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PLANNING AND DEVELOPMENT ACT 2005

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**SHIRE OF WILUNA**

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**LOCAL PLANNING  
SCHEME No. 2**



**PLANNING AND DEVELOPMENT ACT 2005**

## APPROVED LOCAL PLANNING SCHEME

*Shire of Wiluna*

## Local Planning Scheme No. 2

Ref: TPS/0459

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 Wiluna Local Planning Scheme No. 2 on 3 April 2013, the scheme text of which is published as a schedule annexed hereto.

G. HARRIS Shire President.  
T. DOUST Chief Executive Officer.

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**Preamble**

This Local Planning Scheme of the Shire of Wiluna 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. More importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

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**Scheme Details**

The Shire of Wiluna

Local Planning Scheme No. 2

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

**PLANNING AND DEVELOPMENT ACT 2005**

## SHIRE OF WILUNA

**LOCAL PLANNING SCHEME No. 2**

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**PLANNING AND DEVELOPMENT ACT 2005**

## SHIRE OF WILUNA

**LOCAL PLANNING SCHEME No. 2****PART 1—PRELIMINARY****1.1 Citation**

The Shire of Wiluna Local Planning Scheme No. 2 (“**the Scheme**”) comes into operation on its Gazettal date.

**1.2 Responsible Authority**

The Shire of Wiluna hereinafter called “the local government” is the responsible authority for implementing the Scheme.

**1.3 Scheme Area**

The Scheme applies to the Municipal District of the Shire of Wiluna hereinafter called “the Scheme area” as shown on the Scheme Map.

**1.4 Contents of Scheme**

The Scheme comprises—

- (a) this Scheme Text;
- (b) the Scheme Map (Sheets 1 and 2).

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

**1.5 The Aims of the Scheme**

- (a) To zone and reserve land for various purposes within the Scheme area;
- (b) To provide for orderly and proper planning;
- (c) To provide the statutory basis for land use and development control within the Shire;
- (d) To set out administrative and operational requirements and procedures for planning; and
- (e) To facilitate implementation of the Shire’s Local Planning Strategy.

**1.6 Purposes of Scheme**

The purposes of the Scheme are to—

- (a) set out the local government’s planning purposes 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 First Schedule to the *Planning and Development Act 2005*.

**1.7 Relationship with Local Laws**

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

**1.8 Definitions**

1.8.1 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.

1.8.2 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.

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

## 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.

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

### 2.2 Local Planning Policies

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

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

and may amend or add to or rescind the Policy.

### 2.3 Relationship of Local Planning Policies to Scheme

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

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

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 9.2.

### 2.4 Procedure for making or amending a Local Planning Policy

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

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

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

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

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

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

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

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

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

### 2.5 Revocation of Local Planning Policy

A Local Planning Policy may be revoked by—

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

## PART 3—RESERVES

### 3.1 Reserves

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

### 3.2 Local Reserves

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

### 3.3 Use and Development of Local Reserves

3.3.1 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 8 of the Scheme.

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

- (a) the matters set out in clause 9.2; and
- (b) the ultimate purpose intended for the Reserve.

3.3.3 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 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.

4.1.3 The zones are—

- **Town Centre**
- **Residential**
- **Residential Development**
- **Commercial**
- **Tourist**
- **Industrial**
- **Light Industrial**
- **Settlement**
- **Pastoral and Mining**

### 4.2 Zoning Table

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

4.2.2 The symbols used in the cross reference in the Zoning Table have the following meaning—

- “P” means that the use is permitted by the Scheme providing the use complies with the relevant development standards and 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 notice in accordance with clause 8.4
- “X” means a use that is not permitted by the Scheme.

4.2.3 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) then change is to a use that 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 9.2.
  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.

### 4.3 Interpretation of the Zoning Table

- (a) 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.
- (b) 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—
  - (i) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or

- (ii) determine that the proposed use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 8.4 in considering an application for planning approval; or
- (iii) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

#### 4.4 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.

#### 4.5 Special Use Zones

4.5.1 Special use zones are set out in Schedule 3 and are in addition to the zones in the Zoning Table.

4.5.2 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 3 and subject to compliance with any conditions set out in Schedule 3 with respect to that land.

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

#### 4.6 Restricted Uses

Despite anything contained in the Zoning Table, the land specified in Schedule 4 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 4 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.

**TABLE 1—ZONING TABLE**

Uses		Residential	Town Centre	Residential Development	Tourist	Settlement	Commercial	Industrial	Light Industrial	Pastoral And Mining
1	abattoir	X	X	Subject to the provisions of an adopted Structure Plan	X	Land Use Permissibility is to be determined with reference to the endorsed Layout Plan.	X	X	X	See Clause 5.19
2	aged or dependent persons' dwelling	D	X		X		X	X	X	
3	agriculture- intensive	X	X		A		X	X	X	
4	ancillary accommodation	D	X		A		X	X	X	
5	art gallery	A	P		D		A	X	A	
6	bed and breakfast	A	A		D		A	X	X	
7	camping ground	X	X		P		X	X	X	
8	caravan park	X	X		P		X	X	X	
9	caretaker's dwelling	X	A		D		A	A	A	
10	chalet	X	X		D		A	X	X	
11	civic use	D	P		X		A	X	X	
12	consulting room	A	P		X		A	X	X	
13	educational establishment	A	A		X		A	X	X	
14	fuel depot	X	X		X		X	D	A	
15	grouped dwelling	D	X		A		X	X	X	
16	hire service	X	X		X		A	P	P	
17	holiday accommodation	A	A		P		A	X	X	
18	home business	A	X		X		A	X	A	
19	hotel	X	A		P		X	X	X	
20	industry—extractive	X	X		X		X	D	X	
21	industry—general	X	X		X		X	P	X	
22	industry—light	X	X		X		A	P	P	
23	industry—rural	X	X		X		X	P	D	

