	P	D	X	P	X	X	X	X

ZONES LAND USE CLASSES	RESIDENTIAL	TOWN CENTRE	MIXED BUSINESS	GENERAL INDUSTRY	RURAL INDUSTRY	RURAL LIVING	GENERAL RURAL	TOURISM	CONSERVATION	FUTURE DEVELOPMENT
	TAVERN	X	A	A	X	X	X	X	D	X
TELECOMMUNICATION INFRASTRUCTURE	A	A	D	D	A	A	A	X	X	
TRADE DISPLAY	X	D	P	P	A	X	X	X	X	
TRANSPORT DEPOT	X	X	D	P	A	X	D	X	X	
VETERINARY CENTRE	X	A	D	D	A	A	D	X	X	
WAREHOUSE	X	D	P	P	A	X	X	X	X	
WINERY	X	D	D	D	A	A	D	X	X	

PART 5—GENERAL DEVELOPMENT REQUIREMENTS

5.1 Compliance with development standards and requirements

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

5.2 Residential Design Codes

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

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

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

5.3 Special application of Residential Design Codes

5.3.1 The Residential Design Code for Mixed Use, grouped dwelling or multiple dwelling development in the Town Centre Zone shall be limited to R60.

5.3.2 Within areas that are dual coded on the Scheme Map, development and subdivision in accordance with the higher code shall only be supported where reticulated sewerage is available.

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

5.6.1 Environmental conditions to which the Scheme is subject, or will be through future amendments, are incorporated into the Scheme by Schedule 11 of the Scheme.

Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the *Environmental Protection Act 1986*.

5.7 Structure Plans

5.7.1 The local government or the Western Australian Planning Commission may require the preparation of a structure plan prior to considering a subdivision or development proposal for any area or zone in the scheme.

5.7.2 Subdivision and development should generally be in accordance with an approved structure plan.

5.7.3 A departure from, or alteration to, a structure plan may be permitted if the local government and Western Australian Planning Commission considers the proposed departure or alteration to be minor in nature and it will not prejudice the future subdivision and development of the area.

5.7.4 Structure plan form and content

5.7.4.1 A Structure Plan is to contain such detail as, in the opinion of the local government and Western Australian Planning Commission, is required to satisfy the planning requirements for the structure plan area, and should include the following details—

- (a) a set of maps and a report describing the structure plan area and surrounding land uses;

- (b) maps are to be of a legible scale for the structure plan area;
- (c) key opportunities and constraints of the structure plan area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and services;
- (d) conservation and environmental values including bushland, wetlands, streams and water courses, foreshore reserves and setbacks, environmental policy areas and urban water management areas;
- (e) sites and features of Aboriginal and European heritage value;
- (f) transport routes, including highways, district and neighbourhood roads, public transport routes, cycle routes and railway stations;
- (g) the planning context for the structure plan including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, an indication of how the structure plan is to be integrated into the surrounding area;
- (h) proposed major land uses, in particular, residential areas, public open space, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, industrial and mixed business uses;
- (i) the proposed indicative lot pattern and general location of any major buildings;
- (j) estimates of future lots, dwellings, population, commercial and industrial floor space;
- (k) provision for major infrastructure, including water supply, main drainage, sewerage, and other key infrastructure services;
- (l) the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks;
- (m) the timeframe and staging of subdivision and development, and the method of implementation, including any proposals for funding by development contributions; and
- (n) such other information as may be required by the local government as a result of the site's characteristics.

5.7.5 Advertising and adoption of structure plans

5.7.5.1 Upon receiving a structure plan, the local government is to either—

- (a) determine that the structure plan is satisfactory for advertising;
- (b) determine that the structure plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) determine that the structure plan is not satisfactory for advertising and give reasons for this to the proponent.

5.7.5.2 When the local government has determined the structure plan to be suitable for advertising, the structure plan should be advertised for a minimum period of 21 days.

5.7.5.3 The local government shall advise affected landowners and relevant agencies in writing that the structure plan is available for public advertising.

5.7.5.4 Following advertising, the local government shall consider the public submissions made in respect of the structure plan, and either uphold or dismiss the submissions made.

5.7.5.5 The local government may require modifications to the structure plan prior to adoption.

5.7.5.6 When the local government is satisfied with the structure plan, it is to adopt the structure plan and forward the Council's resolution, the adopted structure plan, and schedule of public submissions is to be forwarded to the Western Australian Planning Commission for determination.

5.7.5.7 The Western Australian Planning Commission shall then either approve the structure plan, approve the structure plan with modifications or refuse the structure plan.

5.7.6 Operation of Structure Plan

5.7.6.1 A structure plan commences operation when it is adopted by the local government and approved by the Western Australian Planning Commission

5.7.6.2 If a structure plan imposes a classification on the land included in it by reference to reserves, zones, or Residential Design Codes then—

- (a) the provisions of the structure plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and
- (b) provisions in the Scheme applicable to land in those classifications under the Scheme apply to the structure plan area;
- (c) where there is conflict between the provisions of a zone, reserve or provision in a structure plan or a scheme, the scheme shall prevail.

5.7.6.3 If the zones and reserves in a structure plan are inconsistent with the scheme, they must be incorporated into the scheme via an amendment or a scheme review.

5.7.7 Right of Review

5.7.7.1 The proponent of a structure plan required by this Scheme may make application for review under Part 14 of the *Planning and Development Act 2005* on the following grounds—

- (a) The failure of the local government to make a determination on the content and requirement of an structure plan (or an amendment to a structure plan) within 120 days of the structure plan being lodged;
- (b) A decision by the local government not to endorse an structure plan (or an amendment to an structure plan); and
- (c) Conditions of approval of the structure plan (or an amendment to a structure plan).

5.7.8 In considering other procedural matters involved with structure plans, the local government and proponent will be guided by policies of the Western Australian Planning Commission.

5.7.9 A Structure Plan (or Outline Development Plan) adopted by the Western Australian Planning Commission under Clause 5.3.3 of the Shire of Gingin Town Planning Scheme No. 8 shall be an adopted Structure Plan for the relevant area for the purpose of this Scheme.

5.8 **Detailed Area Plans**

5.8.1 The local government or the Western Australian Planning Commission may require the preparation of a detailed area plan prior to considering a subdivision or development proposal for any area or zone in the scheme.

5.8.2 A detailed area plan is to relate to a particular lot or lots and may be prepared and submitted—

- (a) to enhance, elaborate or expand on the details or provisions contained in a Structure Plan; or
- (b) for any other planning purpose.

5.8.3 Detailed area plan form and content

A detailed area plan may include details as to—

- (a) building envelopes;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, finished site levels and drainage;
- (i) protection of sites of heritage, conservation or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the Council.

5.8.4 The Council is to—

- (a) approve with or without conditions; or
- (b) refuse to approve the detailed area plan.

5.8.5 If within 60 days of receiving a detailed area plan, or such longer period as may be agreed in writing between the person and the Council, the Council has not made one of the determinations referred to in Clause 5.8.4, the Council is deemed to have refused to approve the detailed area plan.

5.8.6 The Council is to forward a copy of the detailed area plan to the Commission within 10 days of approving the detailed area plan.

5.8.7 The Council's refusal to approve a detailed area plan under section 5.8 is not a valid reason for the Council to refuse to adopt or the Commission to refuse to approve a proposed Structure Plan under section 5.7.

5.8.8 Once approved by the Council, the detailed area plan is to be used as the basis for—

- (a) making recommendations to the Commission on subdivision applications; and
- (b) determining development applications with respect to the land subject to the detailed area plan.

5.8.9 An approved detailed area plan may be modified or varied with the approval of the Council, but where there is a related Structure Plan such modifications or variations are to conform with the intent of any related Structure Plan.

5.8.10 The Council is to forward a copy of the modification or variation to the detailed area plan to the Commission within 10 days of approving the modification or variation.

5.9 **General Development Standards**

5.9.1 *Site Requirements*

Subject to the provisions of the Scheme, the minimum standards for development in the various zones are set out in Table 2.

TABLE 2—SITE REQUIREMENTS

Zone	Minimum Setback			Maximum Plot Ratio	Maximum Site Coverage	Minimum Landscaping
	Front	Side	Rear			
Residential	As per Residential Design Codes					
Town Centre	Nil	Nil	6m	1	75%	50% of all setback areas
Mixed Business	7.5m	Nil	6m	0.5	75%	5% of site area—landscaping required along street frontage
General Industry	10m	Nil	6m	0.5	75%	5% of site area—landscaping required along street frontage
Rural Industry	Caretaker's dwelling—6m Other uses—20m	20m	20m	0.5	50%	5% of site area—screening of non-residential uses from street required
Rural Living	20m	20m	20m	N/A	N/A	As required by local government
General Rural	20m	20m	20m	N/A	N/A	As required by local government
Tourism	5m	Nil	6m	0.5	50%	50% of all setback areas

Note: (a) Council may approve interchanging of side and rear setbacks where it is satisfied that the objectives of the zone are not compromised.

(b) Council may vary the Table 2 site requirements provisions in the Town Centre and Tourism zones subject to consultation with affected landowners.

5.9.2 Parking

5.9.2.1 Provisions for Parking, Access for Loading and Unloading Vehicles

In the Town Centre, Mixed Business, General Industry, Rural Industry and Tourist zones—

- (a) no land or buildings shall be developed unless provision is made for an area clear of the street for the purpose of loading or unloading goods or materials.
- (b) the local government will seek to ensure that the majority of servicing vehicles will be able to leave and enter the street in a forward direction.
- (c) parking, loading and unloading and access, complete with necessary drainage, signs and marking as required by the local government, shall be provided prior to any occupation of the development or at such time as may be agreed in writing between the local government and the developer.
- (d) external servicing areas shall be established and maintained to the satisfaction of the local government.

