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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF MUNDARING

**LOCAL PLANNING
SCHEME No. 4**

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME

*Shire of Mundaring***LOCAL PLANNING SCHEME No. 4**

Ref: TPS/0175

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Acting Minister for Planning (Shire of Mundaring LPS 4) approved the Shire of Mundaring Local Planning Scheme No. 4 on 30 January 2014, the scheme text of which is published as a schedule annexed hereto.

H. DULLARD, Shire President.
J. THROSSELL, Chief Executive Officer.

Preamble

This Local Planning Scheme of the Shire of Mundaring 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 Shire, 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 Shire on matters within the Scheme.

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

PLANNING AND DEVELOPMENT ACT 2005*Shire of Mundaring***LOCAL PLANNING SCHEME No. 4****Contents**

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

PLANNING AND DEVELOPMENT ACT 2005*Shire of Mundaring***LOCAL PLANNING SCHEME No. 4**

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ADOPTION

PLANNING AND DEVELOPMENT ACT 2005

Shire of Mundaring

LOCAL PLANNING SCHEME No. 4
(DISTRICT ZONING SCHEME)

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

PART 1—PRELIMINARY

1.1 Citation

1.1.1 The Shire of Mundaring Local Planning Scheme No. 4 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following Schemes are revoked—

Name	Gazettal date
Shire of Mundaring Town Planning Scheme No. 3	18 March 1994
Shire of Mundaring Town Planning Scheme No. 7	4 August 1978

1.2 Responsible authority

The Shire of Mundaring (“**the Shire**”) is the responsible authority for implementing the Scheme.

1.3 Scheme area

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

Note: The Scheme area is also subject to the Metropolitan Region Scheme (see clause 1.10) and other town planning schemes (see clause 1.9).

1.4 Contents of Scheme

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1-46).

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

1.5 Purposes of Scheme

The purposes of the Scheme are to—

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

1.6 The aims of the Scheme

The aims of the Scheme are to—

- (a) promote and safeguard the health, safety and general welfare of the residents of the Shire;
- (b) preserve and enhance the amenity of the Shire and to manage land uses so as to minimise conflicts between potentially incompatible land uses;
- (c) assist in achieving ecological, social and economic sustainability through a land use planning framework that balances the benefits and impacts of development on the Shire’s natural, built, social and economic environment;
- (d) preserve the Shire’s biodiversity and environmental values through appropriate protection of areas of significant native vegetation, valuable habitat areas and other areas of environmental value;

- (e) promote a more energy-efficient form of development and disposition of land uses and transport systems, and to minimise greenhouse gas emissions;
- (f) assist in effective management of water sources, river systems and other water-bodies to maintain the health of the ecosystems and human communities that they support;
- (g) provide adequate supply of suitable and appropriately located land for housing, employment, commercial activities, community facilities, recreation and open space to meet the needs of the community;
- (h) promote and facilitate the development of the Mundaring town centre as the major centre for commercial, civic, community and entertainment facilities for residents of the hills portion of the Shire;
- (i) promote and facilitate the development of local centres throughout the Shire to meet the immediate commercial needs of local communities;
- (j) provide for variety and choice in housing to meet the changing needs of the community, in particular the need for housing for aged or dependent persons;
- (k) protect and facilitate agricultural activity within the Shire, to assist in sustaining that land use and its economic and social contribution to the Shire;
- (l) recognise and protect places of cultural heritage significance;
- (m) assist in the implementation of regional plans and policies and other elements of the State Planning Framework; and
- (n) facilitate public involvement in planning issues of significance to the character, amenity and environmental values of the Shire.

1.7 Definitions

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

- (a) in the Planning Act; or
- (b) if they are not defined in that Act—
 - (i) in the Dictionary of defined words and expressions in Schedule 1; or
 - (ii) in the Residential Design Codes.

1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes—

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

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

1.7.4 A reference in this Scheme to any policy, guideline or other written instrument shall be deemed to include a reference to such policy, guideline or instrument as amended from time to time and, if replaced by another instrument dealing with substantially the same subject matter, includes that replacement.

1.7.5 A reference in this Scheme to any organisation or institution shall be deemed to include a reference to such organisation or institution as reconstituted from time to time, and to any organisation or institution which replaces the original and carries out substantially the same duties or functions.

1.8 Relationship with local laws

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

1.9 Relationship with other Schemes

By way of information, the following other Scheme of the Shire of Mundaring is, at the Gazettal date of the Scheme, complementary to the Scheme—

Scheme No.	Gazettal Date
Town Planning Scheme No. 6	15 October 1976

1.10 Relationship with the Metropolitan Region Scheme

The Scheme is complementary to the Metropolitan Region Scheme and the provisions of the Metropolitan Region Scheme continue to have effect.

Note: The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission.

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 Shire under the Scheme are to be consistent with the Local Planning Strategy.

2.2 Local Planning Policies

The Shire 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 Shire in respect of any application for planning approval but the Shire 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 Shire 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 Shire must have due regard to relevant Local Planning Policies as required under clause 10.2

2.4 Procedure for making or amending a Local Planning Policy

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

- (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 Shire considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the Shire 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 Shire resolves to adopt the Policy, the Shire 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 Shire, 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 administration centre of the Shire.

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

2.4.7 An existing Planning Policy adopted under Town Planning Scheme No. 3, subject to minor modifications of an administrative nature required to ensure consistency with this Scheme, may be adopted as a Local Planning Policy without following the procedure in Clauses 2.4.1 and 2.4.2.

2.5 Revocation of a Local Planning Policy

A Local Planning Policy may be revoked by—

- (a) the adoption by the Shire 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 Shire once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

2.6 Continuation of Planning Policies

A Planning Policy adopted in accordance with the requirements of the former Shire of Mundaring Town Planning Scheme No. 3 and which was operative immediately prior to the gazettal of the Scheme (the Shire of Mundaring Local Planning Scheme No. 4) shall continue to have effect, and may be amended or revoked, as if it were a Local Planning Policy made under the Scheme.

PART 3—RESERVES

3.1 Reserves

Certain lands within the Scheme area are classified as—

- (a) Regional Reserves; or
- (b) Local Reserves.

3.2 Regional Reserves

3.2.1 The lands shown as “Regional Reserves” on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map for the purposes of the Planning Act. These lands are not reserved under the Scheme.

3.2.2 The approval of the Shire under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.

Note: The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve unless specifically excluded by the Region Scheme.

3.3 Local Reserves

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

3.4 Use and development of Local Reserves

3.4.1 A person must not—

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve,

without first having obtained planning approval under Part 9 of the Scheme.

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

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

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

3.4.4 In the case of land reserved for conservation, the Shire may accommodate Basic Raw Material Extraction where that extraction is compatible with the long-term reserve purpose.

PART 4—ZONES AND THE USE OF LAND

4.1 Zones

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

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

4.2 Objectives of the zones

The objectives of the zones are—

4.2.1 Residential—

- (a) To provide for a variety of housing types and densities to meet the needs of the community, through the application of the Residential Design Codes.
- (b) To provide for other uses compatible with and complementary to residential development, to assist in the creation of efficient and sustainable residential neighbourhoods.
- (c) In areas coded R2.5, to provide for low density residential development which is sensitive to the environmental characteristics of the area, including protection of native vegetation (trees and understorey) where practicable.
- (d) To provide for residential subdivision and development incorporating water-sensitive urban design principles.

4.2.2 Rural Residential—

- (a) To provide for residential use in a rural setting, in suitable and appropriate locations in reasonable proximity to services.
- (b) To conserve the natural environment as far as possible for the enjoyment of residents as well as the maintenance of ecological and landscape values, particularly by the protection of native vegetation (trees and understorey) and by water-sensitive development.
- (c) To provide for other uses compatible with and complementary to rural living, subject to appropriate land capability and suitability and protection of residential amenity.
- (d) To ensure conservation of soil, watercourses and other water resources and the protection of ecological and landscape values.

4.2.3 Rural Small Holdings—

- (a) To provide for rural pursuits, hobby farming and alternative residential lifestyle purposes where part-time income from home based businesses and/or use of the land for agriculture may be derived, subject to appropriate land capability and suitability.
- (b) To ensure use and development of land is sited, designed and managed in harmony with the natural environment and so as to protect ecological and landscape values.
- (c) To ensure conservation of soil, watercourses and other water resources and the protection of ecological and landscape values.

4.2.4 General Agriculture—

- (a) To provide for a diversity of agricultural and rural purposes.
- (b) To prevent land use and development (including subdivision) within the zone which may adversely impact on the continued use of land within the zone for agricultural and rural purposes.

- (c) To ensure conservation of soil, watercourses and other water resources and the protection of ecological and landscape values.

4.2.5 Town Centre—

- (a) To provide for development of the Mundaring town centre as the principal focus for retail, commercial, administrative, entertainment and cultural uses within the Shire.
- (b) To provide for the retail, commercial and entertainment needs of residents of the hills portion of the Shire so as to minimise the need for travel out of the district.
- (c) To provide for appropriate uses catering to tourism activity.
- (d) To provide a safe, convenient and accessible environment in the town centre for pedestrians and cyclists, and to provide for good accessibility by public transport.
- (e) To provide for well coordinated development of the town centre by way of precinct/structure planning, to ensure a high quality of urban design, appropriate disposition of land uses, and optimal use of infrastructure capacity.
- (f) To provide for uses that will encourage the use of the town centre outside normal retail or office hours.

4.2.6 Local Centre—

- (a) To provide for a range of retail, commercial and community uses to meet the immediate needs of individual neighbourhoods and townsites.
- (b) To provide for appropriate uses catering to tourism activity.
- (c) To ensure a high quality of urban design and development, in keeping with the existing character of each local centre.
- (d) To provide a safe, convenient and accessible environment in local centres for pedestrians and cyclists.

4.2.7 Service Commercial—

- (a) To provide for a range of commercial activities which, by reason of the scale or the nature of the business require good visibility and vehicular access and/or larger sites, and are not generally appropriate within the Town Centre or Local Centre zones.
- (b) To ensure a high standard of development and to maintain the visual amenity of the area as seen from public roads, particularly important local roads or highways.

4.2.8 Light Industry—

- (a) To accommodate a range of light and service industries and related uses which will not, by the nature of their operations, detrimentally impact upon the amenity of other properties in close proximity.
- (b) To ensure development is designed in order to maintain the visual amenity of the area as seen from public roads, and the amenity of any adjacent residential areas in particular.

4.2.9 Development—

To provide for the orderly planning of large areas of land for residential and other purposes through comprehensive structure planning which will provide the basis for future subdivision and development.

4.3 Zoning Table

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

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

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

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

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

Note: 1. The planning approval of the Shire 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 Shire 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 Shire will have regard to the matters set out in clause 10.2.
4. The Shire must refuse to approve any “X” use of land. Approval to an “X” use of land may only proceed by way of an amendment to the Scheme.

4.4 Interpretation of the Zoning Table

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

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

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

4.5 Additional uses

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

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

4.6 Restricted uses

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

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

4.7 Special Use zones

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

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

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

TABLE 1—ZONING TABLE

Use Class	Residential	Town Centre	Local Centre	Service Commercial	Light Industry	Rural Residential	Rural Small Holdings	General Agriculture	Development
									Refer to Clause 5.16
Abattoir	X	X	X	X	X	X	X	X	Refer to Clause 5.16
Aged or Dependent Persons' Dwelling	D	D	D	X	X	X	X	X	
Aged Persons' Village	A	A	A	X	X	X	X	X	
Agriculture—Extensive	X	X	X	X	X	X	D	P	
Agriculture—Intensive	X	X	X	X	X	A	A	D	
Agroforestry	X	X	X	X	X	X	A	A	
Amusement Parlour	X	D	D	D	X	X	X	X	

Use Class	Development							
	Residential	Town Centre	Local Centre	Service Commercial	Light Industry	Rural Residential	Rural Small Holdings	General Agriculture
Ancillary Dwelling	D	A	X	X	X	D	D	D
Animal Establishment	X	X	X	X	X	X	A	D
Animal Husbandry—Intensive	X	X	X	X	X	X	X	X
Auction Mart	X	A	X	D	D	X	X	X
Bed and Breakfast	D	D	X	X	X	D	D	D
Beekeeping	X	X	X	X	X	A	A	D
Caravan Park/Camping Ground	X	X	X	X	X	X	X	X
Caretaker's Dwelling	X	D	D	D	D	X	X	X
Car Park	D	D	D	D	D	D	D	D
Cattery	X	X	X	X	D	X	A	D
Child Care Premises	A	P	D	D	X	X	X	X
Cinema/Theatre	X	P	D	X	X	X	X	X
Civic Use	X	P	D	D	D	A	D	D
Club Premises	X	D	A	D	X	X	X	X
Commercial Vehicle Parking	A	P	P	P	P	D	D	D
Community Purpose	A	P	D	X	X	A	D	D
Consulting Rooms	A	P	P	D	X	X	X	X
Corrective Institution	X	X	X	X	X	X	X	A
Dam	D	X	X	X	X	D	D	D
Display Home/Land Sales Centre	D	X	X	X	X	D	D	D
Educational Establishment	A	P	D	D	D	A	D	D
Equipment Hire	X	D	D	D	P	X	A	D
Exhibition Centre	X	P	D	X	X	A	D	D
Family Day Care	D	A	X	X	X	D	D	D
Fast Food Outlet	X	P	P	D	X	X	X	X
Fuel Depot	X	X	X	X	D	X	X	A
Funeral Chapel	X	X	X	A	X	X	X	X
Funeral Parlour	X	D	D	D	X	X	X	X
Garden Centre/Nursery	X	A	A	D	X	X	X	X
Grouped Dwelling	D	D	D	X	X	X	X	X
Holiday Accommodation	A	A	A	X	X	A	A	D
Home Business	A	P	P	X	X	A	A	D
Home Occupation	D	P	P	X	X	D	D	D
Hospital	X	A	X	X	X	X	X	X
Hotel/Motel	X	D	A	X	X	X	X	X
Industry—Cottage	A	D	D	P	P	A	A	D
Industry—Extractive	X	X	X	X	X	X	X	A
Industry—General	X	X	X	X	X	X	X	X
Industry—Light	X	X	X	A	P	X	X	X
Industry—Mining	X	X	X	X	X	X	D	D
Industry—Rural	X	X	X	X	A	X	X	D
Industry—Service	X	D	D	P	P	X	X	X
Licensed Bar	X	D	A	X	X	X	X	X

Refer to Clause 5.16

Use Class	Residential	Town Centre	Local Centre	Service Commercial	Light Industry	Rural Residential	Rural Small Holdings	General Agriculture	Development
Liquor Store	X	D	A	A	X	X	X	X	
Lunch Bar	X	P	P	P	P	X	X	X	
Market	X	D	D	D	X	X	X	X	
Medical Centre	X	P	D	D	X	X	X	X	
Motor Vehicle, Boat or Caravan Sales	X	X	A	D	A	X	X	X	
Motor Vehicle Repair	X	X	X	A	P	X	X	X	
Motor Vehicle Wash	X	X	A	D	D	X	X	X	
Multiple Dwelling	X	D	X	X	X	X	X	X	
Night Club	X	A	X	X	X	X	X	X	
Nursing Home	A	D	A	X	X	X	X	X	
Office	X	P	P	D	X	X	X	X	
Park Home Park	X	X	X	X	X	X	X	X	
Place of Worship	A	A	A	A	A	A	A	A	
Plantation	X	X	X	X	X	X	A	A	
Reception Centre	X	P	A	D	X	X	A	D	
Recreation—Private	A	D	D	D	X	A	A	D	
Residential Building	A	D	X	X	X	A	A	A	
Restaurant	X	P	P	X	X	X	A	D	
Restricted Premises	X	X	X	D	X	X	X	X	
Roadside Stall	D	X	X	X	X	D	D	D	
Rural Pursuit	A	X	X	X	X	D	P	P	
Rural Workers' Accommodation	X	X	X	X	X	X	A	D	
Salvage Yard	X	X	X	X	D	X	X	A	
Service Station	X	A	A	D	D	X	X	X	
Single House	P	D	X	X	X	P	P	P	
Shop	X	P	P	X	X	X	X	X	
Showroom	X	D	A	P	X	X	X	X	
Storage	X	X	X	D	D	X	X	D	
Telecommunications Installation—Large Scale Commercial	X	X	X	X	D	X	X	D	
Telecommunications Installation—Small Scale Commercial	D	P	P	P	P	D	D	D	
Trade Display	X	D	D	D	D	X	X	X	
Transport Depot	X	X	X	X	D	X	X	X	
Vehicle Wrecking	X	X	X	X	D	X	X	X	
Veterinary Centre	X	D	D	D	X	X	A	D	
Warehouse	X	D	D	D	P	X	X	X	
Winery	X	X	X	X	X	A	A	D	

Refer to Clause 5.16

Note: Mining applications are determined under the *Mining Act 1978*.