Uses		Residential	Town Centre	Residential Development	Tourist	Settlement	Commercial	Industrial	Light Industrial	Pastoral And Mining
24	laundromat	X	D		X		A	A	A	
25	medical centre	A	D		X		A	X	X	
26	motel	X	A		P		A	X	X	
27	motor vehicle repair	X	X		X		X	P	D	
28	multiple dwelling	A	X		X		X	X	X	
29	nursing home	A	X		X		A	X	X	
30	office	A	P		X		P	X	A	
31	place of worship	A	A		X		A	X	X	
32	plant nursery	X	X		X		X	X	D	
33	private recreation	X	D		A		A	X	A	
34	recreation centre	X	X		X		A	X	A	
35	residential building	D	X		X		P	X	X	
36	restaurant	X	P		D		P	X	X	
37	roadhouse	X	A		A		A	D	D	
38	rural pursuit	X	X		X		X	X	X	
39	service station	X	A		X		A	X	D	
40	shop	X	P		D		P	X	X	
41	single house	P	X		X		X	X	X	
42	tavern	X	A		A		X	X	X	
43	transient workers accommodation	X	X		A		X	X	X	
44	transport depot	X	X		X		X	P	D	
45	veterinary centre	X	D		X		A	A	D	
46	warehouse	X	X		X		X	P	P	

## 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 Code density applicable to land within the Scheme Area is to be determined by reference to the Residential Design Code 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 an Residential Design Code density, as being contained within the area defined by the centre-line of those borders or as determined by an adopted Local Structure Plan.

- 5.2.4
- (a) The Residential Design code for land zoned Residential shall be either R10 or R10/30;
  - (b) Residential Development shall be permitted at the R10 density, however, the Council may approve development up to the R30 density, where depicted on the scheme map, as an "A" use, if it can be proven that—
    - (i) an effective method of effluent disposal, satisfactory to the Health Department requirements can be provided;
    - (ii) consideration being given to the effect the proposal will have on the residential amenity of the locality by reason of streetscape, building form, servicing, privacy between buildings, outdoor living, over-shadowing, climate responsive design and traffic circulation both on and off the site.

### 5.3 Site and Development Requirements

The site and development requirements for land in various zones are to be as set out in Table 2.

**TABLE 2—MINIMUM SETBACKS FROM BOUNDARIES**

<b>Zone</b>	<b>Street</b>	<b>Rear</b>	<b>Side</b>	<b>Minimum Landscaping Requirement</b>
Residential	As per the Residential Design Codes			
Town Centre	nil.	At the discretion of Council.	nil.	1. Canopy shade trees at the rate of 1 tree for every 4 open air parking bays. 2. Screen landscaping as required by Council. 3. Paving and garden areas as required by Council.
Commercial	nil.	At the local government's discretion		1. Canopy shade trees at the rate of 1 tree for every 4 open air parking bays. 2. Screen landscaping as required by Council.
Tourist	At the discretion of Council.			
Residential Development Zone	SUBJECT TO APPROVED STRUCTURE PLAN			
Industrial	9m	Subject to Building Code of Australia	Subject to Building Code of Australia	3m landscape strip abutting all streets.
Light Industrial	9m	Subject to Building Code of Australia	Subject to Building Code of Australia	3m landscape strip abutting all streets.
Settlement	SUBJECT TO APPROVED LAYOUT PLAN			
Pastoral and Mining	20m	20m	20m	N/A

5.3.1 In the Industrial, Light Industrial, and Pastoral and Mining Zones, where a lot has frontage to two streets the local government may reduce the minimum setback from one only of those streets to not less than 50% of the distance specified in the Development Table 2 for that zone.

#### **5.4 Parking Requirements**

5.4.1 Unless otherwise provided by the Scheme, all non-residential development (other than a Residential Building) is required to provide on-site parking, in accordance with the requirements of Table 3.

5.4.2 Where a development is not specified in Table 3, the Council shall determine car parking requirements as having regard to the nature of development and the number of vehicles likely to be attracted to the development.

5.4.3 A person is not to develop or use any land or erect use or adapt any building unless parking spaces specified by the local government are provided and such spaces are constructed and maintained in accordance with the requirements of the local government.

5.4.4 The parking spaces are to measure not less than 2.5m x 5.5m except that the local government may exercise absolute discretion to vary the number or dimension of spaces where to do so would allow for the retention of existing vegetation worthy of such retention.

5.4.5 Parking spaces are to be serviced with all necessary accessways, and the parking area shall be surfaced to the satisfaction of the local government.

5.4.6 When considering an application for planning approval the local government is to have regard to and may impose conditions on the provision of parking spaces and the details of locating and designing the required spaces, landscaping, and pedestrian spaces on the lot. In particular, the local government is to take into account and may impose conditions concerning—

- (a) the means of access to each car space and the adequacy of any vehicle manoeuvring area;
- (b) the location of the car spaces on the lot and their effect on the amenity of adjoining development;
- (c) the extent to which car spaces are located within required building setback areas;
- (d) the location of proposed public footpaths, vehicular crossing, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety; and
- (e) the suitability and adequacy of proposed screening or landscaping.

**TABLE 3—PARKING REQUIREMENTS**

<b>Uses</b>		<b>Parking Requirement</b>
1	caravan/camping group	1 space per caravan/camp site; plus 1 space per employee
2	civic use	1 space per 5 persons the facility the accommodate

	Uses	Parking Requirement
3	consulting room	2 space per consulting room.
4	educational establishment —Primary/Secondary School  —Training Institution	1 space per staff member; plus 1 drop off space per 20 students 1 space per staff member; plus 1 space per 10 students
5	hotel/tavern	1 bay per 2 bedrooms; plus 1 bay per 9m <sup>2</sup> of bar and public area
6	industry—general	1 bay per 100m <sup>2</sup> of GFA or part thereof.
7	industry—light	1 bay per 100m <sup>2</sup> of GFA or part thereof.
9	tourist accommodation	1 bay per bedroom of accommodation
10	residential building	1 space per 3 beds
11	restaurant	1 bay per 8 seats; plus 1 bay per 2 employees.
12	road house	1 bay per employee; plus 1 bay per 30m <sup>2</sup> GFA
13	service station/motor vehicle repair	1 bay per employee; 1 bay per 40m <sup>2</sup> GFA; plus 1 bay per working bay (if applicable)
14	shop	1 bay per 40m <sup>2</sup> GFA
15	transient workers accommodation	1 bay per 2 workers accommodated within the development site.