5.9.2.2 No commercial vehicle in excess of 3 tonnes tare weight shall be permitted to be parked on any Residential or Rural Living lot without planning consent of the Council unless—

- (a) provision is made for the vehicle to be housed in a garage or parked behind the building line;
- (b) the vehicle together with its load does not exceed 3 metres in height;
- (c) the vehicle forms an essential part of the lawful occupation of an occupant of the dwelling and that occupation, if carried on upon the lot, does not contravene the provisions of the Scheme; and
- (d) the vehicle is not brought or taken from the land between the hours of midnight and 6.00am.

5.9.2.3 Except with the consent of Council, a person shall not use or develop land for a purpose specified in Column 1 of Table 3 unless provision is made on the site for a number of car parking spaces not less than the number calculated in accordance with Column 2 of that Table shown opposite that purpose.

5.9.2.4 Where a calculation made in pursuance of subclause 5.9.2.3 results in a number which is not a whole number, the number of parking spaces required shall be the next highest whole number.

5.9.2.5 Where there is a use of land referred to in the Zoning Table (Table 1) for which no provision is made in respect of car parking spaces in Table 3, the car parking spaces required for that use of land shall be as determined by Council.

5.9.2.6 The size of car parking spaces and the driveways providing entry to, or exit from, a parking area shall be in accordance with Table 4 and the explanatory figure in Table 5.

5.9.2.7 Where car parking spaces are required to be provided pursuant to this Scheme, the Council may accept a cash payment in lieu of the provision of some or all of those car parking spaces, if—

- (a) the payment is not less than the amount the Council estimates to be the cost to the owner of providing and constructing those spaces together with the amount the Council estimates to be the value of the land which would have been occupied by those spaces; and
- (b) payment is made prior to commencement of the development in respect of which those spaces are provided or in accordance with the terms of an agreement made between the Council and the applicant for Planning Approval for that development.

5.9.2.8 Any amount paid to the Council under subclause (1), shall be held by the Council, in a separate reserve account or trust account and shall be applied by the Council—

- (a) in providing car parking spaces or car parking facilities capable of serving the needs of the development in respect of which the payment was made and in the locality of that development; or
- (b) to the acquisition of land and the construction of buildings for the purpose referred to in paragraph (a) of this subclause.

TABLE 3—PARKING REQUIREMENTS

Column 1—Used/Development	Column 2—Minimum number of car parking spaces required
Amusement Parlour	1 per 10m ² gross leaseable area
Bed and Breakfast	1 per bedroom plus 1 per staff member
Caravan Park	1.5 per camp site
Child Care Premises	1 per staff member plus 1 per 8 children
Cinema/Theatre	1 per 4 seats
Club Premises	1 per 4 persons
Consulting Rooms	5 per consulting room plus 1 per staff member
Educational Establishment	Primary—1.5 per classroom Secondary—2 per classroom
Hospital	1 per 5 beds plus 1 per staff member
Hotel	1 per bed plus 1 per 5m ² public area
Industry	1 per 100m ² gross leaseable area or 2 per unit, whichever is the greatest
Motel	1 per unit plus 1 per 10m ² public restaurant
Motor Vehicle, Boat or Caravan Sales	1 per 45m ² gloss floor area plus 1 per 100m ² open display area
Office	1 per 40m ² gross lease area
Place of Worship	1 per 4 persons
Residential Building	0.5 per bedroom or bedspace
Restaurant	1 per 4 persons
Service Station	1.5 per service bay plus 1 per staff member
Shop	1 per 20m ² gross leasable area
Showroom	1 per 60m ² gross leasable area
Tavern	1 per 5m ² public area
Warehouse	1 per 100m ² gross leaseable area

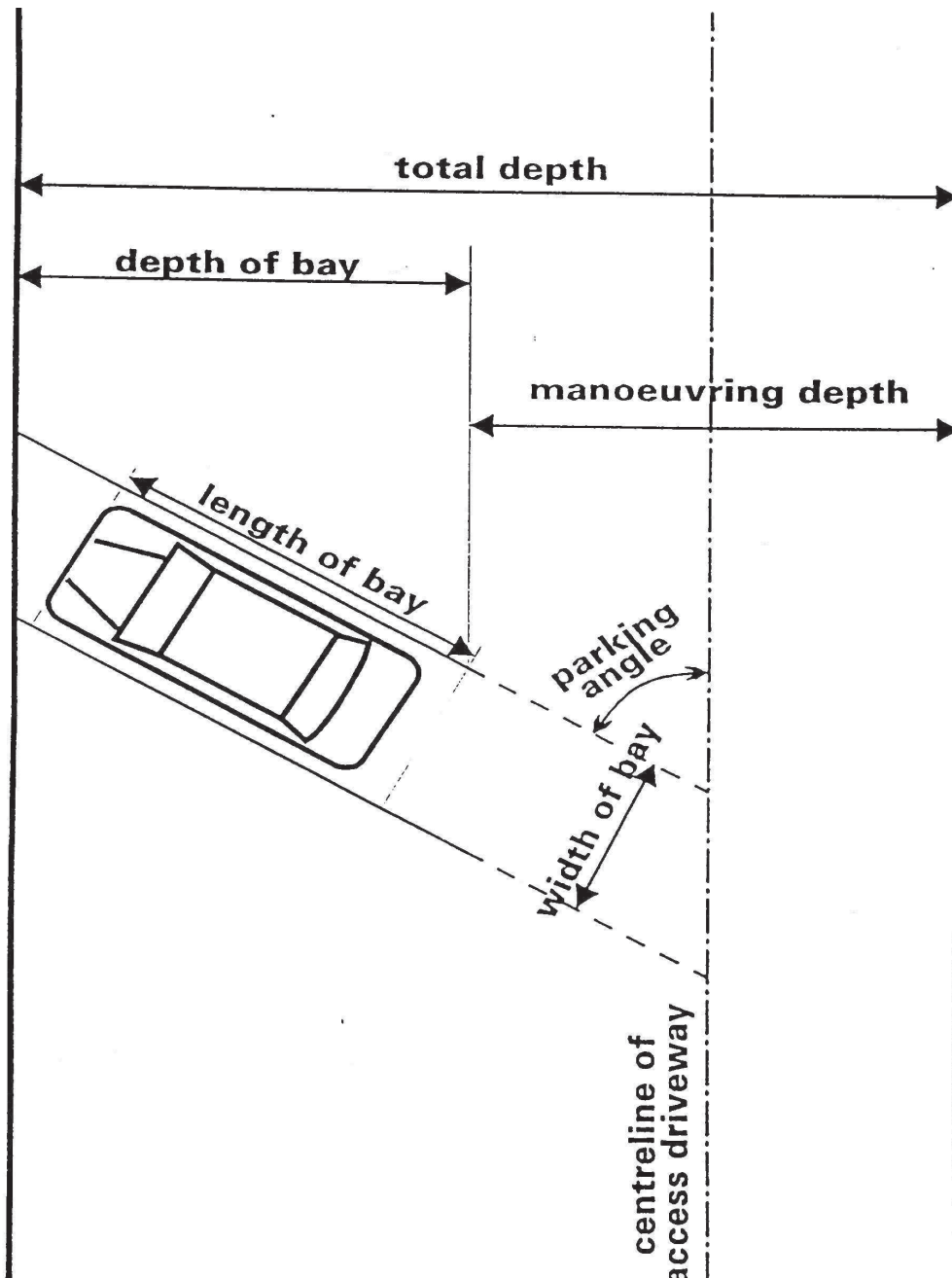
Note: Car parking spaces for the disabled to be provided in accordance with the Building Code of Australia

TABLE 4—PARKING DIMENSIONS

Parking Angle	Width of Bay (metres)	Length of Bay (metres)	Depth of Bay (metres)	Minimum Manoeuvring Depth (metres)	Minimum Total Depth (metres)
(a) One-Way Access					
90°	2.6	5.5	5.5	5.9	11.4
75°	2.6	5.5	6.0	5.3	11.3
60°	2.6	5.5	6.1	5.0	11.1
45°	2.6	5.5	6.1	3.6	9.7
30°	2.6	5.5	4.8	3.3	8.1
00°	3.0	6.7	3.0	3.0	6.0
(parallel parking)					

Parking Angle	Width of Bay (metres)	Length of Bay (metres)	Depth of Bay (metres)	Minimum Manoeuvring Depth (metres)	Minimum Total Depth (metres)
(b) Two-Way Access					
90°	2.6	5.5	5.5	6.0	11.5
75°	2.6	5.5	6.0	6.0	12.0
60°	2.6	5.5	6.1	6.0	12.1
45°	2.6	5.5	6.1	6.0	12.1
30°	2.6	5.5	4.4	6.0	10.4
00°	3.0	6.7	3.0	6.0	9.0
(parallel parking)					

TABLE 5—EXPLANATORY FIGURE



5.9.3 Relocation of Buildings

5.9.3.1 Second hand relocated dwellings shall not be permitted in residential or rural living zones.

5.9.3.2 Any building or structure which has been partly or wholly erected on any lot, either within or outside the Shire, shall not be relocated to any premises in the Shire unless Council has granted approval to do so. In making its determination on an application for approval, Council shall take into consideration the following matters—

- (a) capability for movement with structural safety;
- (b) ability to comply with the provisions of this Scheme; and
- (c) whether the appearance and design would detract from the visual quality of the environment in the relocated position.

5.9.4 Tree Preservation Order

The Council may by notice served upon individual land owners or upon a subdivider of land require the preservation of a tree or group of trees and thereafter no landowner shall cut, remove or otherwise destroy any tree unless the Council rescinds the notice or order, or the tree is dead, diseased or dangerous.

5.9.5 Coastal Development

5.9.5.1 All coastal development is to comply with the provisions of *State Planning Policy 2.6—State Coastal Planning Policy*.