4.8 Non-conforming uses

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

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;

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

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

4.9 Extensions and changes to a non-conforming use

4.9.1 A person must not—

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

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

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

4.9.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the Shire 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 Shire, closer to the intended purpose of the zone.

4.10 Discontinuance of non-conforming use

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

4.11 Termination of a non-conforming use

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

Note: Sections 190 and 191 of the Planning Act enable the Shire 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*, those sections and the Scheme.

4.12 Destruction of non-conforming use buildings

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

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 administration centre of the Shire.

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

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

5.3 Special application of Residential Design Codes

5.3.1 Outbuildings

The Scheme prevails over clause 6.10.1 of the Residential Design Codes to the extent of any inconsistency between the two with respect to outbuildings.

5.3.2 Grouped and Multiple Dwellings

On lots with a Residential Design Code higher than R20, the minimum site area per dwelling in Table 1 of the Residential Design Codes shall apply except that—

- (a) Grouped Dwellings or Multiple Dwellings shall not be permitted on any lot with an area of less than 1,500 m²; and
- (b) the Shire shall not support subdivision of any lot with an area of less than 1,500 m²,

unless all dwellings can be located so as to directly address a street or open space, or where a lot is constrained by adjoining lots having been subdivided or developed to their full potential under the applicable Residential Design Code.

5.3.3 Aged or Dependent Persons' Dwellings

The Shire may, at its discretion, approve Aged or Dependent Persons' Dwellings at a density over and above that provided for in the clause of the Residential Design Codes dealing with variations to minimum site area requirements, in accordance with clauses 5.3.3.1 to 5.3.3.4 below.

5.3.3.1 On a sewerred lot with a density code of R20 or below, the minimum site area per dwelling may, at the discretion of the Shire, be reduced, beyond the variation provided for in the clause of the Residential Design Codes dealing with variations to minimum site area requirements, to the minimum site area per dwelling applying to the R30 code in Table 1 of the Residential Design Codes.

5.3.3.2 On an unsewerred lot with a density code of R5 or below, the minimum site area per dwelling may, at the discretion of the Shire, be reduced, beyond the variation provided for in the clause of the Residential Design Codes dealing with variations to minimum site area requirements, to that applying in the Government Sewerage Policy—Perth Metropolitan Region.

5.3.3.3 In exercising its discretion with respect to an application for Aged or Dependent Persons' Dwellings at a density over and above that provided for in the clause of the Residential Design Codes dealing with variations to minimum site area requirements, the Shire shall have regard to the following—

- (a) the need for Aged or Dependent Persons' Dwellings to be located in close proximity to a public transport stop and to appropriate services and facilities;
- (b) the need for the topography of the site and immediate environs of Aged or Dependent Persons' Dwellings to be suitable for and conducive to the mobility of aged or dependent persons;
- (c) whether there is a recognised need for additional aged or dependent persons' accommodation in the locality; and
- (d) whether the additional development that would result from the density bonus over and above that in the Residential Design Codes would detrimentally affect the low density residential character of the area.

5.3.3.4 Where Aged or Dependent Persons' Dwellings are approved with any variation to the minimum site area per dwelling normally applying to land with a particular density code, whether that variation is limited to that provided for in the clause of the Residential Design Codes dealing with variations to minimum site area requirements or is greater in accordance with clause 5.3.3.2 above, conditions of planning approval shall require—

- (a) compliance with the deemed-to-comply requirement of the Residential Design Codes relating to the occupancy of the dwellings by an aged or dependent person or their surviving spouse; and
- (b) provision of access from each dwelling to a public transport stop and appropriate nearby facilities and services, by way of a continuous accessible walkway(s) within and external to the site.

5.3.3.5 The provisions of the Residential Design Codes relating to Aged or Dependent Persons' Dwellings shall also apply to an Aged Persons' Village.

5.3.4 Ancillary Dwellings

The Scheme prevails over the clause of the Residential Design Codes dealing with Ancillary Dwellings to the extent of any inconsistency between the two with respect to Ancillary Dwellings.

5.3.5 Building Height

Clause 5.7.16 of the Scheme prevails over the Residential Design Codes with respect to building height.

5.4 **Restrictive covenants**

5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the local planning scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme (including any covenant purporting to limit or restrict subdivision, or any covenant purporting to limit or restrict the maximum area occupied by a dwelling), is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.4.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been dealt with as an "A" use and has complied with all of the advertising requirements of clause 9.4.

5.5 **Variations to site and development standards and requirements**

5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Shire may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the Shire thinks fit.

5.5.2 In considering an application for planning approval under this clause, where, in the opinion of the Shire, 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 Shire is to—

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and
- (b) have regard to any expressed views prior to making its determination to grant the variation.

5.5.3 The power conferred by this clause may only be exercised if the Shire is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

5.5.4 This clause does not confer the ability to approve an application for planning approval that is subject to, but does not comply with, one or more conditions specified in Schedules 2, 3 or 4.

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 Shire is to—

- (a) maintain a register of all relevant statements published under sections 48F and 48G of the *Environmental Protection Act 1986*; and
- (b) make the statements available for public inspection at the administration centre of the Shire of Mundaring.

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 Development requirements for all zones

The following development requirements shall apply to development and use of land within all zones under the Scheme.

5.7.1 Precinct Plans

5.7.1.1 The Shire may prepare a Precinct Plan for all or a portion of the Town Centre zone or any Local Centre zone, and may include in such Precinct Plan other surrounding land, in order to designate planning precincts and establish specific planning and design controls within those precincts. Precinct Plans may provide detailed guidance on land use and development, subdivision, urban design and streetscapes.

5.7.1.2 The following Precinct Plans, prepared and adopted as Town Planning Scheme Codes under Town Planning Scheme No. 3, shall be deemed to be approved Precinct Plans for the purposes of this clause, unless and until rescinded by the Shire.

- (a) Precinct Plan for the District Shopping Zone in the Shire of Mundaring;
- (b) Precinct Structure Plan for The Business District Zone and The Civic and Cultural Precinct in the Mundaring Townsite;
- (c) Chidlow Village Centre Precinct Plan;
- (d) Darlington Village Precinct Plan;
- (e) Glen Forrest Village Centre Precinct Plan;
- (f) Mt Helena Village Centre Precinct Plan; and
- (g) Parkerville Village Centre Precinct Plan.

5.7.1.3 A proposed new Precinct Plan or a proposed modification to an existing Precinct Plan shall—

- (a) be advertised in the same manner as a Structure Plan under clause 5.17.8;
- (b) be considered for adoption by the Shire in the same manner as a Structure Plan under clause 5.17.9.1, except that the 60-day time limit shall not apply; and
- (c) where the Precinct Plan makes recommendations regarding subdivision, be forwarded to and considered by the Commission for its endorsement in the same manner as a Structure Plan under clause 5.17.10.

5.7.1.4 The Shire may rescind any existing Precinct Plan, either by—

- (a) preparation and adoption of a new Precinct Plan over the same area; or
- (b) in the same manner as a modification to an existing Precinct Plan in accordance with clause 5.7.1.3.

5.7.1.5 A Precinct Plan comes into effect—

- (a) where the Precinct Plan makes recommendations regarding subdivision, on the day on which it is endorsed by the Commission pursuant to clause 5.7.1.3 (c); or
- (b) on the day on which it is adopted by the Shire under clause 5.7.1.3 (b) in all other cases.

5.7.1.6 The adoption of a Precinct Plan by the Shire and/or its endorsement by the Commission shall not be subject to review under Part 14 of the Planning Act.

5.7.1.7 Precinct Plan controls may be set out on a map, in the text of the Precinct Plan, or both. Subdivision, development and use of land shall be in accordance with the controls set out in the Precinct Plan, which shall operate as if they were provisions of the Scheme. To the extent of any inconsistency with provisions of the Scheme, the controls set out in the Precinct Plan shall prevail.

5.7.1.8 A Precinct Plan may, notwithstanding the Zoning Table, limit the permissible uses on any parcel of land to one or some of the uses that would otherwise be permissible within that zone. A Precinct Plan shall not permit a use which is otherwise a prohibited (“X”) use within that zone.

5.7.2 Register of Building Envelopes

5.7.2.1 The Shire shall establish and maintain a Register of Building Envelopes. This Register shall comprise—

- (a) such of those building envelopes identified by the Shire and operative under Town Planning Scheme No. 3 immediately prior to the gazettal of this Scheme, whether contained in a Local Subdivision and Infrastructure Plan under that Scheme or otherwise, that in the opinion of the Shire warrant retention under this Scheme;
- (b) building envelopes shown on a Structure Plan required by and endorsed under this Scheme;
- (c) building envelopes required by the Shire as a condition of planning approval issued under this Scheme; and
- (d) building envelopes required by the Western Australian Planning Commission as a condition of subdivision or strata-subdivision approval.

5.7.2.2 The Shire shall keep a copy of the Register of Building Envelopes with the Scheme documents for public inspection.

5.7.2.3 The Shire may, in accordance with the provisions of this Scheme, modify or delete any building envelope contained in the Register of Building Envelopes.

5.7.3 Revocation and continuation of Local Subdivision and Infrastructure Plans

5.7.3.1 Those Local Subdivision and Infrastructure Plans endorsed by the Shire and the Commission pursuant to the Shire of Mundaring Town Planning Scheme No. 3 and listed in Schedule 11 shall continue to have effect as Structure Plans under this Scheme (Local Planning Scheme No. 4) with respect to lot and road layout and any other controls or requirements specified in those Local Subdivision and Infrastructure Plans, and subject to any Conditions set out in Schedule 11 for those Structure Plans. Those Local Subdivision and Infrastructure Plans are renumbered as Structure Plans under this Scheme, as set out in Schedule 11.

5.7.3.2 Structure Plans referred to in Clause 5.7.3.1 may, however, be modified or revoked by the Shire and the Commission subsequent to the gazettal of this Scheme.

5.7.3.3 All other Local Subdivision and Infrastructure Plans endorsed by the Shire pursuant to the Shire of Mundaring Town Planning Scheme No. 3 but not included in Schedule 11 are revoked from the date of gazettal of this Scheme (Local Planning Scheme No. 4).

5.7.3.4 Where building envelopes from any Local Subdivision and Infrastructure Plan endorsed by the Shire and the Commission pursuant to the Shire of Mundaring Town Planning Scheme No. 3 have been included in the Register of Building Envelopes, regardless of whether or not that Local Subdivision and Infrastructure Plan is listed in Schedule 11, those building envelopes shall still apply. Any other building envelopes shown in a Local Subdivision and Infrastructure Plan endorsed by the Shire shall have no effect under this Scheme.

5.7.4 Battleaxe lots

The Shire will not recommend approval for a proposed subdivision or adopt a proposed Structure Plan, in any zone, where that subdivision or Structure Plan proposes any battleaxe lots, except where, in the opinion of the Shire—

- (a) any alternative subdivision layout without battleaxe lots is rendered impractical by the shape or topography of the land or other factor(s); or
- (b) there is an overriding benefit from the creation of one or more battleaxe lots in terms of reduced environmental impact or improved traffic circulation which outweighs the adverse impacts of the proposed battleaxe lot(s).

5.7.5 Watercourse protection

5.7.5.1 The minimum setback for all buildings and earthworks (including landfill) from the top of the bank of any watercourse shall be—

- (a) the setback specified for a particular watercourse in a watercourse hierarchy and protection strategy adopted by the Shire;
- (b) in the absence of a specific setback for a particular watercourse in a watercourse hierarchy and protection strategy adopted by the Shire, 20 m in the Residential zone and 30 m in all other zones, or such greater distance as may be required by the Shire in the case of watercourses within the Middle Helena Catchment Area or the Mundaring Weir Catchment Area.

5.7.5.2 Within the setback from a watercourse as specified in clause 5.7.5.1, all existing native vegetation shall be retained.

5.7.5.3 The natural flow of water within watercourses shall be maintained, and no development which would prevent the natural flow of water shall be approved, unless that development would, in the opinion of the Shire, restore or enhance the environmental health of the watercourse.

5.7.5.4 Development adjacent to watercourses shall incorporate appropriate measures to minimise runoff and erosion and to protect water quality, including—

- (a) provision of contour banks to intercept and safely dispose of stormwater runoff; and
- (b) planting of local native vegetation to provide nutrient stripping and to act as a barrier to seepage and runoff.

Such measures should be commensurate with the scale of the development and the level of potential adverse impact on the watercourse.

5.7.5.5 In considering any application for subdivision, the Shire may recommend, or, in considering any application for development, the Shire may impose, conditions of approval to require that land within the setback from a watercourse as specified in clause 5.7.5.1 is—

- (a) rehabilitated as appropriate (including revegetation, weed control and stabilisation to minimise stormwater runoff and erosion), within a specified period; and
- (b) ceded and included in a reserve for recreation or conservation; or
- (c) otherwise managed for conservation purposes.

5.7.6 Stormwater drainage

5.7.6.1 Subdivision and development shall employ water sensitive urban design approaches to stormwater drainage. Any subdivision or development which increases the area of impermeable surfaces or which otherwise reduces stormwater recharge of groundwater systems, is to utilise best management practices to effect the retention of stormwater within the development area so as to—

- (a) minimise as far as practicable changes to both the rate and quantity of direct stormwater discharge from the site; and
- (b) prevent the export of water borne pollutants (including sediment load and nutrients).

5.7.6.2 Subdivision and development shall be consistent with the relevant recommendations of Better Urban Water Management, published by the Commission, as applicable, and with any subsequent guideline or policy of the Commission relating to urban water management. Subdivision and development shall also be consistent with any guidelines and/or policy regarding stormwater drainage adopted by the Shire.

5.7.7 Effluent disposal

5.7.7.1 Where access to a reticulated sewerage system is not available, on-site effluent disposal facilities are to be provided to treat and dispose of any effluent generated on the site. Soil permeability, nutrient retention characteristics, soil microbial purification ability, slope and distance to groundwater and surface water must be demonstrated to be appropriate for the proposed system.

5.7.7.2 No on-site effluent disposal system (including any leach drain or soak well) is to be located nearer than the minimum setbacks specified to a watercourse, wetland, bore or underground water source used for human consumption in relative operational Western Australian environmental, water and health legislation. Where there is any conflict between the setbacks specified in different legislation, the greater setback shall apply.

5.7.7.3 Notwithstanding clause 5.7.7.2, the Shire may require additional setbacks for on-site effluent disposal facilities and/or require the installation of specific types of facilities (including those involving the removal of nutrients) where it considers such requirements appropriate or necessary for the protection of water resources or other environmental values.

5.7.8 Landscaping requirements

5.7.8.1 Unless otherwise approved by the Shire, landscaping shall be provided as a component of all commercial and industrial development.

5.7.8.2 The area, distribution and type of landscaping of individual sites required by this Scheme shall be determined in the context of each proposed development, but shall be generally in accordance with the following principles—

- (a) except where used for driveways or pedestrian pathways, or where a building has a lesser setback, a 3 m wide strip of land abutting all street frontages shall be landscaped;
- (b) landscaping shall consist primarily of local indigenous and low water-use species (with the exception of environmental weeds);
- (c) the required landscaping shall be visible from the adjacent street(s) or public places;
- (d) landscaping should complement the design of building facades;
- (e) consideration should be given to the desirability of integrating landscape planting with stormwater management in order to achieve best practice water sensitive design outcomes;
- (f) consideration should be given to the desirability of providing shade trees within or adjacent to the development so as to improve the microclimate for users of the site; and
- (g) safe and convenient pedestrian access to and within the development site shall be provided or maintained.