### 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 under the Scheme, if a development is the subject of an application for planning approval and does not comply with a standard 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 8.4; 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 9.2; 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, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 10 of the Scheme.

5.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.

5.6.3 The local government is to—

- (a) maintain a register of all relevant statements published under sections 48F and 48G of the Environmental Protection Act; and
- (b) make the statements available for public inspection at the offices of the local government.

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 Home Business

5.7.1 An approval to conduct a home business is issued to a specific occupier of a particular parcel of land, it is not to be transferred or assigned to any other person, and is not to be transferred from the land in respect of which it was granted. Should there be a change of the occupier of the land in respect of which a home business approval is issued the approval is cancelled.

5.7.2 If, in the opinion of the local government, a home business is causing a nuisance or annoyance to owners or occupiers of land in the locality the local government may—

- (a) revoke the approval; or
- (b) require the occupier of the land in respect of which the home business approval is issued to implement those measures specified by the local government and which in the opinion of the local government will remove the nuisance or annoyance.

## 5.8 Use of Setback Areas

5.8.1 A person is not to use any land between a street alignment and the distance that buildings are required to be set back from such street alignment for any purpose other than one or more of the following—

- (a) a means of access;
- (b) the daily parking of vehicles;
- (c) the loading and unloading of vehicles; or
- (d) landscaping which only in the Town Centre Zone and then only with the specific approval of the local government may include an awning, pergola, or similar structure and when in front of a take-away food outlet or restaurant may provide for alfresco dining.

5.8.2 The setback area is not to be used for the parking of vehicles which are being wrecked or repaired, nor for the stacking or storage of fuel, raw materials, products or by-products, or waste of manufacture.

## 5.9 Town Centre Zone

### 5.9.1 Objectives

- (a) To zone adequate land for the continued development of a main commercial and community facility centre for the town;
- (b) To prepare and implement overall Town Centre Design Guidelines to guide suitable forms of development; and
- (c) To apply appropriate development and land use controls to ensure development is to a satisfactory standard.

### 5.9.2 Service Areas

Where areas for the loading and unloading of vehicles carrying goods and commodities to and from the premises are to be provided they shall be constructed and maintained in accordance with an approved plan relating thereto and shall provide for on-site loading and unloading of a size not less than 10m<sup>2</sup> necessary for service vehicles. The design of such areas shall also require all entry and exit movements from and to the adjoining street or right-of-way system to be in a forward direction.

### 5.9.3 Upper Floors

- (a) Where the ground floor of a multi-storey building is used for the purposes of shops or offices, the upper floors of such buildings may be used for the purposes of shops, offices or residential accommodation providing that the residential use is confined to the upper floor.
- (b) The residential use is used only by the owner/occupier of the shop or office within the same building.

### 5.9.4 Consideration of Planning Approval

In considering an application for planning approval for a proposed development (including additions and alterations to existing development) in the Town Centre zone, the Council shall have regard to the following—

- (a) The Town Centre Design Guidelines adopted by Council.
- (b) The colour and texture of external building materials
- (c) Building size, height, bulk and roof pitch.
- (d) Setback and location of the building on its lot.
- (e) Architectural style and design details of the building.
- (f) Function of the building.
- (g) Relationship to surrounding development.
- (h) Parking and landscaping requirements.
- (i) Other characteristics considered to be relevant by Council.

## 5.10 Residential Zone

### 5.10.1 Objectives

- (a) To allocate a density coding for the Residential zone throughout the Scheme Area designed—
  - (i) To provide sufficient land in appropriate locations for residential development to meet the needs of the Scheme Area's anticipated growth and population without unduly restricting the choice of sites;
  - (ii) To promote and safeguard health, safety, convenience, the general public welfare and the amenity of the residential areas;
  - (iii) To allow redevelopment opportunities for areas of older housing stock.
- (b) To prepare and implement a Housing Design Policy to guide appropriate forms of housing in Wiluna.

## 5.11 Residential Development Zone

### 5.11.1 Objectives

- (a) To identify opportunities for the future subdivision and development of land for the purposes of single and group residential purposes together with, if determined necessary by Council, associated community and recreational facilities.

- (b) To ensure that subdivision and development of land within the zone is consistent with a structure plan adopted by Council and endorsed by the WA Planning Commission prepared in accordance with 5.12 of this Scheme.

### **5.12 Structure Plan Preparation and Adoption**

5.12.1 The purpose of Structure Planning Areas are to—

- (a) identify areas requiring comprehensive planning; and
- (b) coordinate subdivision and development in areas requiring comprehensive planning.

5.12.2 The subdivision and development of land within a Structure Planning Area is generally to be in accordance with any structure plan that applies to that land.

5.12.3 The local government is not to—

- (a) consider recommending subdivision; or
- (b) approve development of land within a Structure Planning Area unless there is a structure plan for the area or for the relevant part of that area that adequately defines the comprehensive planning detail required to guide orderly subdivision and development for urban land use.

5.12.4 Notwithstanding clause 5.12.3 a local government may recommend subdivision or approve the development of land within a Structure Planning Area prior to a structure plan coming into effect in relation to that land, if the local government is satisfied that this will not prejudice the specific purposes and requirements for the Structure Planning Area.

5.12.5 Where building envelopes are depicted on a Structure Plan, all buildings and effluent disposal facilities shall be located within the building envelopes shown on those plans.

5.12.6 Notwithstanding the provisions of sub-clause 5.12.5, Council may approve the construction of the following structures outside of the building envelopes—

- (a) water tanks;
- (b) windmills;
- (c) stock watering and feed troughs; and
- (d) roofed structure open on all sides for the purpose of providing shelter to animals.