5.9.5.2 In accordance with section 77 (b) of the *Planning and Development Act 2005*, the provisions of *State Planning Policy 2.6—State Coastal Planning* shall apply as if they were part of this Scheme.

5.10 **Zone Specific Development Standards**

5.10.1 Residential Zone

5.10.1.1 In the Residential zone lot sizes shall be in accordance with the Residential Design Code Densities indicated on the Scheme Map.

5.10.2 Town Centre Zone

5.10.2.1 Development within the Town Centre zone shall have regard for the particular character, townscape and sense of place of the local area.

5.10.2.2 Where development or re-development of properties in the Town Centre zone is envisaged, the incorporation of residential uses up to a density of R40 will be considered, to create greater diversity of use, increased security and to stimulate additional life and vitality within the centre of the town. Any such residential development shall comply with the design elements for multiple dwellings in the Residential Design Codes.

5.10.2.3 Where a mixed use development is proposed, the residential use shall be confined to an upper storey.

5.10.2.4 Building Materials

Each façade or wall of a building facing any street or public place shall be constructed of brick, stone, concrete or glass or combinations of 2 or more of these materials or similar material as approved by Council to the wall height of the building or to a minimum height of 3 metres.

5.10.2.5 Refuse Storage Areas

All developments shall provide at least one refuse storage area readily accessible to service vehicles and screened from view from a public street by a close fence, wall or screen landscaping no less than 1.8 metres in height.

5.10.2.6 Storage Yards

A person shall not use land for open storage purposes unless it is screened from public view by a fence or wall to the satisfaction of the Council.

5.10.3 Mixed Business and General Industry Zones

5.10.3.1 Lot sizes shall be a minimum of 1,500 square metres.

5.10.3.2 Refuse Storage Areas

All developments shall provide at least one refuse storage area readily accessible to service vehicles and screened from view from a public street by a close fence, wall or screen landscaping no less than 1.8 metres in height.

5.10.3.3 Storage Yards

A person shall not use land for open storage purposes unless it is screened from public view by a fence or wall to the satisfaction of the Council.

5.10.3.4 Factory Tenement Buildings

Industrial buildings occupied or intended to be occupied by more than one separate business establishment, shall be constructed so that every occupancy—

- (a) has a floor area of at least 100 square metres and neither its width nor length is less than 8 metres;
- (b) has an adjacent open yard area no smaller than one-third of the floor area of the occupancy;
- (c) has an open yard with direct access to a service access road not less than 6 metres in width; and
- (d) is separated from every other occupancy by a suitable distance or an internal wall or walls constructed of brick, stone, concrete or other material of equal or greater fire rating approved by Council.

5.10.3.5 Fences

The minimum standard fence shall be a 1.8-metre link mesh security fence unless otherwise approved by the Council.

5.10.4 Rural Industry Zone

5.10.4.1 Lot sizes shall be between 1 and 4 hectares.

5.10.4.2 Council may, at its discretion, consider permitting the land use “single house”. In doing so, Council will be guided by the development standards in clause 5.10.9, excepting clauses 5.10.9.4 and 5.10.9.5.

5.10.4.3 Refuse Storage Areas

All developments shall provide at least one refuse storage area readily accessible to service vehicles and screened from view from a public street by a close fence, wall or screen landscaping no less than 1.8 metres in height.

5.10.4.4 Storage Yards

A person shall not use land for open storage purposes unless it is screened from public view by a fence or wall to the satisfaction of the Council.

5.10.5 Rural Living Zone

5.10.5.1 In the Rural Living zone lot sizes shall comply with the following standards—

<u>Code</u>	<u>Minimum Lot Size</u>
RL1	1 hectare
RL2	2 hectares
RL3	3 hectares
RL4	4 hectares
RL	No further subdivision will be supported

5.10.5.2 No more than one dwelling will be permitted on a lot zoned Rural Living.

5.10.5.3 Where land zoned Rural Living adjoins rural uses with buffer requirements, dwellings shall be setback a minimum of 100 metres from the relevant boundary(s) nearby to the adjoining rural uses, or such other setback distance as may be specified on an adopted Structure Plan.

5.10.5.4 No dwelling shall be erected unless the lot is connected to a reticulated water supply or the Council is satisfied that there is an adequate potable water supply consisting of a roof water tank of not less than 90,000 litres, a bore, well, spring, soak or dam.

5.10.5.5 Fencing shall conform to the standard of rural fencing in the district, and the use of solid panel fenceings except in the immediate vicinity of the residence will only be permitted with the consent of Council.

5.10.5.6 No natural vegetation shall be removed without prior written consent of Council, unless its removal is necessary for construction of a building, firebreak or boundary fence.

5.10.5.7 The siting and design of any buildings on any lot should not significantly impact on the natural vegetation or visual landscape amenity of the site.

5.10.5.8 The keeping of horses, sheep, goats and other grazing animals, where permitted, shall not exceed the stocking rates recommended by Agriculture Western Australia for the applicable pasture types.

5.10.5.9 Notwithstanding clause 5.10.5.8, within the Sovereign Hill Estate a maximum of 2 dry sheep equivalents per hectare can be applied in respect of domestic use, to avoid soil degradation.

5.10.5.10 Subdivision and development of land, including fencing and firebreaks are to accord with an approved structure plan (or similar).

5.10.5.11 No further subdivision is permitted in the Rural Living zone unless provided for in an approved structure plan (or similar).

5.10.6 General Rural Zone

5.10.6.1 In the General Rural zone lot sizes shall comply with the following standards—

<u>Code</u>	<u>Minimum Lot Size</u>
GR10	10 hectares
GR20	20 hectares
GR30	30 hectares
GR40	40 hectares
UNCODED	Further subdivision will not be supported unless it meets the exceptional circumstance requirements for subdivision under WAPC Development Control Policy 3.4.

5.10.6.2 No more than one single dwelling house shall be erected on a lot zoned General Rural unless the Local Government is satisfied that an additional house is necessary or desirable for the continuation of a bona fide agricultural activity, and is satisfied that the land can be adequately serviced, surrounding amenity is not adversely impacted on or any other consideration it considers relevant.

5.10.6.3 The presence of more than one dwelling unit on a lot in the General Rural zone shall not be considered by itself to be sufficient grounds for subdivision.

5.10.6.4 No dwelling shall be erected unless the lot is connected to a reticulated water supply or the Council is satisfied that there is an adequate potable water supply consisting of a roof water tank of not less than 90,000 litres, a bore, well, spring, soak or dam.

5.10.6.5 Fencing shall conform to the standard of rural fencing in the district, and the use of solid panel fences except in the immediate vicinity of the residence will only be permitted with the consent of Council.

5.10.6.6 No natural vegetation shall be removed without prior written consent of Council, unless its removal is necessary for construction of a building, firebreak or boundary fence.

5.10.6.7 The siting and design of any buildings on any lot should not significantly impact on the natural vegetation or visual landscape amenity of the site.

5.10.6.8 The keeping of horses, sheep, goats and other grazing animals, where permitted, shall not exceed the stocking rates recommended by Agriculture Western Australia for the applicable pasture types.

5.10.6.9 Council may, at its discretion, permit the land uses "retirement village" and "aged persons accommodation" in the General Rural zone, but only within the Gingin townsite (as defined by the suburb boundary), and subject to appropriate zoning of the site at a later stage.

5.10.7 Tourism Zone

5.10.7.1 Development within the Tourism Zone will comprise a range of land uses set out in the purpose and objectives of the Zone and in the Zoning Table. Dependent upon the use proposed, sites for such developments will normally be identified within or in close proximity to established settlements.

5.10.7.2 Development proposals will be considered by the local government with particular regard to the impact of the proposed development on visual and natural amenity, the availability of reticulated sewerage and/or the suitability of the land for on-site effluent disposal, the provision of sufficient landscape buffers and the density of the development.

5.10.7.3 Those areas of the site providing the highest tourism amenity, e.g. the beachfront, shall be retained for tourism purposes, and not designated for residential use. The maximum proportion of residential units shall be such that the site retains a dominant tourism function and character, and shall be determined by the Council between zero and 25 per cent inclusive.

5.10.7.4 Where tourism development with no permanent or semi-permanent residential units is proposed, Council may at its discretion vary the maximum plot ratio imposed.

5.10.7.5 Where strata titling is proposed, appropriate management arrangements in a management statement which ensures that all units will be let out for tourism

5.10.7.6 The maximum percentage of residential units/development on site shall comply with the following at all stages of the development—

- (a) the proportion of residential units relative to the total number of accommodation units on the site shall be equal to or less than the approved percentage.
- (b) the site area occupied by the residential units, and any areas designated for the specific use of occupiers of those units, relative to the area occupied by the short-stay development shall be equal to or less than the approved percentage. In calculating the area occupied by the 2 development categories, those facilities available for common use shall be excluded from the calculation.
- (c) That any individual residential unit and as a whole any residential component of such a development shall be of a design and scale that is clearly subsidiary to the tourism component of the development such that the tourism component remains dominant in all aspects.

5.10.7.7 Proposals for offices and reception centres in the Tourism Zone will only be considered where they are incidental to, and support the proposed tourism use on the site.

5.10.7.8 Tourism development that incorporates accommodation and/or reception facilities shall include provision for an onsite manager.

5.10.7.9 Proposals for subdivision and development for Residential land uses in the Tourism zone will be determined in accordance with Residential R12.5 code unless combined with a Tourism proposal.

5.10.7.10 In considering proposals in the Tourism Zone, Council shall have regard for the zone objectives, the scale and bulk of the proposal and its integration with surrounding land uses.

5.10.7.11 Council may, at its discretion, require proposed shared facilities in tourist developments to be established in the first stage of development.

5.10.7.12 To reduce the likelihood of tourism accommodation being used as permanent or semi-permanent accommodation, a maximum length of stay provision of 3 months in any 12-month period should apply to the tourism units on all developments.