5.7.8.3 Where specified in a planning approval, existing trees shall be retained, notwithstanding any other provision in this Scheme.

5.7.8.4 The Shire may at its discretion, and having regard to all policies, guidelines and requirements affecting the road reserve, approve the provision of a portion of the landscaping required within a road reserve adjacent to the development site.

5.7.8.5 Landscaping provided pursuant to this clause shall be maintained to the satisfaction of the Shire.

5.7.9 Management of construction sites

In addition to any requirements which may be imposed as conditions of planning approval, construction sites are to be managed so as to minimise soil erosion, sedimentation and/or the degradation of any water resource due to the action of wind or water and protect as far as practicable, the natural resource values of the site and of the adjacent area.

Note: Where a construction site is, in the opinion of the Shire, being managed in such a way as to cause undue erosion of soil or the pollution of any water resource, the Shire may, in accordance with the provisions of clause 11.4, require the owner to take steps to prevent any further erosion or pollution and remediate the site. Such steps may include stabilisation of soil or reinstatement of vegetation cover and repair of any damage to the land or water resources.

5.7.10 Dieback management

Where, in the opinion of the Shire, a proposed development has the potential to cause the spread of *Phytophthora* dieback, the Shire may require the preparation, submission, approval and implementation of a dieback management plan incorporating measures to avoid or minimise the spread of *Phytophthora* dieback.

5.7.11 Preservation of amenity

5.7.11.1 A development requiring planning approval under this Scheme shall not be approved if, in the opinion of the Shire, the proposed materials, design, colour(s), texture(s) or reflectivity of such development would unreasonably adversely impact on the visual amenity of the locality.

5.7.11.2 In order to avoid adverse impact on the visual amenity of an area, the Shire may impose conditions on any planning approval requiring—

- (a) the screening of the development by vegetation, with requirements relating to planting and/or maintenance of such vegetation; and/or
- (b) the siting of the development so as to avoid visually prominent locations on the land.

5.7.12 Vegetation Protection

5.7.12.1 The provisions of this clause apply in addition to the provisions in this Scheme relating to Local Natural Areas.

5.7.12.2 The ringbarking, cutting down, topping, lopping, removal, injuring or wilful destruction of any tree having at least one well-defined stem of a minimum 150 mm in diameter measured at a height 1.2 m above the natural ground level, and the removal of natural vegetation, are prohibited unless approved by the Shire or unless the tree or vegetation is exempted from compliance with this provision pursuant to clause 5.7.12.3.

5.7.12.3 Clause 5.7.12.2 does not apply to the ringbarking, cutting down, topping, lopping, removing, injuring or destruction of any tree or vegetation which is—

- (a) not a local indigenous species;
- (b) on a lot zoned Residential and with a Residential Design Code density of R5 or higher, or on a lot zoned Residential R2.5 but less than 4,000 m² in area, unless the tree or vegetation is—
 - (i) within the required setback from a watercourse as set out in clause 5.7.5.1;
 - (ii) on land having a slope in excess of 20%;
 - (iii) identified for preservation on an approved Structure Plan;
 - (iv) required to be preserved as a condition of subdivision approval; or
 - (v) required to be preserved as a condition of planning approval;
- (c) dead, diseased or constitutes an immediate threat to life or property;
- (d) required to be removed in order to comply with bushfire safety requirements pursuant to this Scheme, in *Planning for Bush Fire Protection* or any document(s) successive to that document, or any firebreak notice, regulation or local law;
- (e) required to be removed in order to carry out a development for which planning approval and/or a building licence has been issued;
- (f) within an approved building envelope;
- (g) within 3 m of any building;
- (h) within 1 m of an existing fence or fence under construction;
- (i) required to be removed for a vehicle driveway;
- (j) required to be removed for construction of an approved effluent disposal system;
- (k) within 2 m of a sewer or water main or effluent disposal system and where the tree or vegetation has caused or is likely to cause damage or blockage to that system or network;
- (l) grown for commercial purposes;
- (m) within a State Forest;
- (n) being removed or disturbed as part of a native vegetation replanting program carried out with the Shire's approval; or
- (o) within the clearance distance from a power line or other power infrastructure as specified in Western Power guidelines or requirements or any other applicable guidelines or requirements.

5.7.12.4 An application pursuant to clause 5.7.12.2 must include a plan adequately identifying the specific tree(s) and/or other vegetation to be removed.

5.7.12.5 In considering and determining an application for removal of any tree or vegetation, the Shire shall take into account the following—

- (a) the desirability of minimising disturbance to the landscape characteristics of the locality;
- (b) whether there is a need for removal of the tree or vegetation to facilitate use of the land;
- (c) the intrinsic value of the tree or vegetation in terms of physical state, rarity and variety;

- (d) the existing and future amenity of the adjoining land and natural environment of the locality;
- (e) the effect on the environment of removing trees and/or vegetation; and
- (f) the desirability of retaining, as far as practicable, a tree and understorey vegetation protection corridor of 10 m depth adjacent to the road reserves of Alice Road, Brooking Road, Bunning Road, Great Eastern Highway, Helena Valley Road, Old Northam Road, Roland Road, Sawyers Road, Seaborne Road, Stoneville Road and any other roads identified by the Shire as warranting a tree and understorey vegetation protection corridor.

5.7.12.6 In addition to other matters set out in this Scheme, the Shire may impose a condition on any approval for removal of a tree(s) or vegetation, requiring replanting or revegetation elsewhere on the site to reduce or counteract any adverse impact from the removal of the tree(s) or vegetation being approved.

5.7.13 Local Natural Areas

5.7.13.1 Local Natural Areas are identified in the Shire's Local Biodiversity Strategy and the Local Planning Strategy. In addition to provisions in this Scheme relating to Local Natural Areas within specific zones, the provisions of this clause apply to Local Natural Areas across all zones and reserves.

5.7.13.2 Where clearing of vegetation in a Local Natural Area is proposed by or would be a consequence of a Scheme Amendment, Structure Plan, subdivision or development requiring planning approval, the Shire may require or recommend that the subdivider or landowner prepare, or cause to be prepared, a Native Fauna and Flora Report and Management Plan to the satisfaction of the Shire prior to supporting or approving the proposal, or prior to clearing the land.

5.7.13.3 The Shire may recommend or impose conditions of approval requiring actions to protect and manage fauna or flora identified pursuant to clause 5.7.13.2.

5.7.14 Rehabilitation of land

5.7.14.1 No person shall cause or allow land to be cleared, managed or degraded in such a way as to cause environmental harm, or to adversely affect the amenity of adjoining or nearby land by the creation of soil erosion or dust, or the alteration of surface water flows.

5.7.14.2 The Shire may by written notice require the owner or occupier of any land to rehabilitate land to the satisfaction of the Shire and within a specified period of time, where in its opinion the owner or occupier has caused or allowed that land to be cleared, managed or degraded in such a way as to cause environmental harm or to adversely affect the amenity of adjoining or nearby land by the creation of soil erosion or dust, or the alteration of surface water flows. The rehabilitation required by such written notice shall be carried out to the satisfaction of the Shire within the time specified in the notice and failure to do shall constitute contravention of the Scheme.

5.7.14.3 The written notice referred to in clause 5.7.14.2 may be subject of an application for review, in accordance with clause 10.10.

5.7.15 Land abutting Great Eastern Highway

Notwithstanding other provisions in the Scheme relating to development setbacks, the minimum setback for all buildings to Great Eastern Highway shall be—

- (a) 15 m; or
- (b) as otherwise specified in this scheme,

whichever is the greater. However, within the Town Centre and Local Centre zones, the Shire may vary the requirements of this provision, having regard to clauses 5.12.2 and 5.13.3.

5.7.16 Building height

The maximum height of any building within the Scheme area shall be 10 m, unless otherwise specified in the Scheme, an adopted Structure Plan or adopted Precinct Plan.

5.7.17 Home Occupation, Home Business and Cottage Industry

The following requirements apply to any Home Occupation, Home Business or Cottage Industry—

- (a) The planning approval shall be personal to the applicant and shall neither run with the land nor be transferable or assignable to any other person or property.
- (b) The Shire may limit the duration of an approval and may specify requirements for the renewal of such approval. In considering the renewal of an approval, the Shire shall have regard to any nuisance or annoyance caused by the Home Occupation, Home Business or Cottage Industry to neighbours or owners or occupiers of land in the neighbourhood.
- (c) If, in the opinion of the Shire, an approved Home Occupation, Home Business or Cottage Industry is causing a nuisance or annoyance to the neighbours or owners or occupiers of land in the neighbourhood, the Shire may revoke the approval. Where such approval is revoked, no person shall thereafter carry out the Home Occupation, Home Business or Cottage Industry on the subject land.

5.7.18 Ancillary Dwellings

5.7.18.1 Ancillary Dwellings shall have a maximum floor area of 60 m².

5.7.18.2 Notwithstanding clause 5.7.18.1, where in the opinion of the Shire exceptional circumstances warrant a larger floor area, Ancillary Dwellings may be approved having a floor area of up to 80 m².

5.7.18.3 A minimum of 1 car parking space shall be provided for an Ancillary Dwelling over and above the car parking required for the main residence on the lot.

5.7.18.4 Ancillary Dwellings shall be constructed in style, colours and materials that are complementary to those of the main residence on the lot.

5.7.18.5 Ancillary Dwellings shall be located in as close proximity to the main residence on the lot as reasonably practicable, having regard to the need for privacy for residents of the Ancillary Dwellings.

5.7.19 Bed and Breakfast

The following requirements apply to any Bed and Breakfast—

- (a) The Shire may limit the duration of an approval and may specify requirements for the renewal of such approval. In considering the renewal of an approval, the Shire shall have regard to any nuisance or annoyance caused by the Bed and Breakfast to neighbours or owners or occupiers of land in the neighbourhood.
- (b) Signage shall be limited to a maximum size of 0.2 m².

5.7.20 Vehicle parking

5.7.20.1 The car parking requirements for various land uses are set out in Table 2 below. Unless otherwise approved by the Shire, car parking spaces shall be provided for a use in accordance with the requirements of Table 2.

5.7.20.2 Except as provided for in clauses 5.7.20.7 to 5.7.20.9, or unless otherwise approved by the Shire, the required car parking spaces shall be provided on the site of the use generating the requirement. The Shire shall only approve some or all of the car parking spaces being provided elsewhere than on the site of the use generating the requirement where it is satisfied that the car parking spaces provided are within reasonable walking distance of the use generating the requirement and that it is otherwise appropriate to do so.

5.7.20.3 The car parking requirements for residential uses shall be as per the Residential Design Codes.

5.7.20.4 Where the car parking requirement for a use on Table 2 is not a whole number, the car parking requirement shall be the next highest whole number.

5.7.20.5 Where a particular use of land is proposed that is not specified in Table 2, the car parking requirement for the use shall be at the Shire's discretion.

5.7.20.6 The Shire may accept the provision of car parking below the parking requirement in Table 2, without the requirement for the payment of cash-in-lieu of providing car parking, where, in the Shire's view, reduced car parking is warranted because the use or development will incorporate appropriate and effective measures to reduce the need for car parking. Where the Shire accepts a reduced number of car parking spaces on the basis of this clause, the planning approval shall be conditional on the implementation of the abovementioned measures to reduce the need for car parking spaces.

5.7.20.7 Car parking spaces may be provided jointly by two or more owners or users of land or by one owner or user of land in respect of separate buildings or uses, subject to the following requirements of this clause—

- (a) If there is a shortfall in the number of car parking spaces provided to serve any building or use below the requirements of this Scheme, the Shire may permit the car parking spaces for that building or use to be provided jointly with one or more other buildings or uses, whether or not those others separately have the prescribed number of parking spaces, provided that the peak hours of operation of the buildings or uses sharing such car parking are different and do not substantially overlap.
- (b) The Shire may require that reciprocal access and circulation arrangements are provided for any buildings or uses affected by this subclause when, in the opinion of the Shire, such arrangements are necessary to improve design or amenity.
- (c) The following requirements shall be complied with by any person seeking to take advantage of the provisions of this clause—
 - (i) evidence shall be provided sufficient to satisfy the Shire that no substantial conflict will exist in the peak hours of operation of the buildings or uses for which joint use of car parking spaces or reciprocal access and circulation arrangements is proposed, and that the jointly provided car parking spaces will at all times provide sufficient car parking to satisfy the demand generated by the uses sharing the car parking;
 - (ii) the number of car parking spaces which may be credited from one building or use to another building or use shall not exceed the number of spaces reasonably anticipated to be in excess of the requirement of the first building or use during its off-peak hours of operation; and
 - (iii) the Shire may require preparation of a legal agreement, at the proponent's expense and to the Shire's satisfaction, detailing the relevant issues of the joint usage, and executed by all parties concerned, with any such agreement to be worded so that the reciprocal access and circulation arrangements cannot be altered without the consent of the Shire.

5.7.20.8 Where car parking spaces are required to be provided by this Scheme, the Shire may accept a cash payment in lieu of the provision of some or all of those parking spaces, if the Shire has first adopted a car parking strategy including the locality within which the use is proposed and which identifies public car parking areas within reasonable walking distance of the development or use generating the parking requirement.

5.7.20.9 The following requirements shall apply to any cash payment in lieu of providing car parking spaces under clause 5.7.20.8—

- (a) the payment shall comprise the value of the land which would have been occupied by the required car parking spaces and associated manoeuvring areas, as well as the estimated cost of providing and constructing those car parking spaces and manoeuvring areas;

- (b) the payment shall be made prior to the commencement of the development generating the parking requirement, or at such other time as agreed between the Shire and the applicant;
- (c) the payment shall be held by the Shire in a separate reserve or trust account and shall be spent by the Shire in providing, maintaining, upgrading or replacing public car parking spaces or facilities in a location within reasonable walking distance of the use in respect of which the payment was made, or on the acquisition of land for such public car parking spaces or facilities.
- 5.7.20.10 A vehicle parking area shall comply with the following design requirements—
- (a) safe, adequate access shall be provided to each parking space, while maintaining safe and convenient pedestrian access;
- (b) where practicable, pedestrian and vehicular entrances and exits shall be separated;
- (c) provision shall be made for vehicles to enter and leave the site from/to a public road in forward gear, with vehicular entrances and exits located so as to avoid or minimise traffic hazards;
- (d) each parking space shall be clearly delineated by line marking, kerbed divisions or other materials or methods approved by the Shire;
- (e) parking spaces and access ways shall be constructed of hard stand material, sealed, graded and drained to the requirements of the Shire;
- (f) notwithstanding (e) above, in zones other than Town Centre, Local Centre, Service Commercial and Light Industry, unsealed parking and access way surfaces may be approved, if dust is controlled, adequate measures taken to prevent erosion, and bays and access ways clearly marked and appropriately designed;
- (g) adequate directions and sign posting shall be provided to indicate entrances and exits; and
- (h) the requirements of an adopted Precinct Plan shall be complied with and, to the extent of any inconsistency between the requirements of this clause and the requirements of an adopted Precinct Plan, the requirements of the Precinct Plan shall prevail.
- 5.7.20.11 Where a vehicle parking area is to be provided as part of a development, a landscaping plan shall be submitted to the Shire and approved prior to development occurring. Landscape planting is to be provided and maintained so as to minimise the visual impact of the parking areas, and is to include—
- (a) a minimum 3 m wide landscape strip between the parking area and the street boundary of the site; and
- (b) shade trees planted at intervals of no further than 1 per 5 bays along any line of car parking bays.
- 5.7.20.12 Landscaping provided pursuant to clause 5.7.20.11 shall not entirely screen any car parking areas from view from public places and shall be consistent with the objectives of the Designing Out Crime Planning Guidelines, published by the Commission.
- 5.7.20.13 The minimum dimensions of car parking spaces and associated manoeuvring spaces shall be as set out in Schedule 13 unless otherwise specified by the Shire having regard to relevant Australian standards, requirements for disabled parking, the characteristics of the site and the use and development proposed.