5.12.7 A proposed structure plan may be required by the—

- (a) local government; or
- (b) Western Australian Planning Commission

5.12.8 A proposed structure plan may be required and prepared for all, or part of, a structure planning area.

5.12.9 A proposed structure plan should include the following details where deemed relevant—

- (a) a map showing the area to which the proposed structure plan is to apply;
- (b) landform and topography;
- (c) existing and proposed road systems and transport networks, including the standards of future roads;
- (d) location of commercial, community facilities and recreation areas, consistent with the projected needs of the locality;
- (e) proposed population and residential densities, where appropriate;
- (f) existing and proposed services;
- (g) staging of the development;
- (h) geotechnical suitability of the land for development;
- (i) natural features to be retained and public parklands;
- (j) urban water management and drainage considerations;
- (k) conservation and environmental considerations including, but not limited to, flora and fauna impacts, groundwater quality, pollution, watercourses;
- (l) sites and features of Aboriginal and European heritage value;
- (m) any other information as shall be requested by the Council, including specific density coding designations;
- (n) a written report to explain the mapping and to address the following—
  - (i) the planning framework for the structure plan including any applicable regional or district structure plans, and any policies, strategies and scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;
  - (ii) the site analysis including reference to the matters listed above, and, in particular, the significance of the conservation, environmental and heritage values of the site;
  - (iii) the context analysis including reference to the matters listed above;
  - (iv) how planning for the structure plan area is to be integrated with the surrounding land;
  - (v) the design rationale for the proposed pattern of subdivision, land use and development;
  - (vi) traffic management and safety;
  - (vii) parkland provision and management;
  - (viii) urban water management;

- (ix) proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services;
- (x) the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development; and
- (xi) any other matter that is required for orderly and proper planning.

5.12.10 The maps referred to in clause 5.12.9 are to—

- (a) be drawn to a scale that clearly illustrates the details referred to in clause 5.12.9; and
- (b) include a north point, visual bar scale, key street names and a drawing title and number.

5.12.11 A proposed structure plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and where the proposed structure plan becomes a structure plan, the local government is to have due regard to such reserves, zones or Residential Design Codes when recommending subdivision or approving development of land within a Structure Planning Area.

5.12.12 A proposed structure plan must, in the opinion of the local government, be consistent with orderly and proper planning.

5.12.13 A proposed structure plan prepared by an owner is to be submitted to the local government.

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

5.12.15 The Commission may provide comments to the local government as to whether it is prepared to endorse the proposed structure plan with or without modifications.

5.12.16 Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 5.12.9 and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government), *the local government is to—*

- (a) advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection in accordance with the advertising procedures outlined in clause 9.4, except that the submission period shall be extended to 60 days, are likely to be affected by the adoption of the proposed structure plan;

5.12.17 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to—

- (a) adopt the proposed structure plan, with or without modifications; or
- (b) refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.

5.12.18 In making a determination under clause 5.12.17, the local government is to have due regard to any comments and advice received from the Commission in relation to the proposed structure plan.

5.12.19 If the Commission requires modifications to the proposed structure plan, the local government is to consult with the Commission prior to making a determination under clause 5.12.17.

5.12.20 If the local government, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, the local government may in accordance clause 5.12.16—

- (a) readvertise the proposed structure plan; or
- (b) require the owner who submitted the proposed structure plan to readvertise the proposed structure plan.

5.12.21 If within the period referred to in clause 5.12.17, or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government, the local government has not made a determination under clause 5.12.17, the local government is deemed to have refused to adopt the proposed structure plan.

5.12.22 If the proposed structure plan proposes the subdivision of land, then within 7 days of making its determination under clause 5.12.17, the local government is to forward the proposed structure plan to the Commission for its endorsement.

5.12.23 As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan and notify the local government of its determination accordingly.

5.12.24 As soon as practicable after adopting a proposed structure plan under clause 5.12.17 and if clause 5.12.23 applies, as soon as practicable after being notified of the Commission's decision under clause 5.12.23, the local government is to forward a copy of the structure plan to—

- (a) any public authority or person that the local government thinks fit; and
- (b) where the structure plan was submitted by an owner, to the owner.

5.12.25 A structure plan comes into effect—

- (a) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 5.12.23; or
- (b) on the day on which it is adopted by the local government under clause 5.12.17 in all other cases.

5.12.26 If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.



5.12.27 The structure plan and the Commission's notification under clause 5.12.23 is to be kept at the local government's administrative offices and is to be made available for inspection by any member of the public during office hours.

5.12.28 The local government may vary a structure plan—

- (a) by resolution if, in the opinion of the local government, the variation does not materially alter the intent of the structure plan;
- (b) otherwise, in accordance with the procedures set out in clause 5.12.9 onwards.

5.12.29 If the local government varies a structure plan by resolution, and the variation does not propose the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution.

5.12.30 If the local government varies a structure plan by resolution, and the variation proposes the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.

5.12.31 As soon as practicable after receiving the copy of the variation referred to in clause 5.12.30, the Commission is to determine whether to endorse the proposed variation.

5.12.32 The Commission is to notify the local government of its determination under clause 5.12.31.

5.12.33 A variation to a structure plan by resolution comes into effect—

- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 5.12.23; or
- (b) on the day on which the local government resolves to make the variation under clause 5.12.28 (a).

### **5.13 Commercial Zone**

5.13.1 Objectives—

- (a) To provide for commercial and retail development in areas remote from the existing town centre in order to cater for local service and shopping needs;
- (b) To ensure that land uses proposed in the Commercial zone are consistent with the local residential needs and do not detract from the commercial viability of the town centre retail area;
- (c) To ensure that residential uses are not approved within a Commercial zone.

### **5.14 Tourist Zone**

5.14.1 Objectives—

- (a) To ensure that short stay tourist and holiday accommodation are the predominant land uses in the zone.
- (b) To have regard to the Local Planning Strategy when considering applications for development within the Tourist zone.
- (c) To encourage tourist uses and accommodation on land adjacent to the existing town centre and forming the approach to the town centre of Wiluna.
- (d) To encourage a high standard of aesthetic quality, landscaping and presentation.