5.10.8 *Conservation Zone*

5.10.8.1 Development within the Conservation Zone is to be in accordance with the zone objectives and/or site specific environmental conditions outlined in Schedule 11 of the Scheme.

5.10.9 *Caretakers Dwellings*

5.10.9.1 Caretakers' dwellings may be permitted in the Mixed Business, Rural Industry and Tourism Zones.

5.10.9.2 A caretaker's dwelling must be incidental to the predominant use of the site.

5.10.9.3 Only one caretaker's dwelling is permitted on each lot.

5.10.9.4 The total permitted floor area of a caretaker's dwelling is 100 square metres, measured from the external face of walls.

5.10.9.5 Open verandahs may be permitted, but if enclosed will form part of the total calculated floor area.

5.10.9.6 Council may consider the use of notifications on title to advise prospective purchasers of potential impacts from noise, dust, odour or amenity that may arise from the location of a residential land use within the zone.

5.10.9.7 Council will not consider applications for caretakers' dwellings prior to the primary site activity being either approved or constructed.

5.10.9.8 Where simultaneous approval has been granted by Council for both a caretaker's dwelling and the main activity on the same lot, the main activity must be developed and operational prior to occupation of the dwelling.

5.10.9.9 Caretaker's dwellings should be carefully sited and constructed so the potential site (or estate) impacts from noise, dust, odour or amenity are minimised.

5.10.9.10 A caretaker's dwelling may only be occupied by the owner, manager, lessee or employee (and immediate family thereof) of the lawfully established or approved land use.

5.10.10 Extractive Industries

5.10.10.1 Council may consider applications for extractive industries in the General Rural zone where the sites have not been identified within an SCA under clause 6.4.

5.10.10.2 In considering applications for extractive industries, Council will have regard for the zone objectives.

5.10.10.3 Council will also consider the potential impact of the extractive industry in regard to surrounding land uses (both existing and future) and may apply conditions to manage the potential impacts, such as noise, dust, odour and amenity.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of special control areas

6.1.1 The following Special Control Areas are shown on the Scheme Maps—

- (i) Special Control Area No. 1—River Environs Management Area
- (ii) Special Control Area No. 2—Public Drinking Water Areas
- (iii) Special Control Area No. 3—Basic Raw Materials Areas
- (iv) Special Control Area No. 4—Wastewater Infrastructure Buffer Areas
- (v) Special Control Area No. 5—Development Contribution Areas

6.1.2 In respect of the Special Control Area(s) shown in the Scheme Maps, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

6.2 Special Control Area 1—River Environs Management Areas

6.2.1 Purpose

To retain the physical and biological features along the waterway necessary for the healthy functioning of the waterway in terms of water conveyance, water quality and ecological functions.

To provide for recreational activities and facilities where appropriate and managed.

6.2.2 Application Requirements

Planning approval is required to construct or extend a dwelling or other building, and/or to carry out any other form of development on any land affected by this Special Control Area.

6.2.3 Development Standards and Considerations

In considering any rezoning request, subdivision or development application the Council will have regard to the following—

- (a) More intensive development such as residential, industrial or rural residential subdivision, will generally not be supported within the River Environs Management Area.
- (b) Development applications for land within the River Environs Management Area should not be approved where it could reasonably be expected that the development may result in—
 - an obstruction to major river flows and increase flood levels upstream;
 - the removal of or damage to riparian vegetation or other nearby vegetation which influences the waterway; or
 - harm to water quality or habitat values of the waterway.
- (c) Public works or community facilities may be permitted within the River Environs Management Area, subject to advice from the Department of Water that such public works can be designed and located in a manner so as to minimise flood risk, property damage and obstruction to river flow.
- (d) For those areas within the River Environs Management Area where the Department of Water has identified the flood plain boundary, development will be subject to a minimum habitable floor level of 0.5 metres above the predicted 1 in 100 year flood level.

6.2.4 Referral of Applications

Council may consult with the Department of Water and, if necessary, other relevant government or private organizations before determining any application.

6.3 Special Control Area No. 2—Public Drinking Water Source Areas

6.3.1 Purpose

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

6.3.2 Application Requirements

Planning approval is required to construct or extend a dwelling or other building, or to carry out any other form of development on any land affected by this Special Control Area.

6.3.3 Development Standards and Considerations

6.3.3.1 In determining land uses and development proposals within Special Control Areas, the Council will have due regard to relevant State Government policies, including Statement of Planning Policy No. 2.7 and the most recent Department of Environment, Water Catchment and Protection (DEWCP) Land Use Compatibility Tables for PDWSA's.

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

- Abattoir;
- Piggery;
- Power Station;
- Fish Processing;
- Tannery; and
- Woolscouring.

6.3.3.3 In determining proposals, the Council is to have due regard to any comments or recommendations from DEWCP, and may impose relevant conditions to prevent or minimise the potential risk of groundwater contamination. Council should also have regard to the management direction provided by the priority classification of certain areas, noting that—

- o Priority 2 (P2) areas are defined to ensure there is no increased risk of pollution to the water source; and
- o Priority 3 (P3) areas are defined to manage the risk of pollution to the water source.

6.3.4 Referral of Applications

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

- Potential for increased nutrient loading, in particular point source for nutrients, eg poultry farm, piggery;
- Application of fertilisers and pesticides;
- Storage of chemicals, fuels and other potentially polluting substances;
- Substantial increase in run-off; and
- Any other impact which Council considers could have an impact on the quality of public drinking water.

6.4 Special Control Area No. 3—Basic Raw Materials Areas

6.4.1 Purpose

To identify and protect important basic raw material resources and provide for their extraction and use in accordance with the *State Planning Policy 2.4—Basic Raw Materials*.

6.4.2 Application Requirements

Planning approval is required to construct or extend a dwelling or other building, or to carry out any other form of development on any land affected by this Special Control Area.

6.4.3 Development Standards and Considerations

In determining land uses and development proposals within this Special Control Area Council will have due regard to relevant State Government policies, including *State Planning Policy 2.4—Basic Raw Materials*.

6.4.4 Referral of Applications

The Council is required to refer development applications to the Department of Mines and Petroleum for advice prior to determination of the application.

6.5 Special Control Area No. 4—Wastewater Infrastructure Buffer Areas

6.5.1 Purpose

To ensure compatibility of land use and development with Water and Wastewater Infrastructure.

6.5.2 Application Requirements

Planning approval is required to develop a sensitive land use (as defined by the Environmental Protection Authority) on any land in this Special Control Area.

6.5.3 Development Standards and Considerations

In considering any rezoning request, subdivision or development application the Council will have regard for the following—

- (a) the proximity to the emission source and estimated level of impact and/or risk on the use or development;

- (b) the sensitivity of the proposed use or development to off-site emissions or risk; and
- (c) any other relevant planning consideration.

6.5.4 Referral of Applications

The Council is required to refer development applications; and any proposed planning mechanism or planning policy relating to the SCA area to the relevant wastewater service provider for comment prior to determination.

6.6 Special Control Area No. 5—Development Contribution Areas

There are no Development Contribution Areas in this scheme as no development contribution plans have been prepared to support contributions. This section establishes enabling clauses for when a development contribution plan is prepared.

Note: This text should be deleted when the first amendment for development contributions is prepared.

6.6.1 Purpose

The purpose of development contribution areas is to—

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (c) coordinate the timely provision of infrastructure.

6.6.2 Development contributions

6.6.2.1 The *Planning and Development Act 2005* provides for local schemes to make agreements and recover expenses incurred in order to implement, enforce and give effect to the scheme.

6.6.2.2 Development contributions may be made for standard infrastructure such as roads, water, power, sewer and public open space through the subdivision process.

6.6.2.3 Community infrastructure includes, but is not limited to, public open space in rural areas, sporting and recreational facilities, community centres, child care centres, libraries and cultural facilities.

6.6.2.4 Development contributions for community infrastructure may only be levied in accordance with the requirements of State Planning Policy 3.6—Development Contributions for Infrastructure. Prior to seeking contributions for community infrastructure Council needs to prepare—

- (a) a community infrastructure plan for the area with demand analysis and service catchments;
- (b) a capital expenditure plan;
- (c) projected growth figures; and
- (d) infrastructure costs, with provision for cost escalation.

6.6.2.5 Development contributions can be calculated and applied as either standard conditions of subdivision, conditions of development or through voluntary legal agreements. Provisions in this scheme relate to development contributions prepared through a scheme amendment process, and do not cover voluntary legal agreements between Council and developers.

6.6.2.6 Development contributions for standard infrastructure can generally be summarised as—

- (a) land contributions—public open space, riverine setbacks, land for primary schools, roads and road widening and primary distributor roads where justified by the subdivision;
- (b) infrastructure works—water, sewerage, drainage, electricity, roads and other traffic works, footpaths, pedestrian accessways and dual-use paths, road upgrades, construction and widening;
- (c) standard water, sewerage and drainage headworks charges for off-site works, monetary contributions in lieu of land or works and to reimburse other owners where costs are shared;
- (d) other contributions as provided for in WAPC policies.

6.6.2.7 Development contributions relate only to the provision of infrastructure and not the ongoing maintenance of said infrastructure.

6.6.2.8 For matters relating to the calculation and supporting information required to support a development contribution plan, the clauses of State Planning Policy 3.6—Development contributions for infrastructure shall apply as if they were part of this scheme.

6.6.3 Principles for requiring development contributions

6.6.3.1 In considering development contributions, it must be demonstrated that the proposed development—

- (a) generates a need for the infrastructure;
- (b) the calculation and application of the contributions is clear and transparent;
- (c) contributions are levied equitably across a development contribution area;
- (d) all development contributions are identified and methods for dealing with escalation be agreed upon at the commencement of a contribution arrangement;
- (e) contributions should be justified on a whole of life capital cost basis and prevent over-recovery of costs;
- (f) landowners and developers are consulted on the manner of determining contributions and have the opportunity to seek review by an independent third party; and
- (g) development contributions must be determined and expended in an accountable manner.