TABLE 2—CAR PARKING REQUIREMENTS FOR VARIOUS USES

Land use	Parking requirement
Aged Persons Village	As per Residential Design Codes for Aged and Dependent Persons' Dwellings, plus 1 space per employee or staff member on premises at any one time
Amusement Parlour	1 space per 10 m ² Gross Lettable Area (GLA)
Bed and Breakfast	1 space per guest bedroom (in addition to the parking required for the dwelling)
Caravan Park/Camping Ground	1 space per caravan, cabin or camp site, plus 1 space per employee or staff member
Child Care Premises	1 space per every 8 children allowed under maximum occupancy, plus 1 space per employee or staff member
Cinema/Theatre	1 space per 4 persons capable of being accommodated
Consulting Rooms	5 spaces per consulting room
Display Home/Land Sales Centre	8 spaces per display home or land sales office
Educational Establishment	Pre-primary— 1 space per 2 students, plus 1 space per employee or staff member Primary School— 14 drop-off spaces per 100 students, plus 1 space per employee or staff member

Land use	Parking requirement
	Secondary School— 7 drop-off spaces per 100 students, plus 1 space per employee or staff member Tertiary/other— At the discretion of the Shire
Fast Food Outlet	1 space per 10 m ² GLA, or 6 spaces, whichever is the greater, plus 4 car queuing spaces for any drive through facility
Funeral Chapel	1 space per 2.5 m ² plus 1 per staff member present during services
Garden Centre/Nursery	1 space per 50 m ² of sales and display area, plus 1 per employee or staff member, or 12 spaces, whichever is the greater
Holiday Accommodation	1 space per accommodation unit, or 1 space per 5 beds, whichever is the greater
Hospital	1 space per 4 beds, plus 1 space per employee or staff member on premises at any one time
Hotel	1 space per 2.5 m ² GLA of indoor drinking area, plus 1 space per 5 m ² GLA of outdoor drinking area, plus 1 space per 6 seats in an assembly area, or 1 space per 4.5 m ² of assembly area, whichever is the greater, plus 1 space per employee or staff member, plus 1 space per bedroom or accommodation unit
Industry—Light Industry—Rural Industry—Service	1 space per 50 m ² GLA, or 1 space per employee or staff member, whichever is the greater; with minimum 4 spaces per tenancy or unit
Licensed Bar	1 space per 2.5 m ² GLA of indoor drinking area, plus 1 space per 5 m ² GLA of outdoor drinking area, plus 1 space per 6 seats in an assembly area, or 1 space per 4.5 m ² of assembly area, whichever is the greater, plus 1 space per employee or staff member
Medical Centre	5 spaces per consulting room or practitioner
Motel	1 space per motel unit, plus 1 space per employee or staff member on premises at any one time, with Parking for any Restaurant associated with the Motel to be provided as per the requirement for Restaurant on this Table
Motor Vehicle Repair	4 spaces per working bay, or 1 space per 50 m ² GLA, whichever is the greater, plus 1 space per employee or staff member
Motor Vehicle, Boat or Caravan Sales	1 space per 100 m ² display area, plus 1 space per employee or staff member
Nursing Home	1 space per 4 beds, plus 1 space per employee or staff member on premises at any one time
Office	1 space per 35 m ² GLA
Place of Worship	1 space per 4 persons capable of being accommodated
Recreation—Private	Gymnasium— 1 space per 15 m ² GLA, plus 1 space per employee or staff member on premises at any one time Other— 1 space per 20 m ² of active recreational area, plus 1 space per every 4 spectator seats, plus 1 space per employee or staff member on premises at any one time

Land use	Parking requirement
Residential Building	1 space per 2 occupants
Restaurant	1 space per 10 m ² GLA, or 6 spaces, whichever is the greater
Shop	1 space per 12.5 m ² GLA in the Town Centre zone 1 space per 15 m ² GLA in the Local Centre zone
Showroom	1 space per 25 m ² GLA of sales and display area, plus 1 space per 50 m ² GLA of storage area
Transport Depot	1 space per 100 m ² GLA of floor area, or 1 space per 2 employees, whichever is the greater
Veterinary Centre	1 space per 25 m ² GLA, or 5 spaces per veterinary practitioner, whichever is the greater
Warehouse	1 space per 100 m ² GLA

5.7.21 Bicycle facilities

Unless otherwise approved by the Shire, end of trip bicycle facilities are to be provided for new development in accordance with the standards for respective uses detailed in Austroads *Guide to Traffic Management*.

5.7.22 Vehicular access to major roads

5.7.22.1 Vehicular access points to and from Great Eastern Highway from any development shall be limited as far as practicable. The Shire shall encourage shared access arrangements between properties, and access to and from secondary streets, as appropriate, to avoid or minimise vehicular access points to and from Great Eastern Highway.

5.7.22.2 The Shire may at its discretion apply the provisions of clause 5.7.22.1 to other major roads, being Regional Reserves for Primary Regional Roads or local reserves under the Scheme for Important Local Roads.

5.7.23 Loading areas

5.7.23.1 Any commercial, industrial or other use which requires separate access for service vehicles shall be provided with an adequate area, separate from car parking areas, for loading and unloading of vehicles. Any such loading areas shall be located so as to allow vehicles to enter and leave the site from/to a public road in forward gear, with vehicular entrances and exits located so as to avoid or minimise traffic hazards.

5.7.23.2 Loading areas referred to in clause 5.7.23.1 shall include one or more dedicated loading bays, provided as follows according to the floor area of the use generating the requirement—

- (a) 1 loading bay for every 2,000 m² or part thereof of floor area up to a total floor area of 10,000 m²; and
- (b) 1 loading bay for every 5,000 m² or part thereof of floor area in excess of 10,000 m².

5.7.23.3 The dimensions and height clearance of each loading bay referred to in clause 5.7.23.2 shall comply with relevant parts of Australian Standard 2890 relating to parking.

5.7.24 Set down areas

A designated set down area designed for the purpose of setting down and picking up passengers, to the satisfaction and requirements of the Shire, shall be provided on or adjacent to the site of any of the following uses, but not within a public road reserve—

- (a) Child Care Premises;
- (b) Educational Establishment;
- (c) Hospital;
- (d) Hotel; and
- (e) any other facility which, in the opinion of the Shire, will generate the need for a set down area for the safety of people attending that use and of road users generally.

5.7.25 Drive-through businesses

5.7.25.1 A drive-through business shall require provision of adequate queuing spaces for vehicles on the site of that use. A minimum of 4 queuing spaces shall be provided or as otherwise specified by the Shire.

5.7.25.2 Any vehicular crossover from a drive-through business to a road reserve shall be—

- (a) a minimum of 6 m wide; and
- (b) a minimum of 15 m from a road intersection.

5.7.26 Service Stations

Any Service Station shall comply with the following requirements—

- (a) any vehicular crossover from a road reserve shall be—
 - (i) a maximum of 11 m wide; and
 - (ii) a minimum of 15 m from a road intersection;

- (b) inlets to bulk fuel storage tanks shall be situated so as to ensure that fuel tankers, while discharging fuel into those tanks, stand wholly within the Service Station site; and
- (c) fuel pumps shall be set back a minimum of 3 m from any lot boundary abutting a road reserve.

5.7.27 External storage areas

All external storage of goods and materials, which in the opinion of the Shire may have an adverse visual impact, shall be effectively screened from view from any street, public place and any adjacent residence.

5.7.28 Primary and secondary streets

Where development is proposed on a corner lot, the Shire shall determine which street is the primary street and which is the secondary street.

5.7.29 Transportable Structures

5.7.29.1 Notwithstanding any other provision of the Scheme, all transportable structures, including relocated Single Houses, shall require planning approval.

5.7.29.2 In considering an application for a transportable structure, the Shire shall take into account whether the appearance of the structure would be compatible with the character and visual amenity of the locality to which it is proposed to be relocated. The Shire may refuse an application for a transportable structure if, in its opinion, the appearance of the structure would be incompatible with the character and visual amenity of the locality to which it is proposed to be relocated, notwithstanding any other provision of the Scheme.

5.7.29.3 Notwithstanding clause 5.7.29.2, no sea container shall be placed on any lot zoned Residential.

5.7.29.4 Any approval granted for the placement of a sea container on a lot zoned Rural Residential shall be limited to a specific period of time, such time not exceeding 12 months.

5.7.30 Light overspill

Floodlights, spotlights and all other forms of lighting shall be constructed, oriented and controlled so as not to—

- (a) adversely impact on the amenity of any adjacent residents; or
- (b) cause a traffic hazard in the adjacent road network.

5.7.31 Outbuildings

5.7.31.1 Outbuildings shall—

- (a) be used only for purposes ancillary to the primary use of the land;
- (b) notwithstanding any other provision of the Scheme, be constructed no closer to the primary street alignment than the front building line of the dwelling on the lot unless, in the opinion of the Shire, the location of the dwelling and/or other constraints on the site make it impractical to locate the outbuilding behind the front building line;
- (c) not be constructed on land having a slope exceeding 20%; and
- (d) not have a ratio of length to width exceeding 3:1.

5.7.31.2 No outbuilding shall be constructed on a lot prior to the construction of a dwelling, unless approved by the Shire for the purpose of temporary accommodation for a specified maximum period during the construction of a dwelling, or material storage associated with the construction of a dwelling. In such instance, no more than one outbuilding shall be approved prior to completion of the dwelling. Temporary accommodation in respect of this clause shall only be in the form of a caravan located inside the outbuilding.

5.7.31.3 Where an application for planning approval is required for an outbuilding, the Shire may require planting or other landscape treatment to screen the outbuilding from view from any constructed or proposed road, such screening to be maintained to the satisfaction of the Shire.

5.7.32 Place of Worship

5.7.32.1 In determining an application for a Place of Worship, the Shire shall have regard for the following—

- (a) proximity to an activity centre;
- (b) accessibility by public transport, cycling and walking;
- (c) potential to meet outdoor noise criteria as specified in noise regulations that operate under the *Environmental Protection Act 1986*;
- (d) potential for the site area, plot ratio, bulk, scale, height and parking provision of the development to be in keeping with the amenity of the locality;
- (e) potential for the form, layout, appearance, colours and textures of any building and landscaping to mitigate against any potential visual impact;
- (f) potential for setbacks and separation distances from adjacent sensitive land uses to mitigate against amenity impacts and land use conflicts;
- (g) adequacy of the road capacity in the locality to accommodate traffic generated by the development;
- (h) adequacy of on-site parking for traffic generated by the development;
- (i) access capable of safely accommodating vehicle movements generated by the development;
- (j) potential to protect people from unreasonable levels of additional transport noise that may occur directly as a result of traffic movements generated by the development;

- (k) potential amenity impacts related to extended hours of operation;
- (l) potential impact of any uses incidental or ancillary to the Place of Worship use; and
- (m) ability to comply with all relevant Acceptable Solutions of *Planning for Bush Fire Protection Guidelines* or any successor document.

5.7.32.2 The Shire shall not approve a Place of Worship in the Rural Residential zone unless located on a road identified as a Primary Regional Road Reserve or an Important Local Road Reserve under the Scheme or located adjacent to an existing or planned activity centre.

5.8 Development requirements for the Residential zone

The following development requirements shall apply to development, use and subdivision of land within the Residential zone.

5.8.1 Building envelopes

5.8.1.1 The objectives of building envelopes within the Residential zone are to—

- (a) protect features of special environmental significance (including but not limited to granite outcrops, Declared Rare Flora or under-represented vegetation complexes); and
- (b) in exceptional circumstances, preserve the amenity, landscape or environmental values of the area.

5.8.1.2 On land having a Residential Design Code density of R2.5, where consistent with the objectives in clause 5.8.1.1, the Shire may—

- (a) require the identification of one or more building envelopes, to the Shire's satisfaction, in a Structure Plan required by and endorsed under this Scheme; or
- (b) require the identification of a building envelope on a lot, to the Shire's satisfaction, as a condition of planning approval; or
- (c) recommend that the Commission require the identification of a building envelope, to the Shire's satisfaction, on a lot as a condition of subdivision or strata-subdivision approval,

so as to ensure that any building is located appropriately on a lot.

5.8.1.3 A building envelope identified pursuant to clause 5.8.1.2 shall be entered into the Shire's Register of Building Envelopes.

5.8.1.4 Where a building envelope applying to a lot is contained in the Shire's Register of Building Envelopes, every building erected on that lot shall be located within the boundaries of the building envelope.

5.8.1.5 If specified in the Shire's Register of Building Envelopes, on-site effluent disposal shall be located within the building envelope.

5.8.1.6 A building envelope shall only be modified or deleted from the Register of Building Envelopes if, in the opinion of the Shire, it is appropriate to do so, having regard for the objectives in clause 5.8.1.1.

5.8.1.7 On the written request of the landowner, the Shire may, at its discretion, relocate or modify the shape and area of a building envelope, where in its opinion this would—

- (a) be consistent with the objectives in clause 5.8.1.1;
- (b) not result in greater impact on Local Natural Areas; and
- (c) not cause greater adverse visual impact than the existing building envelope.

Where the Shire is satisfied that these three criteria have been met, and where the proposed relocated or modified building envelope is not nearer to one or more lot boundaries than the development setbacks specified in the Residential Design Codes, the Shire will generally not consult with neighbouring landowners.

5.8.1.8 A request to relocate or modify a building envelope may be lodged as part of an application for planning approval to locate a building outside of the existing envelope. Such a request will be considered in accordance with clause 5.8.1.7. The Shire shall not approve the location of a building outside of the existing building envelope unless it also approves the relocation or modification of the building envelope, so as to contain that building. If the Shire is of the opinion that the proposed relocation or modification of the building envelope is inconsistent with the objectives in clause 5.8.1.1, it shall refuse the application for planning approval, notwithstanding that it may be for a use designated as a "P" use in the Residential zone.

5.8.2 Dams

5.8.2.1 In determining an application for planning approval for a dam, the Shire shall have regard for the following principles—

- (a) there is a very strong presumption against the construction of dams within a watercourse;
- (b) all dams must be structurally sound;
- (c) natural stream flow, under base flow (non-rain) conditions, should be maintained within the watercourse, in order to protect water quality, downstream ecosystems and the rights of downstream users;
- (d) the cumulative impact of dams along a watercourse must be considered;
- (e) no clearing of riparian vegetation shall take place;
- (f) dam design and structure is to provide for safe disposal of overflow (water in excess of dam capacity); and
- (g) ongoing dam maintenance may be needed to ensure structural integrity over time and a maintenance plan may be required.

5.8.2.2 In determining an application for planning approval for a dam, the Shire shall also have regard to any relevant provisions in the Department of Water's *Water Quality Protection Note 53* and any guidelines or policy on dams adopted by the Shire.

5.8.2.3 An applicant for planning approval for a dam may be required to provide expert advice from a structural engineer and/or hydrogeologist that the proposed dam is consistent with the principles in clause 5.8.2.1 above.

5.8.2.4 An application for a dam may be referred to the Department of Water for comment. In determining an application for a dam, the Shire shall have regard to any advice or recommendations received from the Department of Water.

5.8.3 Keeping of horses

No horse shall be kept on any lot with an area of less than 4,000 m².

5.8.4 Home Occupation, Home Business and Cottage Industry

5.8.4.1 The use of land for any Home Occupation, Home Business or Cottage Industry shall not entail the outdoor storage of materials, supplies or other goods, unless the Shire has determined that such storage is not detrimental to fire safety and the amenity of the locality.

5.8.4.2 Apart from a sign not exceeding 0.2 m², there shall be no external indication that the dwelling or outbuilding in which a Home Occupation, Home Business or Cottage Industry is conducted is used for other than the primary residential use of the property.