5.14.2 Residential Uses in the Tourist Zone

Council may approve the use of a tourist site in the Tourist Zone for permanent residential purposes to a maximum of 30% of the number of units, rooms, or caravans/cabins approved for the site.

### **5.15 Light Industrial Zone**

5.15.1 Objective—

- (a) The objective is to provide for light industrial uses compatible with residential uses in the vicinity, and which will contribute to the economic well-being of the community.
- (b) To provide for areas for the establishment of light industrial pursuits such as small scale manufacturing, service industry pursuits, prefabrication and vehicle repairs and storage.

### **5.16 Industrial Zone**

5.16.1 Objectives—

- (a) To provide for industrial uses to service the pastoral and mining uses established in the district, and to achieve separation of industries from residential uses.
- (b) To encourage large storage and transport related uses, noxious, hazardous and mining related industry and other land uses which require large land parcels and/or separation from other land uses for health, safety or environmental reasons.

### **5.17 Caretakers Dwellings in Industrial Areas**

5.17.1 The purpose and intent of the following provisions is to limit the scale of caretaker's dwellings in industrial areas to be incidental to the predominant industrial use.

5.17.2 The provisions of this clause apply to all caretaker's dwelling in the "Light Industrial" and "Industrial" zones—

- (a) a caretaker's dwelling should be incidental to the predominant industrial use of the site;
- (b) only one caretaker's dwelling is permitted on a lot and that dwelling should be on the same lot as the associated industrial use;

- (c) a caretaker's dwelling is to have a total floor area that does not exceed 100m<sup>2</sup> measured from the external face of walls; and
- (d) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100m<sup>2</sup> referred to in paragraph (c).

### 5.18 Settlement Zone

#### 5.18.1 Objective—

- (a) To identify existing and proposed Aboriginal settlements and to plan for the orderly and proper development of those places by—
  - a. Requiring the preparation and endorsement of a Layout Plan.
  - b. Ensuring that development accords with a Layout Plan.
  - c. Providing for a mix of land uses typically found on Aboriginal settlements, including residential, commercial, community, recreation and public utility.
  - d. Protecting sensitive areas, such as “No Go” areas and drinking water source protection areas, from inappropriate development.
  - e. Providing for traditional law and culture.

#### 5.18.2 Development in the Settlement Zone

- (a) The use and development of land zoned Settlement is to be in accordance with a Layout Plan prepared in accordance with State Planning Policy No. 3.2—Aboriginal Settlements.
- (b) In the instance that a proposal for the use and/or development of land zoned Settlement is to be considered by the local government and a Layout Plan has not been prepared in accordance with State Planning Policy No. 3.2—Aboriginal Settlements consideration is to be undertaken based on the objectives and intentions of this Scheme.

### 5.19 Pastoral and Mining Zone

#### 5.19.1 Objective

- (a) To promote the economic and social importance of the pastoral and mining industries by protecting and promoting the sustainable use and development of the Shire for pastoral and mining uses.
- (b) To have regard to the Shire of Wiluna Local Planning Strategy when considering the development of tourist accommodation and facilities within pastoral areas.

#### 5.19.2 Despite anything elsewhere contained in the Scheme application for planning approval is not required for the following development of land in the Pastoral and Mining Zone—

- (a) pastoral uses;
- (b) holiday accommodation whether or not ancillary to pastoral use;
- (c) mining including uses ancillary thereto.

#### 5.19.3 Application for planning approval is to be made under the Scheme for all other uses not mentioned in clause 5.18.12. In determining such applications the local government is to have regard to the State Planning Strategy, the provisions of the Scheme, and the objectives for the Pastoral and Mining Zone as set out in clause 5.18.1.

## PART 6—HERITAGE PROTECTION

### 6.1 Heritage List

6.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme Area that 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.

6.1.2 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 List such of the entries on the Municipal Inventory as it considers to be appropriate.

6.1.3 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 6.1.1 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.

6.1.4 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.

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

6.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 6.1.3.

- 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.

## 6.2 Designation of a Heritage Area

6.2.1 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, declare that area to be a Heritage Area.

6.2.2 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.

6.2.3 If a local government proposes to designate 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 within the Scheme Area;
  - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area affected by the designation; and
  - (iii) such other methods as the local government considers necessary to ensure widespread notice of the proposal;and
- (c) carry out such other consultations as the local government considers appropriate.

6.2.4 Notice of a proposal under clause 6.2.3(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 during what period (being not less than 21 days from the date the notice is published or the sign is erected, as the case requires) submissions may be made.

6.2.5 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 modifications, or not to proceed with the designation.

6.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the notice of its determination to the Heritage Council of WA, the Commission, and each owner of land affected by the designation.

6.2.7 The local government may modify or revoke a designation of a Heritage Area.

6.2.8 Clauses 6.2.3 to 6.2.6 apply, with any necessary changes, to the amendment of a designation of a Heritage Area.

## 6.3 Heritage Agreements

6.3.1 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 in so far 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*.

## 6.4 Heritage Assessment

6.4.1 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.

## 6.5 Variations to Scheme Provisions for a Heritage Place or Heritage Area

6.5.1 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 6.1.1; or
- (b) enhance or preserve heritage values in a Heritage Area declared under clause 6.2.1,

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 7—DEVELOPMENT OF LAND

### 7.1 Requirement for Approval to Commence Development

7.1.1 Subject to clause 7.2, 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 the Scheme.

- 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.