6.6.4 Development contribution areas and development contribution plans

6.6.4.1 Development contribution areas are shown on the scheme map and included in Schedule 10 of the scheme.

6.6.4.2 Development contribution areas must be supported by a development contribution plan, which are referenced in Schedule 10 of the scheme.

6.6.4.3 The content, form and process for preparing and implementing a development contribution plan is outlined in State Planning Policy 3.6—Development contributions for infrastructure. For matters of process, valuation, arbitration or conflict resolution, the clauses of State Planning Policy 3.6—Development contributions for infrastructure shall apply as if they were part of this scheme.

6.6.4.4 Development contribution plans may involve administrative costs involved in the preparation and implementation of the plan, including legal, accounting, planning, engineering and other professional advice.

6.6.4.5 Costs not identified in a development contribution plan may not be apportioned or levied at a later date.

6.6.4.6 A development contribution plan is only enforceable once it is incorporated into the scheme. This enacts the advertising and other provisions under the *Town Planning Regulations 1967* applicable to the making of schemes and amendments.

6.6.4.7 Any amendment to a development contribution plan will require a scheme amendment in order to become enforceable.

6.6.5 Payment of cost contributions

6.6.5.1 As a general principle, the local government incurs costs associated with a development contribution plan up-front, and then recoups costs from landowners. This may be varied by agreement between the parties.

6.6.5.2 The landowners liability to pay the owner's cost contribution to the local government arises when—

- (a) the Western Australian Planning Commission endorses the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;
- (b) the commencement of any development on the owner's land within the development contribution area;
- (c) the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
- (d) the approval of a change or extension of use by the local government on the owner's land within the development contribution area.

6.6.5.3 The liability arises only once upon the earliest of the above listed events.

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
 - (iv) carry out such other consultation as the local government considers appropriate.

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

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

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

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

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

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

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

7.3 Heritage agreements

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

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

7.4 Heritage assessment

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

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

Where desirable to—

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

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

PART 8—DEVELOPMENT OF LAND

8.1 Requirement for approval to commence development

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

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

8.2 Permitted development

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

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
 - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where—
 - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes; or
 - (ii) the development will be located in a heritage area designated under the Scheme;
- (c) the demolition of any building or structure except where the building or structure is—
 - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
 - (iii) included on the Heritage List under clause 7.1 of the Scheme; or
 - (iv) located within a heritage area designated under the Scheme;
- (d) a home office or home occupation;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.
- (g) any use of a reserve for the purpose for which it has been reserved.
- (h) a rural pursuit in the General Rural zone, including the erection, alteration or extension of any buildings used in conjunction with that use, where the development complies with the provisions of the scheme.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under section 20D of the Town Planning Act.

8.3 Amending or revoking a planning approval

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

8.4 Unauthorized existing developments

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

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

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

PART 9—APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of application

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

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a “P” use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;

- (c) commencement of a “D” use or an “A” use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

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

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

9.2 Accompanying material

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

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

9.3 Additional material for heritage matters

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

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

9.4 Advertising of applications

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

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

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

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

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

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

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

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

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

9.5 Applications containing insufficient information

9.5.1 Where, in respect of any application for planning approval, the information provided is, in the opinion of the local government, insufficient for a proper planning evaluation to be made for the purposes of this Scheme, the local government shall, within a period of 21 days of receiving the application, notify the applicant in writing that additional information is required, specifying the type and form of the information to be submitted.

9.5.2 Where notice has been served pursuant to subclause 9.5.1, the unexpired portions of the periods for calculating whether or not an application may be deemed to have been refused for the purpose of clause 10.9 shall be stayed from running until such time as the additional information has been received by the local government or the applicant has refused to provide the required information and has requested that the application be determined as submitted in accordance with Part 10.

9.5.3 On the receipt of the requested information, or where the information is not received within 21 days, the local government may proceed to determine the application in accordance with the requirements of the Scheme.

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with other authorities

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

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

10.2 Matters to be considered by local government

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

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved State Planning Policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;

- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality, the relevant road standard and road hierarchy, and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any other planning consideration the local government considers relevant; and
- (zb) all development applications are to demonstrate that an adequate water supply is available to service the entire development, or the application may be deemed to contain insufficient information to allow assessment.

10.3 Determination of applications

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

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

10.4 Form and date of determination

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

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

10.5 Term of planning approval

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

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

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

10.6 Temporary planning approval

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

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

10.7 Scope of planning approval

Planning approval may be granted—

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

10.8 Approval subject to later approval of details

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

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

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

10.9 Deemed refusal

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

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

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

10.10 Appeals

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply for review to the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005* (as amended).

10.11 Requests for reconsideration

10.11.1 Where the local government refuses to grant, or imposes conditions on a planning approval and the applicant is dissatisfied with the refusal or conditional approval, the applicant may, subject to the provisions of clause 10.11.2, request the local government in writing to reconsider its decision.

10.11.2 Any request for reconsideration—

- (a) shall be lodged with the local government within 28 days of the date of determination of the decision;
- (b) will only be valid if there is additional new information provided with the request that was not available to the applicant or the local government when making its original decision;
- (c) shall be accompanied by 50 per cent of the application fee or such lesser amount as determined by the local government; and,
- (d) payment of the reconsideration fee referred to in clause 10.11.2 (c) will be waived where it can be demonstrated, to the satisfaction of the local government, that the request for the reconsideration is being made to correct an error made by the local government when determining the application for planning approval.

10.11.3 The local government shall, within 60 days of the date of its receipt consider the request and may—

- (a) re-affirm its original decision in the matter;
- (b) issue a new determination in the matter; or
- (c) delete, amend or replace the condition or conditions the subject of the request or add, amend or delete other conditions related to the request.

10.11.4 Provisions of clause 10.11.1 do not relate to any decision made by the local government pursuant to clause 10.11.3.

10.11.5 Provisions of clause 10.10 apply to any determination given by the local government pursuant to clause 10.11.3.

PART 11—ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the local government

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

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

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

11.2 Removal and repair of existing advertisements

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

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

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

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

- (a) the advertisement the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, being not less than 60 days from the date of the local government's determination, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may apply for a review of the determination of the local government to the State Administrative Tribunal in accordance with Part V of the Act.

11.3 Delegation of functions

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

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

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

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

11.4 Person must comply with provisions of Scheme

A person must not—

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

Note: Section 218 of the Act provides that a person who—

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

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

11.5 Compensation

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under section 11(1) of the Act—

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and—
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or

- (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

not later than 6 months after the application is refused or the permission granted.

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

Note: 1. A claim for compensation under section 173 of the Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

2. Section 175 of the Act relates to situations where compensation is not recoverable.

11.6 Purchase or taking of land

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

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

Note: Section 191 of the Act empowers the local government to purchase or compulsorily acquire land comprised in a scheme.

11.7 Notice for removal of certain buildings

11.7.1 Under section 214(6) of the *Planning and Development Act 2005*, 60 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The local government may recover expenses under section 215(2) of the *Planning and Development Act 2005* in a court of competent jurisdiction.

SCHEDULES

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

SCHEDULE 1

DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

1. General definitions

In the Scheme—

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

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

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

“**commission**” Western Australian Planning Commission

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

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

- “**floor area**” has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;
- “**frontage**”, when used in relation to a building that is used for—
- residential purposes, has the same meaning as in the Residential Design Codes; and
 - purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;
- “**Gazettal date**”, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 7(3) of the Town Planning Act;
- “**height**” when used in relation to a building that is used for—
- residential purposes, has the same meaning as in the Residential Design Codes; or
 - purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;
- “**incidental use**” means a use of premises which is ancillary and subordinate to the predominant use;
- “**local government**” means the Shire of Gingin;
- “**Local Planning Strategy**” means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;
- “**lot**” has the same meaning as in the Town Planning Act but does not include a strata or survey strata lot;
- “**minerals**” has the same meaning as in the *Mining Act 1978*;
- “**net lettable area (nla)**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—
- all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
 - lobbies between lifts facing other lifts serving the same floor;
 - areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
 - areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;
- “**non-conforming use**” has the same meaning as it has in section 12(2)(a) of the Town Planning Act;
- “**owner**”, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity—
- is entitled to the land for an estate in fee simple in possession;
 - is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
 - is a lessor or licensee from the Crown; or
 - is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;
- “**place**”, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;
- “**plot ratio**”, in the case of residential dwellings has the same meaning as in the Residential Design Codes;
- “**precinct**” means a definable area where particular planning policies, guidelines or standards apply;
- “**predominant use**” means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;
- “**premises**” means land or buildings;
- “**region scheme**” means a regional planning scheme made under the *Planning and Development Act 2005*, as amended from time to time;
- “**Residential Design Codes**” means the Residential Design Codes in the Western Australian Planning Commission State Planning Policy No. 3.1, as amended from time to time;
- “**retail**” means the sale or hire of goods or services to the public;
- “**structure plan**” means a structure plan, outline development plan or subdivision guide plan (or similar) that has been approved by both the Western Australian Planning Commission and adopted by the local government under clause 5.7. The plan should provide information at an appropriate scale to guide the Western Australian Planning Commission for the determination of applications for approval to subdivide land and for local governments in considering development applications and/or making comment to the Western Australian Planning Commission on any such applications;
- “**substantially commenced**” means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;
- “**Town Planning Act**” means the *Planning and Development Act 2005*;
- “**wholesale**” means the sale of goods or materials to be sold by others;

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

2. Land use definitions

In the Scheme—

“**abattoir**” means land and buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products;

“**aged persons accommodation**” means a building or group of buildings used primarily as a residence for aged persons and may include a hostel and/or nursing home;