5.8.5 Sand pads

Any sand pad for a new dwelling or outbuilding shall not exceed 1.5 m at its maximum depth and, where a sand pad exceeds 1 m in vertical height, it shall be retained by material approved by the Shire.

5.8.6 Display Homes/Land Sales Centres

5.8.6.1 A building shall not be used as a Display Home or Land Sales Centre unless—

- (a) provision is made on or adjacent to the site for 8 parking bays, with paving to a standard approved by the Shire; and
- (b) in the opinion of the Shire, the Display Home/Land Sales Centre will be located so that it will not be detrimental to the amenity of the locality or adversely impact on traffic movement and safety.

5.8.6.2 Where a building being used as a Display Home/Land Sales Centre is to be subsequently used as a Single House, the Shire may require the removal of parking area from the site on which it is located and the restoration of the land used for that parking to a standard compatible with the Residential zone.

5.8.7 Development setbacks

5.8.7.1 Development setbacks for non-residential development shall be determined by the Shire having regard to such of the design elements in Part 6 of the Residential Design Codes as the Shire considers applicable, but shall be no less than the minimum setbacks applying to residential development on land with the same Residential Design Code density.

5.8.7.2 The minimum setbacks to boundaries for development of land having a Residential Design Code density of R2.5 shall be as follows—

- (a) Dwelling—
As per the Residential Design Codes;
- (b) Outbuilding—
As per the Residential Design Codes, unless otherwise stipulated in the Scheme;
- (c) Carport—

Front:	as per the Residential Design Codes
Secondary street:	5 m
Side:	1.5 m
Rear:	1.5 m;
- (d) Water tank—

Front:	15 m
Secondary street:	5 m
Side:	1.5 m
Rear:	1.5 m;
- (e) Swimming pool—

Front:	10 m
Secondary street:	7.5 m
Side:	7.5 m
Rear:	7.5 m;
- (f) All other development—

Front:	10 m
Secondary street:	7.5 m
Side:	7.5 m
Rear:	7.5 m.

5.8.8 Requirements for non-residential development

5.8.8.1 The maximum site coverage for non-residential development in the Residential zone shall be as follows for each respective Residential Design Code density—

R2.5:	20%
R5:	30%
R10:	40%
R12.5:	45%
R15 to R25:	50%
R30 and over:	55%

Where there is a combination of residential and non-residential development on the same lot, the private open space requirements of the Residential Design Codes shall apply to the lot as a whole.

5.8.8.2 Notwithstanding clause 5.8.8.1, the Shire may require a lesser site coverage for any particular development, in order to minimise impacts on the residential amenity and character of the surrounding area.

5.8.8.3 In determining an application for planning approval, the Shire shall apply the performance criteria and acceptable development requirements of the clause of the Residential Design Codes relating to privacy requirements to non-residential development in the Residential zone, with all rooms within the non-residential development considered to be habitable rooms for the purpose of this clause unless they are used for those purposes excluded from the definition of Habitable room in the Residential Design Codes.

5.8.8.4 The performance criteria and acceptable development requirements of the clauses of the Residential Design Codes relating to excavation or fill, solar access for adjoining sites, stormwater disposal and external fixtures shall apply to non-residential development in the Residential zone.

5.8.9 Outbuildings

5.8.9.1 Subclauses 5.8.9.2 to 5.8.9.5 set out the requirements applying to outbuildings on land according to its Residential Design Code density. However, for any Residential zoned lot that is smaller than the minimum site area per dwelling in the Residential Design Codes for its density code, the floor area and wall height requirements applying to the highest density code for which that lot would meet or exceed the minimum site area per dwelling in the Residential Design Codes shall apply.

5.8.9.2 On land coded R12.5 or higher—

- (a) the total area of all outbuildings on the lot shall not exceed 70 m² or 10% of the area of the lot, whichever is the lesser;
- (b) the maximum wall height shall be 3.5 m and the maximum roof height shall be 4.5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	2 m
Side:	1 m
Rear:	1 m
- (d) outbuildings shall be located entirely behind the rear of the dwelling on the lot unless constructed in the same materials as and having colours matching those of the dwelling; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.8.9.3 On land coded R10—

- (a) the total area of all outbuildings on the lot shall not exceed 75 m²;
- (b) the maximum wall height shall be 3.5 m and the maximum roof height shall be 4.5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	3 m
Side:	1 m
Rear:	1 m;
- (d) outbuildings shall be located entirely behind the rear of the dwelling on the lot unless constructed in the same materials as and having colours matching those of the dwelling; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.8.9.4 On land coded R5—

- (a) the total area of all outbuildings on the lot shall not exceed 90 m²;
- (b) the maximum wall height shall be 3.5 m and the maximum roof height shall be 4.5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	5 m
Side:	1.5 m
Rear:	1.5 m;

- (d) outbuildings shall be located entirely behind the rear of the dwelling on the lot unless constructed in the same materials as and having colours matching those of the dwelling; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, white or off-white, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.8.9.5 On land coded R2.5—

- (a) the total area of all outbuildings on the lot shall not exceed 120 m²;
- (b) the maximum wall height shall be 3.5 m and the maximum roof height shall be 4.5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	5 m
Side:	1.5 m
Rear:	1.5 m;
- (d) outbuildings shall be located entirely behind the front building line of the dwelling on the lot unless constructed in the same materials as and having colours matching those of the dwelling, and in any case no closer than 15 m from the primary street frontage; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, white or off-white, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.9 Development requirements for the Rural Residential zone

The following development requirements shall apply to development, use and subdivision of land within the Rural Residential zone.

5.9.1 Subdivision

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

5.9.1.2 The Rural Residential Code stipulates the minimum lot size in hectares for the land subject to that code.

5.9.1.3 Notwithstanding clause 5.9.1.2, a Structure Plan may specify lot sizes larger than the minimum lot size indicated by the Rural Residential Code applying to the land, and in such case subdivision shall be in accordance with the Structure Plan.

5.9.1.4 Notwithstanding clause 5.9.1.2, where necessary to better protect larger intact Local Natural Areas, a Structure Plan may specify lot sizes smaller than the minimum lot size indicated by the Rural Residential Code applying to the land, so long as the average lot size across the area of the Structure Plan is not less than the minimum lot size indicated by the Rural Residential Code.

5.9.2 Building envelopes

5.9.2.1 To the extent of any inconsistency between the provisions in this clause, relating to building envelopes, and the provisions in clause 5.9.3, relating to Local Natural Areas, the provisions in clause 5.9.3 shall prevail.

5.9.2.2 The objectives of building envelopes within the Rural Residential zone are to—

- (a) protect Local Natural Areas, other vegetation, watercourses, damp areas and features of special environmental significance from development;
- (b) concentrate built development on each lot so as to preserve the amenity and landscape values of the area;
- (c) avoid areas where ground or soil conditions may inhibit the structural integrity of buildings or cause pollution, erosion or flooding; and
- (d) ensure effluent disposal systems are appropriately located.

5.9.2.3 Where consistent with the objectives in clause 5.9.2.2, the Shire may—

- (a) require the identification of one or more building envelopes, to the Shire's satisfaction, in a Structure Plan required by this Scheme; or
- (b) require the identification of a building envelope on a lot, to the Shire's satisfaction, as a condition of planning approval; or
- (c) recommend that the Commission require the identification of a building envelope, to the Shire's satisfaction, on a lot as a condition of subdivision or strata-subdivision approval,

so as to ensure that any building is located appropriately on a lot.

5.9.2.4 A building envelope delineated pursuant to clause 5.9.2.3 shall be of a regular shape and of a size—

- (a) determined at the discretion of the Shire;
- (b) sufficient to practicably allow construction of a Single House and associated structures; and
- (c) consistent with the objectives in clause 5.9.2.2.

5.9.2.5 Where necessary to avoid or minimise clearing and disturbance of native vegetation within a Local Natural Area, the Shire may at its discretion approve the location of a building envelope nearer to one or more lot boundaries than the development setbacks specified in clause 5.9.1.1. In exercising its discretion in this respect, the Shire shall consider the impact of the proposed development on the visual amenity of the area and may consult with affected neighbouring landowners.

5.9.2.6 A building envelope identified pursuant to clause 5.9.2.3 shall be entered into the Shire's Register of Building Envelopes.

5.9.2.7 Where a building envelope applying to a lot is contained in the Shire's Register of Building Envelopes, every building erected on that lot shall be located within the boundaries of the building envelope.

5.9.2.8 If specified in the Shire's Register of Building Envelopes, on-site effluent disposal shall be located within the building envelope.

5.9.2.9 On the written request of the landowner, the Shire may, at its discretion, relocate or modify the shape and area of a building envelope, where in its opinion this would—

- (a) be consistent with the objectives in clause 5.9.2.2;
- (b) not result in greater impact on Local Natural Areas; and
- (c) not cause greater adverse visual impact than the existing building envelope.

Where the Shire is satisfied that these three criteria have been met by the request, and where the proposed relocated or modified building envelope is not nearer to one or more lot boundaries than the development setbacks specified in clause 5.9.11.1, the Shire will generally not consult with neighbouring landowners.

5.9.2.10 On the written request of the landowner, the Shire may, at its discretion, allow two building envelopes on a lot, where in its opinion this would—

- (a) be consistent with the objectives in clause 5.9.2.2;
- (b) not result in greater impact on Local Natural Areas; and
- (c) not cause greater adverse visual impact.

In exercising its discretion in this respect, the Shire shall consider the impact of the proposed development on the visual amenity of the area and may consult with affected neighbouring landowners.

5.9.2.11 A request to relocate or modify a building envelope, or to nominate a second building envelope on a lot, may be lodged as part of an application for planning approval to locate a building outside of the existing envelope. Such a request will be considered in accordance with clause 5.9.2.9 or clause 5.9.2.10 respectively. The Shire shall not approve the location of a building outside the existing building envelope unless it also approves the relocation or modification of the building envelope, or designation of a second building envelope on the lot, so as to contain that building. If the Shire is of the opinion that the proposed relocation or modification of the building envelope, or designation of a second building envelope, is inconsistent with the objectives in clause 5.9.2.2, it shall refuse the application for planning approval, notwithstanding that it may be for a use designated as a 'P' use in the Rural Residential zone.

5.9.3 Local Natural Areas

5.9.3.1 Local Natural Areas are delineated in the Local Planning Strategy and are identified for either—

- (a) Conservation;
- (b) Protection; or
- (c) Retention

5.9.3.2 Where a lot is partly within one or more Local Natural Areas identified in the Local Planning Strategy, any development on that lot, including a Single House and associated structures (including outbuilding(s)), shall be—

- (a) located in that portion of the lot outside the Local Natural Area(s); and
- (b) set back sufficiently from the Local Natural Area so as to avoid any need to remove or modify vegetation within the Local Natural Area in order to comply with the requirements of the *Planning for Bush Fire Protection Guidelines (2010)* or any successor document in force within the Shire at the time.

5.9.3.3 Notwithstanding any other provision of the Scheme, planning approval shall be required for the construction of a Single House and/or associated structures (including outbuilding(s) and a swimming pool) if proposed to be located wholly or partly within a Local Natural Area identified in the Local Planning Strategy on a lot where a portion of the lot outside of the Local Natural Area(s) is sufficiently large to accommodate the proposed development.

5.9.3.4 In determining any application for planning approval that does not comply with clause 5.9.3.2 above, there shall be a very strong presumption against clearing of a Local Natural Area identified for Protection and a strong presumption against clearing of a Local Natural Area identified for Retention. Planning approval shall only be granted where it has been demonstrated that all alternative locations on the lot outside of any Local Natural Area are unviable, impractical or environmentally unsuitable. Development other than a Single House and/or associated structures (including ancillary dwelling, outbuilding(s) and a swimming pool) may be refused on the basis that no location for such development on a lot is acceptable given the abovementioned presumption against clearing. Under no circumstances shall the Shire grant planning approval for development, including a Single House and/or associated structures (including outbuilding(s)), located wholly or partly within a Local Natural Area identified in the Local Planning Strategy for Conservation.

5.9.3.5 Where necessary to avoid or minimise clearing or disturbance of native vegetation within a Local Natural Area, the Shire may at its discretion approve development nearer to one or more lot boundaries than the development setbacks specified in clause 5.9.11.1. In exercising its discretion in this respect, the Shire shall consider the impact of the proposed development on the visual amenity of the area and may consult with affected neighbouring landowners.

5.9.3.6 No clearing of native vegetation shall take place within a Local Natural Area identified in the Local Planning Strategy, with the exception of—

- (a) the construction of any development approved pursuant to clause 5.9.3.4 above; or
- (b) unavoidable clearing necessary for approved vehicular access, fencing compliant with clause 5.9.7, or required by this Scheme or other law, regulation or policy for bushfire safety purposes.

5.9.3.7 An owner of a lot wholly or partly affected by a Local Natural Area identified in the Local Planning Strategy may request in writing that the Shire reconsider the designation or boundary of that Local Natural Area as it affects that lot.

5.9.3.8 On receipt of a request referred to in clause 5.9.3.7, the Shire, may determine—

- (a) that the Local Natural Area designation and/or boundary shown in the Local Planning Strategy does not reflect the true location, if any, of the Local Natural Area on or adjacent to the lot, and modify the Local Natural Area mapping accordingly; or
- (b) that the Local Natural Area designation and/or boundary shown in the Local Planning Strategy affecting the lot are correct, and refuse to alter the designation and/or boundary.

In making its determination the Shire will examine the vegetation on the lot and shall have regard to the definition of, and methods for determining, a Local Natural Area within the Shire's Local Biodiversity Strategy.

5.9.3.9 The Shire's determination pursuant to clause 5.9.3.8 shall be communicated to the owner in writing. This determination shall have effect for the purpose of clauses 5.9.3.1 to 5.9.3.6.

5.9.3.10 The Shire may amend the Local Natural Area mapping within the Local Planning Strategy from time to time to reflect determinations pursuant to clause 5.9.3.8 and/or any other investigations or assessments the Shire conducts regarding Local Natural Areas within the Scheme Area.

5.9.4 Dams

5.9.4.1 In determining an application for planning approval for a dam, the Shire shall have regard for the following principles—

- (a) there is a very strong presumption against the construction of dams within a watercourse;
- (b) all dams must be structurally sound;
- (c) natural stream flow, under base flow (non-rain) conditions, should be maintained within the watercourse, in order to protect water quality, downstream ecosystems and the rights of downstream users;
- (d) the cumulative impact of dams along a watercourse must be considered;
- (e) no clearing of riparian vegetation shall take place;
- (f) dam design and structure is to provide for safe disposal of overflow (water in excess of dam capacity); and
- (g) ongoing dam maintenance may be needed to ensure structural integrity over time and a maintenance plan may be required.

5.9.4.2 In determining an application for planning approval for a dam, the Shire shall also have regard to any relevant provisions in the Department of Water's *Water Quality Protection Note 53* and any guidelines or policy on dams adopted by the Shire.

5.9.4.3 An applicant for planning approval for a dam may be required to provide expert advice from a structural engineer and/or hydrogeologist that the proposed dam is consistent with the principles in clause 5.9.4.1 above.

5.9.4.4 An application for a dam may be referred to the Department of Water for comment. In determining an application for a dam, the Shire shall have regard to any advice or recommendations received from the Department of Water.

5.9.5 Keeping of animals

5.9.5.1 In considering any application under the Scheme for the keeping of animals, the Shire shall only grant approval if it is satisfied that the land is capable of supporting the number of animals proposed, having regard to the land management practices to be implemented. In this respect, the Shire shall have due regard to any policies or guidelines adopted by the Shire relating to the keeping of animals. The Shire may refuse an application, or may impose conditions on any approval limiting the numbers of animals to be kept and/or such other conditions as the Shire sees fit, in order to prevent adverse impacts to the landscape, amenity and environmental values of the site and locality, including damage to trees, dust pollution and soil erosion.

5.9.5.2 Dressage arenas and other dedicated horse training or exercise areas are to be located on a lot so as to minimise dust or noise impact on adjacent residences.