### 7.2 Permitted Development

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

- (a) the use of land in a reserve, where such land is held by the local government or a public authority—
  - (i) for the purpose for which the land is reserved in the Scheme; or
  - (ii) for any purpose for which such land may be lawfully used by that authority;
- (b) the use of land which is a permitted (“P”) use in the zone in which that land is situated provided it does not involve the carrying out of any building or other works;
- (c) the carrying out of building or other works which affect only the interior of the building or which do not materially affect the external appearance of the building unless the building is—
  - (i) located in a place that has been registered 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 6.1 of the Scheme.
- (d) the erection on a lot of a single house, including ancillary outbuildings and swimming pools, in a zone where the proposed use is designated with symbol “P” in the cross-reference to that zone in the zoning table except where the proposal—
  - (i) necessitates the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes; or
  - (ii) is located in a heritage area.
- (e) Notwithstanding Clause 7.2.1(d), State agencies that are exempt from requiring approvals from local government are to notify the local government in writing, of any intention to construct a building within the Scheme area, a minimum of 21 days prior to commencing works.
- (f) the erection, construction, maintenance, improvement, or alteration of a boundary fence or wall, or other means of boundary enclosure;
- (g) the demolition of any building or structure except any object or place which 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 in the Heritage List under clause 6.1 of the Scheme;
  - (iv) located within a heritage area as designated under the Scheme.
- (h) an existing advertisement that was lawfully erected, placed or displayed prior to the approval of the Scheme or may be erected, placed, or displayed pursuant to a licence or other approval granted by the local government prior to the approval of the Scheme;
- (i) any of the exempted classes of advertisements listed in Schedule 4 except in respect of a place included in the Heritage List or in a Heritage Area;
- (j) any building or other works undertaken by the local government or a public authority in connection with the maintenance or improvement of a public street or for any public utility; or
- (k) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees.

### 7.3 Amending or Revoking a Planning Approval

7.3.1 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.

**PART 8—APPLICATIONS FOR PLANNING APPROVAL****8.1 Form of Application**

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

- (a) a use or commencement of development on a Local Reserve under clause 3.3;
- (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 4.2.2;
- (c) commencement of a “D” use or an “A” use as referred to in clause 4.2.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.3(b)(ii);
- (e) alteration or extension of a non-conforming use under clause 10.2;
- (f) a change of a non-conforming use under clause 10.2;
- (g) continuation of a non-conforming use under clause 10.1;
- (h) variation of a site or development requirements under clause 5.5;
- (i) commencement of development under clause 7.1;
- (j) continuation of development already commenced or carried out under clause 9.10;
- (k) a subsequent planning approval pursuant to an approval under clause 9.9; and
- (l) the erection, placement or display of an advertisement,

is, subject to clause 8.1.2, to be made in the form prescribed in Schedule 5 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

8.1.2 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.

**8.2 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.

**8.3 Additional material for heritage matters**

8.3.1 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.

**8.4 Advertising of Applications**

8.4.1 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 4.2.2; 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 8.4.3.

8.4.2 Despite clause 8.4.1, 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 8.4.3.

8.4.3 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.

8.4.4 The notice referred to in clause 8.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.

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

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

## PART 9—PROCEDURE FOR DEALING WITH APPLICATIONS

### 9.1 Consultation with Other Authorities

9.1.1 In determining any application for planning approval the local government may consult with any other statutory, public or planning authority and with any other party it considers appropriate.

9.1.2 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.

### 9.2 Matters to be Considered by Local Government

9.2.1 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 purposes and provisions of the Scheme and any other relevant local planning schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new local planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submission to be sought;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4.3, any heritage policy statement for a designated heritage area adopted under clause 6.2.2, 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 6.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submission received from any authority consulted under clause 9.1.1;
- (za) any other planning consideration the local government considers relevant.
- (zb) potential impacts of noise, dust light, risk and other pollutants on surrounding land uses.

### **9.3 Determination of Applications**

9.3.1 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.

### **9.4 Form and Date of Determination**

9.4.1 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.

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

### **9.5 Term of Planning Approval**

9.5.1 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.

9.5.2 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.

### **9.6 Temporary Planning Approval**

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

### **9.7 Scope of Planning Approval**

9.7.1 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 special part or aspect of that use or development;
- (c) for a specified part or aspect of that use or development.

### **9.8 Deemed Refusal**

9.8.1 Subject to clause 9.8.2, an application for planning approval is deemed to have been refused where a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of the receipt of it by the local government, or within such further time as agreed in writing between the applicant and the local government.

9.8.2 An application for planning approval which is the subject of a notice under clause 8.4 is deemed 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 it by the local government, or within such further time as agreed in writing between the applicant and the local government.

9.8.3 Despite an application for planning approval may be deemed to have been refused under clauses 9.8.1 or 9.8.2 the local government may issue a determination in respect of the application at any time after the expiry of the 60-day or 90-day period specified in those clauses, and that determination is to be regarded as being valid.

### **9.9 Approval Subject to Later Approval of Details**

9.9.1 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.

9.9.2 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.

9.9.3 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 it specified in the approval.

### **9.10 Unauthorized Existing Developments**

9.10.1 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.

9.10.2 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.

### **9.11 Appeals**

9.11.1 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*.

## **PART 10—NON-CONFORMING USES**

### **10.1 Non-conforming Uses**

10.1.1 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.

### **10.2 Extensions and Changes to a Non-conforming Use**

10.2.1 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.

10.2.2 An application for planning approval under this clause is to be advertised in accordance with clause 8.4.

10.2.3 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.

### **10.3 Discontinuance of Non-conforming Use**

10.3.1 Where a non-conforming use of any land or building has been discontinued for a period of 6 months or more such land or building is not thereafter to be used otherwise than in conformity with the provisions of the Scheme.

### **10.4 Termination of a Non-conforming Use**

10.4.1 The local government may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that property, 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 town planning scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

### **10.5 Destruction of Non-conforming Use Buildings**

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



## PART 11—ENFORCEMENT AND ADMINISTRATION

### 11.1 Powers of the Local Government

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

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the *Planning and Development Act 2005*; and
- (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the *Planning and Development Act 2005* 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 existing advertisements at, or at any time after the coming into force of the Scheme, in the opinion of the local government, conflict with the amenity of a locality, the local government may by notice in writing (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 been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the local government may by notice in writing 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 upon 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;
- (c) the period, not being less than 60 days, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may appeal under Part 14 of the *Planning and Development Act 2005* against the determination of the local government.