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

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

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

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

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

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

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

“**aquaculture**” means the use of land for the purpose of rearing and breeding of fish or crustaceans under controlled conditions for sale;

“**bed and breakfast**” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast; for not more than 4 adults or one family in an establishment containing a maximum of 2 guest bedrooms and one guest bathroom, located under the main roof of the dwelling house;

“**betting agency**” means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;

“**cabin**” means an individual self-contained unit similar to chalet which may lack ensuite facilities and may comprise only one room and is designed for short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of 3 months in any 12-month period;

“**caravan park**” has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;

“**caretaker’s dwelling**” means a dwelling on the same site as a building, operation, or plant or tourist facility, and occupied by a supervisor of that building, operation or plant or tourist facility;

“**carpark**” means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;

“**chalet**” means an individual self-contained unit usually comprising of cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, and where occupation by any person is limited to a maximum of three months in any 12-month period;

“**child care premises**” has the same meaning as in the *Child Care Services Act 2007*;

“**cinema/theatre**” means premises where the public may view a motion picture or theatrical production;

“**civic use**” means premises used by a government department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purposes;

“**club premises**” means premises used by a legally constituted club or association or other body of persons united by a common interest;

“**community purpose**” means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations involved in activities for community benefit;

“**consulting rooms**” means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;

“**convenience store**” means premises—

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 100 square metres net lettable area;

“**corrective institution**” means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;

“**educational establishment**” means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;

“**exhibition centre**” means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;

“**family day care**” means premises used to provide family day care within the meaning of the *Child Care Services Act 2007*;

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

“**fish processing**” means land and buildings used for cleaning, processing and packing of wet fish and crustaceans, but does not include the sale of the product by retail;

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

“**funeral parlour**” means premises used to prepare and store bodies for burial or cremation;

“**guest house**” means a building or part of a building occupied as a single dwelling by the proprietor but within which provision is made in the form of rooms set aside for the short stay accommodation of visitors or guests for hire or reward;

“**holiday accommodation**” means 2 or more dwellings on one lot which, by way of trade or business, are made available for occupation by persons, other than the proprietor, for holiday or other temporary purposes;

“**holiday house**” means a single house (excluding Ancillary Accommodation) which might also be used from time to time for short stay for no more than 6 people but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit;

“**holiday house (large)**” means premises conforming to the definition of “Holiday House” with the exception that the premises provide short stay accommodation for more than 6 people but not more than 12 at any one time;

“**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 neighbourhood;
- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

“**home occupation**” means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

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

“**home office**” means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not—

- (a) entail clients or customers travelling to and from the dwelling;
- (b) involve any advertising signs on the premises; or
- (c) require any external change to the appearance of the dwelling;

- “home store”** means any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling;
- “hospital”** means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;
- “hotel”** means premises providing accommodation the subject of a hotel licence under the *Liquor Control Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;
- “industry”** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for—
- (a) the storage of goods;
 - (b) the work of administration or accounting;
 - (c) the selling of goods by wholesale or retail; or
 - (d) the provision of amenities for employees,
- incidental to any of those industrial operations;
- “industry—cottage”** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which—
- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
 - (b) where operated in a residential zone, does not employ any person other than a member of the occupier’s household;
 - (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
 - (d) does not occupy an area in excess of 50 square metres; and
 - (e) does not display a sign exceeding 0.2 square metres in area;
- “industry—extractive”** means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry—mining;
- “industry—general”** means an industry other than a cottage, extractive, light, mining, rural or service industry;
- “industry—light”** means an industry—
- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
 - (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;
- “industry—mining”** means land used commercially to extract minerals from the land;
- “industry—noxious”** means an industry in which the processed involved constitute an offensive trade within the meaning of the *Health Act 1911* (as amended), but does not include a fish shop, dry cleaning premises, laundromat, piggery or poultry farm;
- “industry—rural”** means—
- (a) an industry handling, treating, processing or packing rural products; or
 - (b) a workshop servicing plant or equipment used for rural purposes;
- “industry—service”** means—
- (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
 - (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;
- “landfill site”** means land where waste including Landfill Classes I to V as defined within the Department of Environmental Protection (Department of Environment and Conservation) document titled *Landfill Waste Classification and Waste Definitions 1996* (as amended) is stored, processed, recycled or buried;
- “lunch bar”** means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas;
- “marina”** means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina;
- “marine filling station”** means premises used for the storage and supply of liquid fuels and lubricants for marine craft;
- “market”** means premises used for the display and sale of goods from stalls by independent vendors;
- “medical centre”** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

- “**motel**” means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Control Act 1988*;
- “**motor vehicle, boat or caravan sales**” means premises used to sell or hire motor vehicles, boats or caravans;
- “**motor vehicle repair**” means premises used for or in connection with—
- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
 - (b) repairs to tyres,
- but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;
- “**motor vehicle wash**” means premises where the primary use is the washing of motor vehicles;
- “**night club**” means premises—
- (a) used for entertainment with or without eating facilities; and
 - (b) licensed under the *Liquor Control Act 1988*;
- “**office**” means premises used for administration, clerical, technical, professional or other like business activities;
- “**park home park**” has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;
- “**place of worship**” means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;
- “**plantation**” has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;
- “**plant nursery**” means land and buildings used for the display and sale of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden structures;
- “**public utility**” means any works including development for the operation, maintenance and decommissioning of mains and plants by a public authority, their agent or the council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services.
- “**reception centre**” means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;
- “**recreation—private**” means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;
- “**residential building**” has the same meaning as in the Residential Design Codes;
- “**restaurant**” means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*;
- “**resort**” means integrated, purpose-built luxury or experiential premises for short-stay guests comprising accommodation units and on-site tourism facilities such as reception, restaurant and leisure facilities like swimming pool, gymnasium, tennis courts, and where occupation by any person is limited to a maximum of 3 months in any 12-month period;
- “**restricted premises**” means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
 - (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;
- “**retirement village**” means any land or buildings used to accommodate retirees, together with ancillary facilities, but does not include a “Park Home Park”;
- “**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 5 people not members of the occupier’s household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 200 square metres;
 - (d) in relation to vehicles and parking does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of more than 3 vehicles of more than 3.5 tonnes tare weight; and
 - (e) does not involve the use of an essential service of greater capacity than normally required in the zone.
- “**rural pursuit**” means any premises used for—
- (a) the rearing or agistment of animals;
 - (b) the stabling, agistment or training of horses;
 - (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
 - (d) the sale of produce grown solely on the lot,
- but does not include agriculture—extensive or agriculture—intensive;

“**serviced apartment**” means a complex where all units or apartments provide for self-contained accommodation for short-stay guests, where integrated reception and recreation facilities may be provided, and where occupation by any person is limited to a maximum of 3 months in any 12-month period;

“**service station**” means premises used for—

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles,

but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

“**shop**” means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

“**short stay**” means tourist accommodation facilities (including motels, caravan and camping facilities, chalets, guest houses, holiday houses or any other form of tourist accommodation) set aside either continuously or from time to time for temporary living purposes but which are not occupied by the same person or group of persons for a period in excess of 3 months in any one 12-month period;

“**showroom**” means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;

“**staff/workers accommodation**” means shared self-contained living accommodation (separate to a single dwelling) used for the accommodation of persons directly employed in an approved activity carried out on the Lot and does not include a Caretakers Dwelling;

“**storage**” means premises used for the storage of goods, equipment, plant or materials;

“**tavern**” means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;

“**telecommunications infrastructure**” means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;

“**trade display**” means premises used for the display of trade goods and equipment for the purpose of advertisement;

“**transport depot**” means land and buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicles and includes maintenance, management and repair of the vehicles used, but not of other vehicles;

“**veterinary centre**” means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;

“**warehouse**” means premises used to store or display goods and may include sale by wholesale;

“**winery**” means premises used for the production of viticultural produce and may include sale of the produce.

SCHEDULE 2
ADDITIONAL USES

No.	Description of land	Additional use	Conditions
1.	Lot 1 of Swan Location 354 and 508, cnr Brand Highway and Dewar Road, Gingin	Service Station Caravan Park	
2.	Lancelin Lot 595, cnr Walker Avenue and Kendall Street, Lancelin	Shop Office	(i) the combined floor area of the additional use shall not exceed 90m ² (ii) the shop shall not be used for the display and sale of any goods other than building hardware and related items.
3.	Lot 4, Gingin Road, Lancelin	Fuel Depot	
4.	Lot 462, Turner Street, Ledge Point	Fuel Depot	
5.	Lot 497 Turner Street, Ledge Point	Fuel Depot	

No.	Description of land	Additional use	Conditions
6.	Lot 384 Wood Way, Ledge Point	Fuel Depot	
7.	Lot 385 Wood Way, Ledge Point	Fuel Depot	
8.	Seabird Lot 13, McCormick Street, Seabird	Receival Depot	
9.	Lot 1 of Seabird Lots 65 and 231 McCormick Street, Seabird	Receival Depot	
10.	Seabird Lot 15 McCormick Street, Seabird	Receival Depot Fuel Depot	
11.	Lancelin Lots 1007, 1008, 1009, 1010, 1011, 1012, 1013 and 1014 Salvaire Crescent, Lancelin	Light Industry	
12.	Lot 39 Swan Location 1373 Gingin Brook Road, Neergabby	Sale of Produce Hardware	(i) Buildings associated with the additional use to be under one roof. (ii) The site area of the Additional Use to be limited to 5,000m ² . (iii) The floor area of the Additional Use to be limited to 400m ² .
13.	Ledge Point Lot 637, Old Ledge Point Road, Ledge Point	Kennels	(i) Building associated with the additional use to be under one roof. (ii) The floor area of the Buildings associated with the Additional Use to be limited to 150m ² .
14.	Lot 500 Dewar Road, Granville	Vehicle Repairs	(i) The additional use shall only be permitted where the use— <ul style="list-style-type: none"> • is incidental to and positioned behind an existing residence; • has a front setback of at least 50m; • has a gross floor area of no greater than 400m²; • is contained within a building that has a character and appearance of a rural shed; and • complies with the detailed area plan (or development guide plan) for the site as endorsed by the Shire of Gingin. (ii) The development of the land shall incorporate the retention of existing trees on site and substantial supplementary landscaping to screen the development from the road. (iii) The storage of motor vehicles is to be restricted to the rear of the residence and inside the workshop. (iv) All signage to be in accordance with the requirements of the Shire of Gingin Town Planning Scheme No. 8 and signage shall not be permitted along Dewar Road. (v) Drainage and effluent disposal arrangements shall ensure that chemical spills do not enter the nearby tributary of the Gingin Brook. The workshop floor area