5.9.6 Supply of water

5.9.6.1 In considering any application for subdivision within the zone, the Shire may, having regard to the Commission's policies with respect to the supply of potable water, recommend that connection to reticulated water be required as a condition of subdivision approval.

5.9.6.2 Where a lot does not have connection to reticulated water, any dwelling shall be provided with an adequate supply of potable water from either an underground bore or a rainwater storage system with a minimum capacity of 120,000 litres and an appropriate roof catchment.

5.9.6.3 Where a lot does not have connection to reticulated water, any dwelling shall have an adequate supply of water for fire fighting purposes, in accordance with *Planning for Bush Fire Protection*, published by the Commission and the Fire and Emergency Services Authority.

5.9.7 Fencing

5.9.7.1 The Shire may request that the Commission impose a condition on any approval to subdivide land within this zone requiring the provision of adequate fencing of lots created.

5.9.7.2 Fences within the Rural Residential zone shall be visually permeable.

5.9.7.3 Fences shall not be constructed within Local Natural Areas, except for—

- (a) on a lot boundary with road frontage;
- (b) on a lot boundary which does not have road frontage, unless vegetation along that boundary is protected by the use of strategic firebreaks to avoid a firebreak on that boundary; or
- (c) around or within an approved building envelope or around an approved house site not having a building envelope.

5.9.8 Home Occupation, Home Business and Cottage Industry

5.9.8.1 The use of land for any Home Occupation, Home Business or Cottage Industry shall not entail the outdoor storage of materials, supplies or other goods, unless the Shire has determined that such storage is not detrimental to fire safety and the amenity of the locality.

5.9.8.2 Apart from a sign not exceeding 0.2 m², there shall be no external indication that the dwelling or outbuilding in which a Home Occupation, Home Business or Cottage Industry is conducted is used for other than the primary residential use of the property.

5.9.9 Sand pads

Any sand pad for a new dwelling or outbuilding shall not exceed 1.5 m at its maximum depth and, where a sand pad exceeds 1 m in vertical height, it shall be retained by material approved by the Shire.

5.9.10 Display Homes/Land Sales Centres

5.9.10.1 A building shall not be used as a Display Home or Land Sales Centre unless—

- (a) provision is made on or adjacent to the site for 8 parking bays, with paving to a standard approved by the Shire; and
- (b) in the opinion of the Shire, the Display Home/Land Sales Centre will be located so that it will not be detrimental to the amenity of the locality or adversely impact on traffic movement and safety.

5.9.10.2 Where a building being used as a Display Home/Land Sales Centre is to be subsequently used as a Single House, the Shire may require the removal of parking area from the site on which it is located and the restoration of the land used for that parking to a standard compatible with the Rural Residential zone.

5.9.11 Development setbacks

5.9.11.1 The minimum setbacks to boundaries for development on any lot within the Rural Residential zone shall be as follows—

- (a) Dwelling—
10 m to all lot boundaries;
- (b) Outbuilding—
As set out in this Scheme;
- (c) Carport or water tank—
Front: 10 m
Secondary street: 10 m
Side: 5 m
Rear: 5 m;
- (d) Swimming pool—
10 m to all lot boundaries;
- (e) All other development—
10 m to all lot boundaries.

5.9.11.2 Although clause 5.9.11.1 indicates the minimum setbacks to lot boundaries, this does not remove the requirement to comply with clause 5.9.2 relating to building envelopes. Clause 5.9.2 shall prevail with respect to any inconsistency.

5.9.12 Outbuildings

5.9.12.1 For any lot below 1 ha in the Rural Residential zone, the floor area and wall height requirements in subclauses 5.8.9.2 to 5.8.9.5 applying to the highest density code for which that lot would meet or exceed the minimum site area per dwelling in the Residential Design Codes shall apply.

5.9.12.2 For lots from 1 to 2 ha—

- (a) the total area of all outbuildings on the lot shall not exceed 200 m²;
- (b) the maximum wall height shall be 4 m and the maximum roof height shall be 5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—
Secondary street: 20 m
Side: 5 m
Rear: 5 m;

- (d) outbuildings shall have colours complementary to the dwelling and the landscape of the immediate locality; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, white or off-white, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.9.12.3 For lots larger than 2 ha—

- (a) the total area of all outbuildings on the lot shall not exceed 260 m²;
- (b) the maximum wall height shall be 4 m and the maximum roof height shall be 5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	20 m
Side:	7.5 m
Rear:	7.5 m;
- (d) outbuildings shall have colours complementary to the dwelling and the landscape of the immediate locality; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, white or off-white, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.9.13 No more than one Single House on a lot

The Shire shall not approve more than 1 Single House on a lot in the Rural Residential zone.

5.10 Development requirements for the Rural Small Holdings zone

The following development requirements shall apply to development, use and subdivision of land within the Rural Small Holdings zone.

5.10.1 Subdivision

5.10.1.1 The Rural Small Holdings Code applicable to land within the Scheme area is to be determined by reference to the Rural Small Holdings Code number, having a prefix of RSH, superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Rural Small Holdings Code, as being contained within the area defined by the centre-line of those borders.

5.10.1.2 The Rural Small Holdings Code stipulates the minimum lot size in hectares for the land subject to that code.

5.10.1.3 Notwithstanding clause 5.10.1.2, a Structure Plan may specify lot sizes larger than the minimum lot size indicated by the Rural Small Holdings Code applying to the land, and in such case subdivision shall be in accordance with the Structure Plan.

5.10.2 Building envelopes

5.10.2.1 To the extent of any inconsistency between the provisions in this clause, relating to building envelopes, and the provisions in clause 5.10.3, relating to Local Natural Areas, the provisions in clause 5.10.3 shall prevail.

5.10.2.2 Building envelopes will not generally be required within the Rural Small Holdings zone. However, where building envelopes are applied within the zone, the objectives of building envelopes within the Rural Small Holdings zone are to—

- (a) protect Local Natural Areas, other vegetation, watercourses, damp areas and features of special environmental significance from development;
- (b) avoid areas where ground or soil conditions may inhibit the structural integrity of buildings or cause pollution, erosion or flooding; and
- (c) ensure effluent disposal systems are appropriately located.

5.10.2.3 Where consistent with the objectives in clause 5.10.2.2, the Shire may—

- (a) require the identification of one or more building envelopes, to the Shire's satisfaction, in a Structure Plan required by and endorsed under this Scheme; or
- (b) require the identification of a building envelope on a lot, to the Shire's satisfaction, as a condition of planning approval; or
- (c) recommend that the Commission require the identification of a building envelope, to the Shire's satisfaction, on a lot as a condition of subdivision or strata-subdivision approval,

so as to ensure that any building is located appropriately on a lot.

5.10.2.4 A building envelope delineated pursuant to clause 5.10.2.3 shall be of a regular shape and shall be of a size—

- (a) at the discretion of the Shire;
- (b) sufficient to practicably allow construction of a Single House and associated structures; and
- (c) consistent with the objectives in clause 5.10.2.2.

5.10.2.5 A building envelope identified pursuant to clause 5.10.2.3 shall be entered into the Shire's Register of Building Envelopes.

5.10.2.6 Where a building envelope applying to a lot is contained in the Shire's Register of Building Envelopes, every building erected on that lot shall be located within the boundaries of the building envelope.

5.10.2.7 If specified in the Shire's Register of Building Envelopes, on-site effluent disposal shall be located within the building envelope.

5.10.2.8 On the written request of the landowner, the Shire may, at its discretion, relocate or modify the shape and area of a building envelope, where in its opinion this would—

- (a) be consistent with the objectives in clause 5.10.2.2;
- (b) not result in greater impact on Local Natural Areas; and
- (c) not cause greater adverse visual impact than the existing building envelope.

Where the Shire is satisfied that these three criteria have been met by the request, the Shire will generally not consult with neighbouring landowners.

5.10.2.9 On the written request of the landowner, the Shire may, at its discretion, allow two building envelopes on a lot, where in its opinion this would—

- (a) be consistent with the objectives in clause 5.10.2.2;
- (b) not result in greater impact on Local Natural Areas; and
- (c) not result in more adverse visual impact.

In exercising its discretion in this respect, the Shire shall consider the impact of the proposed development on the visual amenity of the area and may consult with affected neighbouring landowners.

5.10.2.10 A request to relocate or modify a building envelope, or to nominate a second building envelope on a lot, may be lodged as part of an application for planning approval to locate a building outside of the existing envelope. Such a request will be considered in accordance with clause 5.10.2.8 or clause 5.10.2.9 respectively. The Shire shall not approve location of a building outside of the existing building envelope unless it also approves the relocation or modification of the building envelope, or designation of a second building envelope on the lot, so as to contain that building. If the Shire is of the opinion that the proposed relocation or modification of the building envelope, or designation of a second building envelope, is inconsistent with the objectives in clause 5.10.2.2, then it shall refuse the application for planning approval, notwithstanding that it may be for a use designated as a "P" use in the Rural Residential zone.

5.10.3 Local Natural Areas

5.10.3.1 Local Natural Areas are delineated in the Local Planning Strategy and are identified for either—

- (a) Conservation;
- (b) Protection; or
- (c) Retention

5.10.3.2 Where a lot is partly within one or more Local Natural Areas identified in the Local Planning Strategy, any development on that lot, including a Single House and associated structures (including outbuilding(s)), shall be—

- (a) located in that portion of the lot outside the Local Natural Area(s); and
- (b) set back sufficiently from the Local Natural Area so as to avoid any need to remove or modify vegetation within the Local Natural Area in order to comply with the requirements of the *Planning for Bush Fire Protection Guidelines (2010)* or any successor document in force within the Shire at the time.

5.10.3.3 Notwithstanding any other provision of the Scheme, planning approval shall be required for the construction of a Single House and/or associated structures (including outbuilding(s) and a swimming pool) if proposed to be located wholly or partly within a Local Natural Area identified in the Local Planning Strategy on a lot where a portion of the lot outside of the Local Natural Area(s) is sufficiently large to accommodate the proposed development.

5.10.3.4 In determining any application for planning approval that does not comply with clause 5.10.3.2, there shall be a very strong presumption against clearing of a Local Natural Area identified for Retention. Planning approval shall only be granted where it has been demonstrated that all alternative locations on the lot outside of any Local Natural Area are unviable, impractical or environmentally unsuitable. Development other than a Single House and/or associated structures (including ancillary dwelling, outbuilding(s) and a swimming pool) may be refused on the basis that no location for such development on a lot is acceptable given the abovementioned presumption against clearing. Under no circumstances shall the Shire grant planning approval for development, including a Single House and/or associated structures (including outbuilding(s)), located wholly or partly within a Local Natural Area identified in the Local Planning Strategy for Conservation.

5.10.3.5 Where necessary to avoid or minimise clearing or disturbance of native vegetation within a Local Natural Area, the Shire may at its discretion approve development nearer to one or more lot boundaries than the development setbacks specified in clause 5.10.9.1. In exercising its discretion in this respect, the Shire shall consider the impact of the proposed development on the visual amenity of the area and may consult with affected neighbouring landowners.

5.10.3.6 No clearing of native vegetation shall take place within a Local Natural Area identified in the Local Planning Strategy, with the exception of—

- (a) the construction of any development approved pursuant to clause 5.10.3.4; or
- (b) unavoidable clearing necessary for approved vehicular access, fencing compliant with clause 5.10.8, or required by this Scheme or other law, regulation or policy for bushfire safety purposes.

5.10.3.7 An owner of a lot wholly or partly affected by a Local Natural Area identified in the Local Planning Strategy may request in writing that the Shire reconsider the designation or boundary of that Local Natural Area as it affects that lot.

5.10.3.8 On receipt of a request referred to in clause 5.10.3.7, the Shire, may determine—

- (a) that the Local Natural Area designation and/or boundary shown in the Local Planning Strategy does not reflect the true location, if any, of the Local Natural Area on or adjacent to the lot, and modify the Local Natural Area mapping accordingly; or
- (b) that the Local Natural Area designation and/or boundary shown in the Local Planning Strategy affecting the lot are correct, and refuse to later the designation and/or boundary.

In making its determination the Shire will examine the vegetation on the lot and shall have regard to the definition of, and methods for determining, a Local Natural Area within the Shire's Local Biodiversity Strategy.

5.10.3.9 The Shire's determination pursuant to clause 5.10.3.8 shall be communicated to the owner in writing. This determination shall have effect for the purpose of clauses 5.10.3.1 to 5.10.3.6.

5.10.3.10 The Shire may amend the Local Natural Area mapping within the Local Planning Strategy from time to time to reflect determinations pursuant to clause 5.10.3.8 and/or any other investigations or assessments the Shire conducts regarding Local Natural Areas within the Scheme Area.

5.10.4 Dams

5.10.4.1 In determining an application for planning approval for a dam, the Shire shall have regard for the following principles—

- (a) there is a very strong presumption against the construction of dams within a watercourse;
- (b) all dams must be structurally sound;
- (c) natural stream flow, under base flow (non-rain) conditions, should be maintained within the watercourse, in order to protect water quality, downstream ecosystems and the rights of downstream users;
- (d) the cumulative impact of dams along a watercourse must be considered;
- (e) no clearing of riparian vegetation shall take place;
- (f) dam design and structure is to provide for safe disposal of overflow (water in excess of dam capacity); and
- (g) ongoing dam maintenance may be needed to ensure structural integrity over time and a maintenance plan may be required.

5.10.4.2 In determining an application for planning approval for a dam, the Shire shall also have regard to any relevant provisions in the Department of Water's *Water Quality Protection Note 53* and any guidelines or policy on dams adopted by the Shire.

5.10.4.3 An applicant for planning approval for a dam may be required to provide expert advice from a structural engineer and/or hydrogeologist that the proposed dam is consistent with the principles in clause 5.10.4.1 above.

5.10.4.4 An application for a dam may be referred to the Department of Water for comment. In determining an application for a dam, the Shire shall have regard to any advice or recommendations received from the Department of Water.

5.10.5 Keeping of animals

5.10.5.1 In considering any application under the Scheme for the keeping of animals, the Shire shall only grant approval if it is satisfied that the land is capable of supporting the number of animals proposed, having regard to the land management practices to be implemented. In this respect, the Shire shall have due regard to any policies or guidelines adopted by the Shire relating to the keeping of animals. The Shire may refuse an application, or may impose conditions on any approval limiting the numbers of animals to be kept and/or such other conditions as the Shire sees fit, in order to prevent adverse impacts to the landscape, amenity and environmental values of the site and locality, including damage to trees, dust pollution and soil erosion.

5.10.5.2 Dressage arenas and other dedicated horse training or exercise areas are, wherever practicable, to be located on a lot so as to minimise dust or noise impact on adjacent residences.

5.10.6 Kennels

The Shire shall not approve an application for kennels unless it is demonstrated by the applicant that the proposed kennels will not generate noise resulting in non-compliance with the *Environmental Protection (Noise) Regulations 1997*.

5.10.7 Supply of water

Where a lot does not have connection to reticulated water, any dwelling shall be provided with an adequate supply of potable water from either an underground bore or a rainwater storage system with a minimum capacity of 120,000 litres and an appropriate roof catchment.

5.10.8 Fencing

5.10.8.1 The Shire may request that the Commission impose a condition on any approval to subdivide land within this zone requiring the provision of adequate fencing of lots created.

5.10.8.2 Fences within the Rural Small Holdings zone shall be visually permeable.

5.10.8.3 Fences shall not be constructed within Local Natural Areas, except for—

- (a) on a lot boundary with road frontage;

- (b) on a lot boundary which does not have road frontage, unless vegetation along that boundary is protected by the use of strategic firebreaks to avoid a firebreak on that boundary; or
- (c) around or within an approved building envelope or around an approved house site not having a building envelope.

5.10.9 Development setbacks

5.10.9.1 The minimum setbacks to boundaries for development on any lot within the Rural Small Holdings zone shall be as follows—

- (a) Dwelling—
10 m to all lot boundaries;
- (b) Outbuilding—
As set out in this Scheme;
- (c) Carport or water tank—
Front: 10 m
Secondary street: 10 m
Side: 5 m
Rear: 5 m;
- (d) Swimming pool—
10 m to all lot boundaries;
- (e) All other development—
10 m to all lot boundaries.