### 11.3 Delegation of Functions

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

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

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

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

### 11.4 Person Must Comply With Provisions Of Scheme

11.4.1 A person must not—

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

Note: Section 218 of the *Planning and Development Act 2005* provides that a person who—

- (a) contravenes the provisions of a planning scheme; or
- (b) commences, continues or carries out any development in any part of a region the subject to a region planning scheme or any part of an area the subject of a local planning scheme or improvement scheme otherwise in accordance with the provisions of the planning scheme; or

- (c) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition,

commits an offence

Section 223 of the *Planning and Development Act 2005* provides—

Unless otherwise provided, a person who commits an offence under this Act is liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues.

### 11.5 Compensation

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under section 173 of the *Planning and Development Act 2005*—

- (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: A claim for compensation under section 173 of the *Planning and Development Act 2005* may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

### 11.6 Purchase or Taking of Land

11.6.1 Where compensation for injurious affection is claimed under clause 11.5.1, the local government may, at its option elect to acquire the land so affected instead of paying compensation.

11.6.2 Where the local government elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the local government is to give notice of that election to the claimant by notice in writing within 3 months of the claim for compensation being made.

11.6.3 Where the local government elects to acquire land as provided in clause 11.6.1, if the local government and the owner of the land are unable to agree as to the price to be paid for the land by the local government, the price at which the land may be acquired by the local government is to be the value of the land determined in accordance with clause 11.6.4.

11.6.4 The value of the land referred to in clause 11.6.3 is to be the value thereof on the date that the local government elects to acquire the land and that value is to be determined—

- (a) by arbitration in accordance with the *Commercial Arbitration Act 1985*; or
- (b) by some other method agreed upon by the local government and the owner of the land,

and the value is to be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to the Scheme.

11.6.5 The local government may deal with or dispose of land acquired for a Local Reserve or under clause 11.6.4 upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

### 11.7 Notice for Removal of Certain Buildings

11.7.1 Twenty eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 214 of the *Planning and Development Act 2005* for the removal of certain buildings.

11.7.2 The local government may recover expenses under Section 215 of the *Planning and Development Act 2005* in a Court of competent jurisdiction.

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## Schedule 1

### DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

#### 1. General definitions

In the Scheme—

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

- “**amenity**” means all those factors which combine to form the character of an area and include the present and likely future amenity;
- “**building envelope**” means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;
- “**conservation**” has the same meaning as in the *Heritage of Western Australia Act 1990*;
- “**cultural heritage significance**” has the same meaning as in the *Heritage of Western Australia Act 1990*;
- “**floor area**” has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;
- “**frontage**”, when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
  - (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;
- “**Gazettal date**”, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 87(4) of the *Planning and Development Act 2005*;
- “**height**” when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; or
  - (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;
- “**incidental use**” means a use of premises which is ancillary and subordinate to the predominant use;
- “**local government**” means the Shire of Wiluna;
- “**Local Planning Strategy**” means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;
- “**lot**” has the same meaning as in the *Planning and Development Act 2005* but does not include a strata or survey strata lot;
- “**minerals**” has the same meaning as in the *Mining Act 1978*;
- “**net lettable area (nla)**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—
- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
  - (b) lobbies between lifts facing other lifts serving the same floor;
  - (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
  - (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;
- “**non-conforming use**” has the same meaning as it has in section 172 of the *Planning and Development Act 2005*;
- “**owner**”, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity—
- (a) is entitled to the land for an estate in fee simple in possession;
  - (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
  - (c) is a lessor or licensee from the Crown; or
  - (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;
- “**place**”, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;
- “**plot ratio**”, in the case of residential dwellings has the same meaning as in the Residential Design Codes;
- “**precinct**” means a definable area where particular planning policies, guidelines or standards apply;
- “**predominant use**” means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;
- “**premises**” means land or buildings;
- “**region scheme**” means a regional planning scheme made under the *Planning and Development Act 2005*, as amended from time to time;
- “**Residential Design Codes**” means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 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 that has come into effect in accordance with clause 5.12 of this scheme;

“**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;

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

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

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

## 2. Land use definitions

In the Scheme—

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

“**aged or dependent persons dwelling**” shall have the same meaning ascribed to it in the Residential Design Codes;

“**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 fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms); or
- (d) aquaculture;

“**ancillary accommodation**” shall have the same meaning ascribed to it in the Residential Design Codes;

“**art gallery**” means any land or buildings used to display art;

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

“**camping ground**” means any land used for the lodging of persons in tents;

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

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

“**car park**” 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 any individual self-contained unit usually comprising cooking facilities, ensuite, living area, and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of 3 months in any 12-month period;

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

“**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;

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

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

“**grouped dwelling**” shall have the same meaning ascribed to it in the Residential Design Codes;

“**hire service**” means land and buildings used for the storage and or hire of machinery and other bulky equipment;

“**holiday accommodation**” means premises used for accommodation and recreation for holiday purposes but does not include a hotel or motel;

“**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 50m<sup>2</sup>, except that for land in the Pastoral and Mining zone under the Scheme the local government may permit an area up to 200m<sup>2</sup>;
- (d) does not involve the retail sale, display or hire of goods of any nature;

- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight, except that for land in the Pastoral and Mining zone under the Scheme the local government may permit the presence and use of up to 3 vehicles of more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone;
- “home office”** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not—
- entail clients or customers travelling to and from the dwelling;
  - involve any advertising signs on the premises; or
  - require any external change to the appearance of the dwelling;
- “hotel”** means premises providing accommodation the subject of a hotel licence under the *Liquor Control Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;
- “industry”** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for—
- the storage of goods;
  - the work of administration or accounting;
  - the selling of goods by wholesale or retail; or
  - the provision of amenities for employees, incidental to any of those industrial operations;
- “industry—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—
- 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;
  - the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;
- “industry—mining”** means land used commercially to extract minerals from the land;
- “industry—rural”** means—
- an industry handling, treating, processing or packing rural products; or
  - a workshop servicing plant or equipment used for rural purposes;
- “laundromat”** means a building open to the public, in which coin-operated or other washing machines, with or without provision for drying clothes, are available for use;
- “market garden”** means any land used for market gardening purposes;
- “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 repair”** means premises used for or in connection with—
- electrical and mechanical repairs, or overhauls, to vehicles; or
  - repairs to tyres,
- but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;
- “multiple dwelling”** has the same meaning as given to the term in and for the purposes of the Residential Design Codes;
- “nursing home”** means a hospital in which patients reside;
- “office”** means premises used for administration, clerical, technical, professional or other like business activities;
- “place of worship”** means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;