No.	Description of land	Additional use	Conditions
			(and any other areas likely to contain chemicals) shall consist of a concrete pad covered against the rain and should drain to a central point. All drainage from the area shall be directed to a holding tank and there shall be no discharge of effluent to the tributary.
15.	Lot 101 corner Seabird Road and Lancelin Road, Seabird.	Service Station	(i) Buildings associated with the service station to be under one roof. The floor area of the additional use to be limited to 300m ² . (ii) The site area of the Additional Use to be limited to 3,000m ² . (iii) Access to the site being restricted to Seabird Road only and the intersection of Seabird and Lancelin Roads being upgraded to the satisfaction of Main Roads Western Australia.
16.	Lot 10 Gingin Brook Road, Neergabby	Tavern Shop Restaurant Exhibition Centre Hotel Small Bar Holiday Accommodation Reception Centre Cottage Industry	(i) A development application is required and Council's discretion applies for the additional land uses. (ii) Development is required to consider the restrictive Covenant provisions on the subject Lot.
17.	Lot 52 Croot Place	Service Station	(i) Buildings associated with the service station to be under one roof. (ii) The site area of the Additional Use to be limited to 1.016 ha. (iii) The floor area of the additional use to be limited to 300m ² .
18.	Lot 108 Caladenia Road, Wanerie	Tourist Park, including the following uses at the discretion of Council— Tearooms Holiday accommodation Public amusement Private recreation	(i) Development to be generally in accordance with the Development Concept Plan dated September 1998, or such other overall concept plan as may be approved by Council. (ii) The design, character and scale of development shall be in keeping with the objectives of the Conservation zone. In considering an application to commence development, Council will have particular regard to landscaping, servicing and amenity. (iii) The development and use of the land for tourist activities shall only be approved and undertaken in a manner that gives full recognition to the accepted management practices associated with approved horticultural land uses.
19.	Lot 5 corner of Brand Highway and Orange Springs Road, Orange Springs	Tourist Complex Shop, incidental to and located within the Tourist Complex Art Gallery	(i) Development of the Tourist Complex shall be generally in accordance with the proposed development vision plan dated 26 February 2004.

No.	Description of land	Additional use	Conditions
		Museum Public Amusement (amphitheatre)	<p>(ii) Prior to consideration of any application for Planning Consent, Council shall require the Applicant to demonstrate that the access to the development, including external roads will be of a standard that can cater for any additional traffic volumes resulting from the development.</p> <p>(iii) Any development application is to be accompanied by a landscaping plan to demonstrate to the satisfaction of Council the extent of new landscaping and the protection, enhancement and revegetation of areas of natural vegetation.</p> <p>(iv) Any development application for the Function Centre is to be accompanied by an accredited acoustic consultant's report to demonstrate to the satisfaction of Council compliance with the <i>Environmental Protection (Noise) Regulations, 1997</i>.</p> <p>(v) The development application for the Amphitheatre is to be accompanied by a detailed Events Management Plan to demonstrate to the satisfaction of Council how events can be managed for the matters stated, but not necessarily limited to, the following—</p> <ul style="list-style-type: none"> • Traffic management for external and internal roads • Sanitation • Crowd control • Servicing of events (eg, power, waste water management) • Car parking • Fire management • Emergency services (eg, ambulance and medical facilities)
20.	Lots 4, 5 and 6 Gingin Road and Lot 191 Miragliotta Street, Lancelin	Holiday Accommodation, Shop, Restaurant and Office	<p>(i) Holiday Accommodation, Shop and Restaurant uses are permitted as an AA use.</p> <p>(ii) Office use is permitted if incidental to other uses on the site.</p> <p>(iii) All development on the site shall be in accordance with an approved outline development plan (or Structure Plan).</p>
21.	Lot 7 (1679) Gingin Brook Road, Neergabby	Caravan Park, Restaurant, Shop (incidental to, and located within caravan park)	Development to be in accordance with the development approval issued on 9 August 2005.

SCHEDULE 3
RESTRICTED USES

No.	Description of land	Restricted use	Conditions
RU1	Sovereign Hill Estate	Stocking Rates	A stocking rate of 2 Dry Sheep Equivalent per hectare to be applied to avoid soil degradation.

SCHEDULE 4
SPECIAL USE ZONES

No.	Description of land	Special use	Conditions
SU1	Portion of Lot 742 Ledge Point Road, Ledge Point	Caravan Park Holiday Accommodation Caretaker's Dwelling	<ol style="list-style-type: none"> 1. The clearing of native vegetation is to be limited to the area designated for the proposed caravan park and associated uses, only as shown on the development plan approved by Council. 2. Any revegetation plan is to be approved by Council and must be undertaken using native species. Landscaping plans for the development must also be approved by Council and exclude "Pest or Declared" plants. 3. Prior to the commencement of development, the perimeter of the development area for the caravan park and associated uses must be fenced to prevent access to adjoining areas of remnant bush land. Fencing is to be to the specifications approved by Council. 4. A weed management plan is to be prepared to the satisfaction of the Council which addresses that issue raised in the Flora and Vegetation Assessment by ATA Environmental Consultants dated July 2001. 5. At the time of subdivision and/or development, Council will request a condition requiring connection to the reticulated sewerage system.
SU2	Lot 435, Walker Avenue, Lancelin	Composite area consisting of mixed business and industrial uses	<ol style="list-style-type: none"> 1. Permissible uses on lots that either abut, or are visible from, Walker Avenue are— <ul style="list-style-type: none"> • Car wash • Dry cleaning Premises • Garden Centre • Laundromat • Service Industry • Showroom • Trade Display • Vehicle Hire and Sales • Market • Veterinary Establishment • Shop <p>These uses shall be subject to the "P" requirements of the Scheme except for "Market" and "Veterinary Establishment", which shall be subject to the "AA" requirements of the Scheme and "Shop", which shall be subject to the "IP" requirements of the Scheme.</p> <p>No other uses are permitted.</p>

No.	Description of land	Special use	Conditions
			<ol style="list-style-type: none"> 2. Permissible uses on all other lots not referred to in Condition 1 above shall be as per the General Industry zone of the Scheme. 3. Subdivision shall be in accordance with a WAPC endorsed Structure Plan (or Outline Development Plan). 4. The facades of any service industry buildings on lots that abut, or are visible from, Walker Avenue are to be of masonry construction. 5. Other than those buildings requiring a masonry façade, industrial buildings are to be constructed using Colourbond (or similar) materials for all external walls. No zincalume is permitted. 6. Use of land forward of the building line will comprise of car parking and landscaping only, unless otherwise approved by Council.
SU3	Lots 1, 22 & 594, Walker Avenue, Lancelin	Mixed Business	<ol style="list-style-type: none"> 1. Permissible uses are— <ul style="list-style-type: none"> • Car wash • Dry cleaning Premises • Garden Centre • Laundromat • Service Industry • Showroom • Trade Display • Vehicle Hire and Sales • Market • Veterinary Establishment • Shop • All other permissible uses in the General Industry zone of the scheme. <p>These uses shall be subject to the “P” requirements of the Scheme except for “Market” and “Veterinary Establishment” and “Shop”, which shall be subject to the “AA” requirements of the Scheme and “Shop”. Industrial uses shall be in accordance with the provisions of the zoning table of the Scheme.</p> <p>No other uses are permitted.</p> 2. The landowner/s is/are required to fund, implement and maintain for 24 months streetscape works in accordance with the Walker Avenue Commercial Precinct Local Planning Policy. 3. Council will not grant planning approval to any development of the site unless it is satisfied that— <ul style="list-style-type: none"> • The design and siting of any new building and materials used will not create an adverse impact on the visual amenity of the area; • No blank walls or loading / service areas to front Walker Avenue; • There is provision of a safe and convenient cycling and pedestrian access system to, from and within the subject lot; and

No.	Description of land	Special use	Conditions
			<ul style="list-style-type: none"> • Vehicular movement including car parking and traffic circulation capacity has been addressed. <p>4. Car parking will generally be accommodated on the subject lot. Street Parking will require the permission of Council and cash-in-lieu of parking is required to be paid in this event.</p>
SU4	Lots 1, 22 & 594, Walker Avenue, Lancelin	Mixed Business	<p>1. Permissible uses are—</p> <ul style="list-style-type: none"> • Car wash • Dry cleaning Premises • Garden Centre • Laundromat • Service Industry • Showroom • Trade Display • Vehicle Hire and Sales • Market • Veterinary Establishment • Shop • All other permissible uses in the General Industry zone of the scheme. <p>These uses shall be subject to the “P” requirements of the Scheme except for “Market” and “Veterinary Establishment” and “Shop”, which shall be subject to the “AA” requirements of the Scheme and “Shop”. Industrial uses shall be in accordance with the provisions of the zoning table of the Scheme.</p> <p>No other uses are permitted.</p> <p>2. The landowner/s is/are required to fund, implement and maintain for 24 months streetscape works in accordance with the Walker Avenue Commercial Precinct Local Planning Policy.</p> <p>3. Council will not grant planning approval to any development of the site unless it is satisfied that—</p> <ul style="list-style-type: none"> • The design and siting of any new building and materials used will not create an adverse impact on the visual amenity of the area; • No blank walls or loading/service areas to front Walker Avenue; • There is provision of a safe and convenient cycling and pedestrian access system to, from and within the subject lot; and • Vehicular movement including car parking and traffic circulation capacity has been addressed. <p>4. Car parking will generally be accommodated on the subject lot. Street Parking will require the permission of Council and cash-in-lieu of parking is required to be paid in this event.</p>