5.10.9.2 Although clause 5.10.9.1 indicates the minimum setbacks to lot boundaries, this does not remove the requirement to comply with clause 5.10.2 relating to building envelopes. Clause 5.10.2 shall prevail with respect to any inconsistency.

5.10.10 Outbuildings

- (a) the total area of all outbuildings on the lot shall not exceed 260 m²;
- (b) the maximum wall height shall be 4 m and the maximum roof height shall be 5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—
Secondary street: 20 m
Side: 7.5 m
Rear: 7.5 m;
- (d) outbuildings shall have colours complementary to the dwelling and the landscape of the immediate locality; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, white or off-white, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.10.11 No more than one Single House on a lot

The Shire shall not approve more than 1 Single House on a lot in the Rural Small Holdings zone.

5.11 **Development requirements for the General Agriculture zone**

The following development requirements shall apply to development, use and subdivision of land within the General Agriculture zone.

5.11.1 Local Natural Areas

5.11.1.1 Local Natural Areas are delineated in the Local Planning Strategy and are identified for either—

- (a) Conservation;
- (b) Protection; or
- (c) Retention

5.11.1.2 Where a lot is partly within one or more Local Natural Areas identified in the Local Planning Strategy, any development on that lot, including a Single House and associated structures (including outbuilding(s)), shall be—

- (a) located in that portion of the lot outside the Local Natural Area(s); and
- (b) set back sufficiently from the Local Natural Area so as to avoid any need to remove or modify vegetation within the Local Natural Area in order to comply with the requirements of the *Planning for Bush Fire Protection Guidelines (2010)* or any successor document in force within the Shire at the time.

5.11.1.3 Notwithstanding any other provision of the Scheme, planning approval shall be required for the construction of a Single House and/or associated structures (including outbuilding(s) and a swimming pool) if proposed to be located wholly or partly within a Local Natural Area identified in the Local Planning Strategy on a lot where a portion of the lot outside of the Local Natural Area(s) is sufficiently large to accommodate the proposed development.

5.11.1.4 In determining any application for planning approval that does not comply with clause 5.11.1.2, there shall be a very strong presumption against clearing of a Local Natural Area identified for Protection and a strong presumption against clearing of a Local Natural Area identified

for Retention. Planning approval shall only be granted where it has been demonstrated that all alternative locations on the lot outside of any Local Natural Area are unviable, impractical or environmentally unsuitable. Development other than a Single House and/or associated structures (including ancillary dwelling, outbuilding(s) and a swimming pool) may be refused on the basis that no location for such development on a lot is acceptable given the abovementioned presumption against clearing. Under no circumstances shall the Shire grant planning approval for development, including a Single House and/or associated structures (including outbuilding(s)), located wholly or partly within a Local Natural Area identified in the Local Planning Strategy for Conservation.

5.11.1.5 Where necessary to avoid or minimise clearing or disturbance of native vegetation within a Local Natural Area, the Shire may at its discretion approve development nearer to one or more lot boundaries than the development setbacks specified in clause 5.11.7. In exercising its discretion in this respect, the Shire shall consider the impact of the proposed development on the visual amenity of the area and may consult with affected neighbouring landowners.

5.11.1.6 No clearing of native vegetation shall take place within a Local Natural Area identified in the Local Planning Strategy, with the exception of—

- (a) the construction of any development approved pursuant to clause 5.11.1.4; or
- (b) unavoidable clearing necessary for approved vehicular access or required by this Scheme or other law, regulation or policy for bushfire safety purposes.

5.11.1.7 An owner of a lot wholly or partly affected by a Local Natural Area identified in the Local Planning Strategy may request in writing that the Shire reconsider the designation or boundary of that Local Natural Area as it affects that lot.

5.11.1.8 On receipt of a request referred to in clause 5.11.1.7, the Shire, may determine—

- (a) that the Local Natural Area designation and/or boundary shown in the Local Planning Strategy does not reflect the true location, if any, of the Local Natural Area on or adjacent to the lot, and modify the Local Natural Area mapping accordingly; or
- (b) that the Local Natural Area designation and/or boundary shown in the Local Planning Strategy affecting the lot are correct, and refuse to modify the designation and/or boundary.

In making its determination the Shire will examine the vegetation on the lot and shall have regard to the definition of, and methods for determining, a Local Natural Area within the Shire's Local Biodiversity Strategy.

5.11.1.9 The Shire's determination pursuant to clause 5.11.1.8 shall be communicated to the owner in writing. This determination shall have effect for the purpose of clauses 5.11.1.1 to 5.11.1.6.

5.11.1.10 The Shire may amend the Local Natural Area mapping within the Local Planning Strategy from time to time to reflect determinations pursuant to clause 5.11.1.8 and/or any other investigations or assessments the Shire conducts regarding Local Natural Areas within the Scheme Area.

5.11.2 Dams

5.11.2.1 In determining an application for planning approval for a dam, the Shire shall have regard for the following principles—

- (a) there is a very strong presumption against the construction of dams within a watercourse;
- (b) all dams must be structurally sound;
- (c) natural stream flow, under base flow (non-rain) conditions, should be maintained within the watercourse, in order to protect water quality, downstream ecosystems and the rights of downstream users;
- (d) the cumulative impact of dams along a watercourse must be considered;
- (e) no clearing of riparian vegetation shall take place;
- (f) dam design and structure is to provide for safe disposal of overflow (water in excess of dam capacity); and
- (g) ongoing dam maintenance may be needed to ensure structural integrity over time and a maintenance plan may be required.

5.11.2.2 In determining an application for planning approval for a dam, the Shire shall also have regard to any relevant provisions in the Department of Water's *Water Quality Protection Note 53* and any guidelines or policy on dams adopted by the Shire.

5.11.2.3 An applicant for planning approval for a dam may be required to provide expert advice from a structural engineer and/or hydrogeologist that the proposed dam is consistent with the principles in clause 5.11.2.1 above.

5.11.2.4 An application for a dam may be referred to the Department of Water for comment. In determining an application for a dam, the Shire shall have regard to any advice or recommendations received from the Department of Water.

5.11.3 Keeping of animals

In considering any application under the Scheme for the keeping of animals, the Shire shall only grant approval if it is satisfied that the land is capable of supporting the number of animals proposed, having regard to the land management practices to be implemented. In this respect, the Shire shall have due regard to any policies or guidelines adopted by the Shire relating to the keeping of animals. The Shire may refuse an application, or may impose conditions on any approval limiting the numbers of animals to be kept and/or such other conditions as the Shire sees fit, in order to prevent adverse impacts to the landscape, amenity and environmental values of the site and locality, including damage to trees, dust pollution and soil erosion.

5.11.4 Kennels

The Shire shall not approve an application for kennels unless it is demonstrated by the applicant that the proposed kennels will not generate noise resulting in non-compliance with the *Environmental Protection (Noise) Regulations 1997*.

5.11.5 Supply of water

Where a lot does not have connection to reticulated water, any dwelling shall be provided with an adequate supply of potable water from either an underground bore or a rainwater storage system with a minimum capacity of 120,000 litres.

5.11.6 Fencing

5.11.6.1 Fences within the General Agriculture zone shall be visually permeable.

5.11.6.2 Fences shall not be constructed within Local Natural Areas, except for—

- (a) on a lot boundary with road frontage;
- (b) on a lot boundary which does not have road frontage, unless vegetation along that boundary is protected by the use of strategic firebreaks to avoid a firebreak on that boundary; or
- (c) around an approved house site.

5.11.7 Development setbacks

All development, including outbuildings, shall be set back a minimum of 20 m from all lot boundaries.

5.11.8 Outbuildings

- (a) the total area of all outbuildings on the lot shall not exceed 300 m²;
- (b) the maximum wall height shall be 4.5 m and the maximum roof height shall be 5.5 m.

5.11.9 No more than 1 Single House on a lot

The Shire shall not approve more than 1 Single House on a lot in the General Agriculture zone.

5.12 Development requirements for the Town Centre zone

The following development requirements shall apply to development, use and subdivision of land within the Town Centre zone.

5.12.1 Subdivision

5.12.1.1 Subdivision shall be supported only if it is in accordance with an adopted Precinct Plan.

5.12.1.2 Where there is no adopted Precinct Plan for a site within the Town Centre Zone or where such Precinct Plan does not specify preferred or minimum lot sizes for a site, an application for subdivision shall only be supported if the proposed subdivision—

- (a) would create lot sizes that are sufficient to accommodate existing, proposed or anticipated land use and development, with such land use and development able to comply with all relevant requirements of this Scheme; and
- (b) is consistent with all relevant policies and strategies in the State Planning Framework.

5.12.2 Setbacks, plot ratio and site coverage

5.12.2.1 Development setbacks, site coverage and plot ratio for any particular site shall be as specified in an adopted Precinct Plan.

5.12.2.2 Where development setbacks, site coverage and plot ratio for a particular site are not specified in an adopted Precinct Plan, or where there is no adopted Precinct Plan over a particular site, development setbacks, site coverage and plot ratio shall be at the Shire's discretion and shall be determined having particular regard to the objectives of the Town Centre zone and, where applicable, the recommendations of the adopted Precinct Plan for the area. In any case, the maximum site coverage shall not exceed 50% and maximum plot ratio shall not exceed 1.0.

5.12.3 Effluent disposal

In determining any application for planning approval for development on land within a sewerage area, the Shire shall have regard to any advice from the Water Corporation as to whether adequate capacity exists to treat the wastewater that would be generated by the proposed development. If there is inadequate capacity to treat the wastewater that would be generated by the proposed development, the Shire may refuse the application, notwithstanding that the use may be a "P" use on the Zoning Table.

5.12.4 Use of setback areas from streets

The building setback area from any street alignment shall only be used for one or more of the following—

- (a) vehicular and pedestrian access;
- (b) car parking for employees, customers or visitors;
- (c) landscaping; and
- (d) advertising signage approved by the Shire or exempted from requiring approval of the Shire by this Scheme or the Shire's Signs Local Law.

The building setback area shall not be used for repair or dismantling of vehicles, nor for storage purposes.

5.12.5 Bin storage areas

Bin storage areas shall be provided for non-residential development. Such areas shall be—

- (a) located so as to be readily accessible by service vehicles;

- (b) of sufficient size to accommodate rubbish generated by the use(s) on each property in the interval between rubbish collections; and
- (c) effectively screened from view from any street, public place and any adjacent residence.

5.12.6 Outbuildings

- (a) the total area of all outbuildings on the lot shall not exceed 70 m² or 10% of the area of the lot, whichever is the lesser;
- (b) the maximum wall height shall be 3.5 m and the maximum roof height shall be 4.5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	2 m
Side:	1 m
Rear:	1 m;
- (d) outbuildings shall be located entirely behind the rear of the dwelling on the lot unless constructed in the same materials as and having colours matching those of the dwelling; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.13 Development requirements for the Local Centre zone

The following development requirements shall apply to development, use and subdivision of land within the Local Centre zone.

5.13.1 Subdivision

5.13.1.1 Subdivision shall be supported only if it is in accordance with a Precinct Plan, adopted pursuant to clause 5.7.1.2 or clause 5.7.1.3.

5.13.1.2 Where there is no adopted Precinct Plan for a site within a Local Centre Zone or where such Precinct Plan does not specify preferred or minimum lot sizes for a site, an application for subdivision shall only be supported if the proposed subdivision—

- (a) would create lot sizes that are sufficient to accommodate existing, proposed or anticipated land use and development, with such land use and development able to comply with all relevant requirements of this Scheme; and
- (b) is consistent with all relevant policies and strategies in the State Planning Framework.

5.13.2 Retail floor space

5.13.2.1 Until such time as a subsequent Local Commercial Strategy is adopted by the Shire and endorsed by the Commission—

- (a) the maximum total retail floorspace for shops in any Local Centre zone shall be in accordance with the Shire of Mundaring Local Commercial Strategy (December 1992);
- (b) no additional retail floorspace shall be approved in any Local Centre zone unless the Shire is of the opinion that such additional floorspace will meet the existing needs of the locality serviced by that Local Centre zone without leading to any reduction of service available to that locality or any other locality; and
- (c) in order to assess any proposal under (b) above, the Shire may require the proponent to provide an economic impact statement assessing local need for retail floorspace and likely impacts on existing retail provision within that Local Centre zone, and within the Town Centre zone and any other Local Centre zones which may be affected by the proposal.

5.13.2.2 Once any Local Commercial Strategy subsequent to the Shire of Mundaring Local Commercial Strategy (December 1992) is adopted by the Shire and endorsed by the Commission, all additional retail floorspace provision shall be in accordance with that endorsed Strategy.

5.13.3 Setbacks, plot ratio and site coverage

5.13.3.1 Development setbacks, site coverage and plot ratio for any particular site shall be as specified in an adopted Precinct Plan.

5.13.3.2 Where development setbacks, site coverage and plot ratio for a particular site are not specified in an adopted Precinct Plan, or where there is no adopted Precinct Plan over a particular site, the following requirements shall apply—

- (a) minimum development setbacks are as follows—

Front:	6 m
Secondary street:	3 m
Side:	Nil (except where abutting land with a different zoning, in which case 3 m)
Rear:	Nil (except where abutting land with a different zoning, in which case 3 m)
- (b) maximum site coverage shall not exceed 50%
- (c) maximum plot ratio shall not exceed 0.6.

5.13.4 Use of setback areas from streets

The building setback area from any street alignment shall only be used for one or more of the following—

- (a) vehicular and pedestrian access;

- (b) car parking for employees, customers or visitors;
- (c) landscaping; and
- (d) advertising signage approved by the Shire or exempted from requiring approval of the Shire by this Scheme or the Shire's Signs Local Law.

The building setback area shall not be used for repair or dismantling of vehicles, nor for storage purposes.

5.13.5 Bin storage areas

Bin storage areas shall be provided for non-residential development. Such areas shall be—

- (a) located so as to be readily accessible by service vehicles;
- (b) of sufficient size to accommodate rubbish generated by the use(s) on each property in the interval between rubbish collections; and
- (c) effectively screened from view from any street, public place and any adjacent residence.

5.13.6 Outbuildings

- (a) the total area of all outbuildings on the lot shall not exceed 70 m² or 10% of the area of the lot, whichever is the lesser;
- (b) the maximum wall height shall be 3.5 m and the maximum roof height shall be 4.5 m;
- (c) the minimum setbacks to side, rear and secondary street boundaries for outbuildings shall be as follows—

Secondary street:	2 m
Side:	1 m
Rear:	1 m;
- (d) outbuildings shall be located entirely behind the rear of the dwelling on the lot unless constructed in the same materials as and having colours matching those of the dwelling; and
- (e) the external surface of outbuildings, other than roof cladding, shall not include metallic silver, except where the total area of all outbuildings on the lot does not exceed 20 m².

5.14 **Development requirements for the Service Commercial zone**

The following development requirements shall apply to development, use and subdivision of land within the Service Commercial zone.

5.14.1 Subdivision

5.14.1.1 The minimum lot size in any subdivision of land within the Service Commercial zone shall be 1,000 m². The minimum frontage for any lot created within the zone shall be 25 m.

5.14.1.2 Notwithstanding clause 5.14.1.1, no further subdivision of Lots 20-22 and 25-28 Wandeara Crescent shall be supported.

5.14.2 Site coverage and plot ratio

Development within the Service Commercial zone shall have a maximum site coverage of 50% and a maximum plot ratio of 0.5.

5.14.3 Development setbacks

The following minimum setbacks apply to development within the Service Commercial zone—

Primary street:	3 m (5 m on corner lots)
Secondary street:	3 m
Side:	Nil
Rear:	Nil
Great Eastern Highway:	15 m

5.14.4 Building materials

5.14.4.1 Each facade or wall of a building facing any street or public place shall be constructed of, or finished so as to appear to be constructed of, brick, stone, concrete or glass, or a combination of these materials, or similar material as approved by the Shire, to a minimum height of 3 m above finished ground level.