“**plant nursery**” means premises used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden décor;

“**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*;

“**roadhouse**” means premises used for the predominant purpose of a service station but incidentally including a café, restaurant and/or shop;

“**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;

“**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 but does not include a showroom or fast food outlet;

“**single house**” means an independently constructed dwelling standing wholly on its own lot created pursuant to the *Residential Design Codes*;

“**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;

“**transient workers accommodation**” means any habitable building permanently affixed to the ground by footings as required by Council and includes any caravan, transportable dwelling or any structure used for habitation for the purposes of accommodation and not occupied by the same tenant for a continuous period for more than 6 months in any 12-month period;

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

“**veterinary 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.

#### *Schedule 2*

#### ADDITIONAL USES

No.	Description of Land	Additional Use	Conditions
1			

#### *Schedule 3*

#### SPECIAL USE

No.	Description of Land	Special Use	Conditions
1			
2			
3			
4			

**Schedule 4**  
**RESTRICTED USES**

No.	Description of Land	Special Use	Conditions

**Schedule 5**  
**EXEMPTED ADVERTISEMENTS**

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

Land Use and/or Development	Exempted Sign Type and Number (includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated)	Maximum Area
	<p>(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government, and</p> <p>(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	<p>Not Applicable</p> <p>Not Applicable</p>
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon railway station.	No sign is to exceed 2m <sup>2</sup> in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings, which cannot ordinarily be seen by a person outside of those buildings.	Not Applicable
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>

Temporary Signs	Exempted Sign Type and Number (All non-illuminated unless otherwise stated)	Maximum Area
Building Construction Sites (advertisement signs displayed only for the duration of the construction) as follows—		
<p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height</p>	<p>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above One additional sign showing the name of the project builder.</p>	<p>2m<sup>2</sup></p> <p>5m<sup>2</sup></p> <p>10m<sup>2</sup> 5m<sup>2</sup></p>
Sales of goods or livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose	2m <sup>2</sup>



Temporary Signs	Exempted Sign Type and Number (All non-illuminated unless otherwise stated)	Maximum Area
Property transactions Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows: (a) Dwellings  (b) Multiple dwellings, shops, commercial and industrial properties  (c) Large properties comprised of shopping centres, buildings in excess of 4 storeys and rural properties in excess of 5 hectares.	One sign per street frontage for each property relating to the Sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.  One sign as for (a) above.  One sign as for (a) above	Each sign is not to exceed an area of 2m <sup>2</sup>  Each sign is not to exceed an area of 5m <sup>2</sup>  Each sign is not to exceed an area of 10m <sup>2</sup>
Display Homes Advertisement signs displayed for the period over which homes are on display for public inspection	(a) One sign for each dwelling on display.  (b) In addition to (a) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2m <sup>2</sup>  5m <sup>2</sup>

Schedule 6

**FORM OF APPLICATION FOR PLANNING APPROVAL**

APPLICATION FOR PLANNING APPROVAL

<b>Owner Details</b>		
Name:		
Address:		
Phone— (work) (home) (mobile)	Fax:	E-mail:
Contact Person:		
Signature:		Date:
Signature:		Date:

*The signature of the owner(s) is required on all applications. This application will not proceed without that signature.*

**Applicant Details**

Name:

Address:

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 (eg. easements, restrictive covenants):

Street Name:

Suburb:

Nearest street intersection:

Date:

**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:

Location 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 the underside): .....

(e) Materials to be used.....

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**

Planning and Development Act 2005

*Shire of Wiluna*

LOCAL PLANNING SCHEME No. 2

**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

City/Town/Shire of .....

The local government has received an application to use and/or develop and 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 City/Town/Shire of:.....

**Schedule 9**

**NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**

Planning and Development Act 2005

*Shire of Wiluna*

LOCAL PLANNING SCHEME No. 2

**NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**

City/Town/Shire of .....

Location: \_\_\_\_\_

Lot: \_\_\_\_\_ Plan/Diagram: \_\_\_\_\_

Vol. No: \_\_\_\_\_ Folio No: \_\_\_\_\_

Application Date: \_\_\_\_\_ Received on: \_\_\_\_\_

Description of the proposed development: \_\_\_\_\_

The application for planning approval is

granted subject to the following conditions:

refused for the following reason(s):

Conditions/reasons for refusal: \_\_\_\_\_

- Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
- Note 2: Where an approval has so lapsed, no development is to 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 pursuant to the provisions of Part 14 of the *Planning and Development Act 2005*. An appeal must be lodged within 28 days of the local government's determination.

*Schedule 10*  
**ENVIRONMENTAL CONDITIONS**

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

**ADOPTION**

Adopted by Resolution of the local government of the Shire of Wiluna at the meeting of the Council held on the 27 July 2011 and 28 September 2011.

G. HARRIS, Deputy Shire President.

Date: 10th October 2011.

T. DOUST, Acting Chief Executive Officer.

Date: 10th October 2011.

**FINAL APPROVAL**

Adopted for final approval by Resolution of the local government of the Shire of Wiluna at the meeting of the Council held on the 24th day of October 2012 and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of—

J. QUADRIO, Deputy Shire President.

Date: 7th March 2013.

T. DOUST, Chief Executive Officer.

Date: 7th March 2013.

Submitted and recommended for final approval by the Western Australian Planning Commission.

J. GILDENHUYS, delegated under S.16 of the PD Act 2005.

Date: 20th March 2013.

Final Approval Granted—

JOHN DAY, Minister for Planning.

Date: 3rd April 2013.