No.	Description of land	Special use	Conditions
SU5	Portion of Lot 7778 situated north of the Boonanarring Road reserve and Wannamal Road South reserve (east of the intersection with Boonanarring Road)	<p>1. Waste Management Facility for the Disposal, Recovery and Re-processing of Class II wastes only and incidental infrastructure.</p> <p>2. Activities associated with the downstream processing and utilisation of Class II waste only.</p> <p>3. Such Land Use Classes as are permitted or permitted subject to the discretion of the Council in Column 7, Rural Zone of the Zoning Table.</p>	<p>1. All development on the site shall be subject to application to the local authority for approval to commence development.</p> <p>2. Development of the Waste Management Facility is to be generally in accordance with the Shire of Gingin TPS 8 Amendment No. 104 Scheme Amendment Report September 2009, the Design and Hydrology Assessment Report December 2008 and the Statement of Conditions No. 796 issued by the Minister for the Environment; or in such other manner as may be approved by Council and the Minister for Environment.</p> <p>3. Except as otherwise approved by Council, the Development Application will be required to address the Fernview Regional Waste Management Facility—“Future Actions” as identified in the Report titled: Fernview Regional Waste Management Facility—Design and Hydrology Assessment Report prepared by IW Projects Pty Ltd, Final, December 2008 and, as a minimum, shall also address the following—</p> <ul style="list-style-type: none"> • Provide a Stability and Settlement Assessment carried out by a competent stability expert to the satisfaction of the Chief Executive Officer at the Shire of Gingin. • Confirm that the detailed landfill design includes adequate localised stormwater diversion particularly around the perimeter of the landfill and the leachate evaporation ponds. • Confirm that the final detailed design for the leachate collection system adequately addresses acceptability of liner slopes, leachate sump configuration, extraction systems, consistency with landfill staging and the need, or otherwise, for separate leachate sumps for each landfill stage. • Include a detailed design of the proposed Geosynthetic Clay Liner (GCL) and consider the impact of constructing the GCL layer on the 200mm sand layer and Geomembrane liner below and the construction methodology of the Geomembrane Liner to consider the stability and constructability issues when placing the Geomembrane. • Groundwater extraction bores will be required immediately downstream of the landfill leachate sumps and sediment pond.

No.	Description of land	Special use	Conditions
			<ul style="list-style-type: none"> • Include provision for groundwater rest levels to be measured regularly and the groundwater contours be updated and flow directions repositioned. • Groundwater monitoring to be supplied to the Shire on a bi-annual basis. • Require that any future Development Application for the re-mining and re-processing of inert waste shall consider the overall impacts on the landfill operation, liner and leachate collection, detection systems and the environment including— <ul style="list-style-type: none"> • the long term stability of the waste mass; • potential for damage to the liner and leachate collection systems from mining and re-filling with new waste; • leachate management during mining; • adequacy of the existing leachate collection system to collect leachate from new waste; • the composition of the mined and re-processed material; and, • the need, or otherwise, for any liner system to the inert spoil dump to prevent contamination of the local groundwater. <p>4. All development that includes uses incompatible with sensitive land uses will be located such that the 500m buffer is fully accommodated within the boundaries of the Portion of Lot 7778 zoned "Special Use".</p> <p>5. No Sensitive Use land use, as provided for under the Statement of Planning Policy No. 4—State Industrial Buffer Policy of the Western Australian Planning Commission shall be permitted.</p> <p>6. As a condition of future subdivision or development on Lot 7778, a notification pursuant to section 70a of the <i>Transfer of Land Act 1893</i> (as amended), or a similar legal instrument, is to be registered on the Certificates of Titles of Lot 7778 to advise that amenity may be affected by activity associated with the Waste Management Facility.</p> <p>7. As a condition of development or subdivision approval, a Fire Management Plan for Lot 7778 will be required to be prepared and implemented to the satisfaction of the local government and the Fire and Emergency Services.</p> <p>8. Arrangements being made with the local government and/or Main Roads for the upgrading and/or construction of Wannamal Road West and Wannamal Road South and the Wannamal Road West/Brand Highway intersection.</p>

No.	Description of land	Special use	Conditions
			9. Prior to subdivision or development of the lot, a Local Water Management Plan is to be prepared and implemented to the specifications of the Department of Water.
SU6	Portion of Lot 6057 Indian Ocean Drive Gabbadah	Community service node	<ol style="list-style-type: none"> 1. Development of the land shall be in accordance with an approved structure plan prepared in accordance with the scheme provisions; 2. Land uses on the site shall be limited to— <ul style="list-style-type: none"> • service station; • community purpose; • consulting rooms; • convenience store; • motor vehicle repairs; • office; • restaurant. 3. Access to the site being restricted to Guilderton Road and/or Indian Ocean Drive at a location and to a standard of construction to the satisfaction of the agency responsible for main roads; 4. Development of the land is to be substantially commenced prior to subdivision of the land being supported; 5. All development on site is to be provided with an appropriate standard of essential service infrastructure by licensed service providers; 6. For a service station to be considered, a Hydrocarbon Waste Management Plan is to be prepared, addressing containment and disposal methods to the satisfaction of Council in consultation with the agency responsible for environment and conservation. 7. A service station must be developed in the first stage of any proposal.
SU7	Honeycomb Estate Gingin, land up to and including a 50m distance from the Perth-Geraldton railway reserve.	Separation distance from railway.	No habitable buildings to be constructed in this zone.

SCHEDULE 5

EXEMPTED ADVERTISEMENTS

Land use and/or development	Exempted sign	Maximum size

SCHEDULE 6
FORM OF APPLICATION FOR PLANNING APPROVAL
APPLICATION FOR PLANNING APPROVAL

Owner details		
Name:		
Address:		
		Postcode:
Phone: (work): (home)— (mobile):	Fax—	E-mail—
Contact person:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		
Applicant details		
Name:		
Address:		
		Postcode:
Phone: (work): (home) (mobile):	Fax—	E-mail—
Contact person for correspondence:		
Signature:		Date:
Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No—	Certificate of Title Vol. No:	Folio:
Diagram or Plan No—	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants)—		
Street name:		Suburb:
Nearest street intersection:		
Existing building/land use:		
Description of proposed development and/or use—		
Nature of any existing buildings and/or use:		
Approximate cost of proposed development:		
Estimated time of completion:		
OFFICE USE ONLY		
Acceptance Officer's initials:		Date received:
Local government reference no:		

SCHEDULE 7
ADDITIONAL INFORMATION FOR ADVERTISEMENTS

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

1. Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:
2. Details of proposed sign:
(a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other):
(b) Height: Width: Depth:
(c) Colours to be used:
(d) Height above ground level —
• (to top of advertisement):
• (to underside):
(e) Materials to be used:
Illuminated: Yes / No
If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:
3. Period of time for which advertisement is required:
4. Details of signs (if any) to be removed if this application is approved—
Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.
Signature of advertiser(s):
(if different from land owners)
Date:

SCHEDULE 8
NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL
Town Planning Act
Shire of Gingin
Notice of public advertisement of planning proposal

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

SCHEDULE 9
NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL
Town Planning Act
 Shire of Gingin

Determination on application for planning approval

Location: _____

Lot: _____ Plan/Diagram: _____

Vol. No.: _____ Folio No.: _____

Application date: _____ Received on: _____

Description of proposed development:

.....

The application for planning approval is—

granted subject to the following conditions:

refused for the following reasons(s):

Conditions/reasons for refusal:

.....

.....

.....

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under Part V of the *Town Planning Act 1928*. An appeal must be lodged within 60 days of the determination.

Signed: _____ Dated: _____

.....

for and on behalf of the Shire of Gingin

SCHEDULE 10
DEVELOPMENT CONTRIBUTION AREAS

SCHEDULE 11
ENVIRONMENTAL CONDITIONS

Amendment No.	Gazettal Date	Environmental Conditions
Amendment 93 to TPS 8—Portions of Lots 5243, 9504 and 9505 commonly known as “Lancelin South”, Old Ledge Point Road and Lancelin Road <i>AMD 93 GG 12/04/11</i>	12 April 2011	(i) A minimum of 22.49 hectares is to be set aside for vegetation conservation purposes. (ii) At the time of subdivision, the subdivider is to prepare and implement an ‘Environmental Management Plan’ to address the use and management of the land set aside for conservation purposes. The plan is to make provision for fencing, weed control, fire response and suppression, re-vegetation, and the design and maintenance of pathways and public viewing areas (restricted access).

ADOPTION

Adopted by Resolution of the Council of the Shire of Gingin at the Ordinary Meeting of the Council held on the 1st day of May 2001.

Date: 22 May 2012.

M. ASPINALL, Shire President.

Date: 22 May 2012.

D. BURT, Chief Executive Officer.

FINAL APPROVAL

1. Adopted for final approval by Resolution of the Council of the Shire of Gingin at the Ordinary Meeting of the Council held on the 15th day of November 2011, and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of—

M. ASPINALL, Shire President.
D. BURT, Chief Executive Officer.

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

PETER WRIGHT, delegated under S.16 of the PD Act 2005.

Date: 13 June 2012.

3. Final approval granted.

JOHN DAY, Minister for Planning.

Date: 12 September 2012.