5.14.4.2 That portion of each external wall of a building not facing a street or public place, that is within 9 m from the front boundary of the lot, shall be constructed of, or finished so as to appear to be constructed of, brick, stone, concrete or glass, or a combination of these materials, or similar material(s) as approved by the Shire, to a minimum height of 2.1 m above finished ground level.

5.14.5 Use of setback areas from streets

The building setback area from any street alignment shall only be used for one or more of the following—

- (a) vehicular and pedestrian access;
- (b) car parking for employees, customers or visitors;
- (c) landscaping; and
- (d) advertising signage approved by the Shire or exempted from requiring approval of the Shire by this Scheme or the Shire's Signs Local Law.

The building setback area shall not be used for repair or dismantling of vehicles, nor for storage purposes.

5.14.6 Bin storage areas

Bin storage areas shall be provided for all development. Such areas shall be—

- (a) located so as to be readily accessible by service vehicles;
- (b) of sufficient size to accommodate rubbish generated by the use(s) on each property in the interval between rubbish collections; and
- (c) effectively screened from view from any street, public place and any adjacent residence.

5.15 Development requirements for the Light Industry zone

The following development requirements shall apply to development, use and subdivision of land within the Light Industry zone.

5.15.1 Subdivision

The minimum lot size in any subdivision of land within the Light Industry zone shall be 1,500 m². The minimum frontage for any lot created within the zone shall be 25 m.

5.15.2 Site coverage and plot ratio

Development within the Light Industry zone shall have a maximum site coverage of 50% and a maximum plot ratio of 0.5.

5.15.3 Development setbacks

The following minimum setbacks apply to development within the Light Industry zone—

Primary street:	3 m (5 m on corner lots)
Secondary street:	3 m
Rear:	Nil
Side:	Nil

5.15.4 Building materials

5.15.4.1 Each facade or wall of a building facing any street or public place shall be constructed of, or finished so as to appear to be constructed of, brick, stone, concrete or glass, or a combination of these materials, or similar material(s) as approved by the Shire, to a minimum height of 3 m above finished ground level.

5.15.4.2 That portion of each external wall of a building not facing a street or public place, that is within 9 m from the front boundary of the lot, shall be constructed of, or finished so as to appear to be constructed of, brick, stone, concrete or glass, or a combination of these materials, or similar material(s) as approved by the Shire, to a minimum height of 2.1 m above finished ground level.

5.15.5 Minimum area and dimensions

5.15.5.1 The minimum floor area of any industrial building or unit shall be 75 m².

5.15.5.2 The minimum length or width between internal wall surfaces of any industrial building or unit shall be 8 m.

5.15.6 Use of setback areas from streets

The building setback area from any street alignment shall only be used for one or more of the following—

- (a) vehicular and pedestrian access;
- (b) car parking for employees, customers or visitors;
- (c) landscaping; and
- (d) advertising signage approved by the Shire or exempted from requiring approval of the Shire by this Scheme or the Shire's Signs Local Law.

The building setback area shall not be used for repair or dismantling of vehicles, nor for storage purposes.

5.15.7 Bin storage areas

Bin storage areas shall be provided for non-residential development. Such areas shall be—

- (a) located so as to be readily accessible by service vehicles;
- (b) of sufficient size to accommodate rubbish generated by the use(s) on each property in the interval between rubbish collections; and
- (c) effectively screened from view from any street, public place and any adjacent residence.

5.15.8 Caretaker's Dwellings

The following requirements apply to any Caretaker's Dwelling within the Light Industry zone—

- (a) the Caretaker's Dwelling is to be incidental to the predominant industrial use of the site;
- (b) only 1 Caretaker's Dwelling is permitted on a lot and is to be on the same lot as the associated industrial use;
- (c) a Caretaker's Dwelling shall have a maximum total floor area of 100 m² measured from the external face of walls; and
- (d) a Caretaker's Dwelling may have open verandahs, but these must not be enclosed by any means unless the total floor area remains within the 100 m² referred to in sub-clause (c).

5.16 Development requirements for the Development zone

The following development requirements shall apply to development, use and subdivision of land within the Development zone.

5.16.1 Operation of Development zones

5.16.1.1 Each Development zone is an area requiring a Structure Plan to be adopted in accordance with clause 5.17. A Structure Plan for land within a Development zone is to indicate desired residential densities by the incorporation of Residential Design Codes density codings. A Structure Plan is also to indicate the desired type and disposition of uses within the Development zone and may achieve this by reference to specific zones and reserves within this Scheme. Subdivision and development shall be generally in accordance with a Structure Plan adopted by the Shire and endorsed by the Commission.

5.16.1.2 Structure Plans, subdivision and development within any Development zone shall comply with the requirements set out for that Development zone in Schedule 12.

5.16.1.3 Where a Structure Plan allocates a zone designated by Scheme to land within a Development zone, all provisions of the Scheme, including the Zoning Table, relating to that zone shall apply as if that land were so zoned, except where there is any inconsistency between the provisions for that zone and any provisions of the Structure Plan or Schedule 12, in which case the Structure Plan or Schedule 12 shall prevail.

5.16.2 Development in the absence of an endorsed Structure Plan

Where, pursuant to clause 5.17.4.2, the Shire considers the approval of any development or use of land within a Development zone prior to a Structure Plan coming into effect in relation to that land, any development or use other than a Single House shall be dealt with as a "D" use as set out in clause 4.3.2, except that any use classified on the Zoning Table as "X" within the Rural Smallholdings zone is not permitted.

5.17 Structure Plans

5.17.1 Interpretation

In clause 5.17, unless the context otherwise requires—

“owner” means an owner or owners of land within an area requiring a Structure Plan as set out in clause 5.17.2; and

“Structure Plan” means a structure plan that has come into effect in accordance with clause 5.17.12.1, or a Local Subdivision and Infrastructure Plan endorsed by the Shire and the Commission pursuant to the Shire of Mundaring Town Planning Scheme No. 3 and listed in Schedule 11, which continues to have effect under this Scheme pursuant to clause 5.7.3.1, subject to any conditions set out in Schedule 11.

5.17.2 Areas requiring a Structure Plan

5.17.2.1 Subject to clause 5.17.2.2, the following areas require a Structure Plan in order to provide comprehensive planning and to coordinate subdivision and/or development—

- (a) the Development zone;
- (b) any portion of the Residential zone where subdivision potential exists under this Scheme;
- (c) any portion of the Rural Residential zone where subdivision potential exists under this Scheme; and
- (d) any other zone where subdivision potential exists under this Scheme and, in the opinion of the Shire, a Structure Plan is required to coordinate subdivision and development.

5.17.2.2 Within the Residential or Rural Residential zone, the Shire may waive the requirement for a Structure Plan for an area where potential exists under this Scheme only for limited infill subdivision and where the extent of contiguous or nearby area having subdivision potential and the number of lots that could be created are such that the coordination of subdivision and development by way of a Structure Plan is not, in the opinion of the Shire, required.

5.17.3 Subdivision and development to be in accordance with Structure Plan

5.17.3.1 The subdivision and development of land shall be generally in accordance with any Structure Plan that applies to that land.

5.17.3.2 Notwithstanding clause 5.17.3.1—

- (a) a Structure Plan may state that any of its provisions are not capable of variation, and any such statement shall have effect according to its tenor; and
- (b) where a Structure Plan stipulates the permissibility of land use, or where the permissibility of land use via a Structure Plan is to be determined in accordance with a zone designated within a Structure Plan, the land use permissibility so stipulated is not capable of variation.

5.17.4 Structure Plan required

5.17.4.1 The Shire is not to—

- (a) recommend subdivision; or
- (b) approve development

of land within an area requiring a Structure Plan as set out in clause 5.17.2 unless there is a Structure Plan for that area or for the relevant part of that area.

5.17.4.2 Notwithstanding clause 5.17.4.1, the Shire may recommend subdivision or approve the development of land within an area requiring a Structure Plan as set out in clause 5.17.2 prior to a Structure Plan coming into effect in relation to that land, if the Shire is satisfied that this will not prejudice the comprehensive planning and coordinated subdivision and/or development of that area.

5.17.5 Preparation of proposed Structure Plan

5.17.5.1 A proposed Structure Plan may be prepared by—

- (a) the Shire; or
- (b) an owner.

5.17.5.2 The Shire shall determine the extent of the area to be covered by a Structure Plan required under clause 5.17.2. The extent of the area covered by a Structure Plan must be, in the opinion of the Shire, sufficient to provide adequate coordination of subdivision and/or development, having regard to the following matters:

- (a) the pattern of roads, whether constructed or unconstructed, and other reserves in the subject and surrounding area;
- (b) the pattern and type of existing and proposed subdivision in the subject and surrounding area;
- (c) existing and proposed land uses in the subject area;
- (d) the landform, topography, vegetation, surface and groundwater features and catchments and other natural features of the subject and surrounding area;
- (e) the location, layout and availability of necessary infrastructure and services; and
- (f) any other matter the Shire considers relevant in the circumstances of the case.

5.17.6 Details of proposed Structure Plan

5.17.6.1 A proposed Structure Plan is to contain the following details—

- (a) a map showing the area to which the proposed Structure Plan is to apply;
- (b) a site analysis map showing the characteristics of the site including—
 - (i) landform, topography and land capability;
 - (ii) conservation and environmental features including bushland, wetlands, granite outcrops, streams and water courses, foreshore reserves and any environmental policy areas;
 - (iii) hydrogeological conditions, including approximate depth to water table;
 - (iv) sites and features of Aboriginal and European heritage value;
- (c) a context analysis map of the immediate surrounds to the site including—
 - (i) the pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres;
 - (ii) transport routes, including highways, important local roads and neighbourhood connector alignments, public transport routes, strategic cycle routes and bus stops;
 - (iii) existing and future land use;
- (d) a map showing proposals for—
 - (i) neighbourhoods around proposed neighbourhoods and town centres;
 - (ii) existing and proposed commercial centres;
 - (iii) natural features to be retained;
 - (iv) street block layouts;
 - (v) the street network including street types;
 - (vi) transportation corridors, public transport network, and cycle and pedestrian networks;
 - (vii) land uses including residential densities and estimates of population;
 - (viii) schools and community facilities;
 - (ix) public parklands;
 - (x) urban water management areas; and
 - (xi) lot layout and building envelopes, where required by or pursuant to the Scheme.
- (e) 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 in clause 5.17.6.1 (b) 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 in clause 5.17.6.1 (c) 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;

- (xi) the protection of any Local Natural Areas identified in the Local Planning Strategy; and
- (xii) for land wholly or partly within or adjacent to Bush Fire Prone Areas, the response to and management of bushfire hazard within and adjacent to the area covered by the Structure Plan.

5.17.6.2 The maps referred to in clause 5.17.6.1 are to—

- (a) be drawn to a scale that clearly illustrates the details referred to in clause 5.17.6.1; and
- (b) include a north point, visual bar scale, key street names and a drawing title and number.

5.17.6.3 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 Shire is to have due regard to such reserves, zones or Residential Design Codes when recommending subdivision or approving development of land subject of the Structure Plan.

5.17.6.4 A proposed Structure Plan must, in the opinion of the Shire, be consistent with orderly and proper planning.

5.17.7 Submission to the Shire and Commission

5.17.7.1 A proposed Structure Plan prepared by an owner is to be submitted to the Shire.

5.17.7.2 Within 7 days of preparing or receiving a proposed Structure Plan which proposes the subdivision of land, the Shire is to forward a copy of the proposed Structure Plan to the Commission.

5.17.7.3 The Commission is to provide comments to the Shire as to whether it is prepared to endorse the proposed Structure Plan with or without modifications.

5.17.7.4 The Commission must provide its comments to the Shire within 30 days of receiving the proposed Structure Plan.

5.17.8 Advertising of Structure Plan

5.17.8.1 Within 60 days of preparing or receiving a proposed Structure Plan which conforms with clause 5.17.6 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 Shire), the Shire is to—

- (a) advertise, or require the owner who submitted the proposed Structure Plan to advertise, the proposed Structure Plan for public inspection by one or more of the following ways—
 - (i) notice of the proposed Structure Plan published in a newspaper circulating in the Scheme area;
 - (ii) a sign or signs displaying notice of the proposed Structure Plan to be erected in a conspicuous place or places in the area to which the proposed Structure Plan applies; and
- (b) give notice or require the owner who submitted the proposed Structure Plan to give notice, in writing to—
 - (i) all owners whose land is included in the proposed Structure Plan;
 - (ii) all owners and occupiers who, in the opinion of the Shire, are likely to be affected by the adoption of the proposed Structure Plan; and
 - (iii) such public authorities and other persons as the Shire nominates.

5.17.8.2 The advertisement and notice are to—

- (a) explain the scope and purpose of the proposed Structure Plan;
- (b) specify when and where the proposed Structure Plan may be inspected; and
- (c) invite submissions to the Shire by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

5.17.9 Adoption of proposed Structure Plan

5.17.9.1 The Shire 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.

5.17.9.2 In making a determination under clause 5.17.9.1, the Shire is to have due regard to the comments and advice received from the Commission in relation to the proposed Structure Plan. If the Commission requires modifications to the proposed Structure Plan, the Shire is to consult with the Commission prior to making a determination under clause 5.17.9.1.

5.17.9.3 If the Shire, after consultation with the Commission, is of the opinion that a modification to the proposed Structure Plan is substantial, the Shire may—

- (a) readvertise the proposed Structure Plan; or
- (b) require the owner who submitted the proposed Structure Plan to readvertise the proposed Structure Plan;

and thereafter, the procedures set out in clause 5.17.8.1 onwards are to apply.

5.17.9.4 If within the period referred to in clause 5.17.9.1, or such further time as may be agreed in writing between the owner who submitted the proposed Structure Plan and the Shire, the Shire has not made a determination under clause 5.17.9.1, the Shire is deemed to have refused to adopt the proposed Structure Plan.

5.17.9.5 A Local Subdivision and Infrastructure Plan submitted and advertised under and in accordance with Town Planning Scheme No. 3 prior to the gazettal of the Scheme may be adopted as a structure plan under clause 5.17.9.1 and may then be finalised, operate and be varied in accordance with clauses 5.17.9 to 5.17.16.

5.17.10 Endorsement by Commission

5.17.10.1 If the proposed Structure Plan proposes the subdivision of land, then within 7 days of making its determination under clause 5.17.9.1, the Shire is to forward the proposed Structure Plan to the Commission for its endorsement.

5.17.10.2 As soon as practicable after receiving the proposed Structure Plan, the Commission is to determine whether to endorse the proposed Structure Plan.

5.17.10.3 The Commission is to notify the Shire of its determination under clause 5.17.10.2.

5.17.11 Notification of Structure Plan

As soon as practicable after adopting a proposed Structure Plan under clause 5.17.9.1 and if clause 5.17.10 applies, as soon as practicable after being notified of the Commission's decision under clause 5.17.10.3, the Shire is to forward a copy of the Structure Plan to—

- (a) any public authority or person that the Shire thinks fit; and
- (b) where the Structure Plan was submitted by an owner, to the owner.

5.17.12 Operation of Structure Plan

5.17.12.1 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 5.17.10.2; or
- (b) on the day on which it is adopted by the Shire under clause 5.17.9.1 in all other cases.

5.17.12.2 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.

5.17.13 Inspection of Structure Plan

The Structure Plan and the Commission's notification under clause 5.17.10.3 is to be kept at the administration centre of the Shire, and is to be made available for inspection by any member of the public during office hours.

5.17.14 Variation to Structure Plan

5.17.14.1 The Shire may vary a Structure Plan—

- (a) by resolution if, in the opinion of the Shire, the variation does not materially alter the intent of the Structure Plan;
- (b) otherwise, in accordance with the procedures set out in clause 5.17.6 to clause 5.17.11,

and clause 5.17.12 shall apply to any variation to a Structure Plan made in accordance with this clause.

5.17.14.2 If the Shire varies a Structure Plan by resolution, and the variation does not propose changes to the subdivision potential of land, the Shire is to forward a copy of the variation to the Commission within 10 days of making the resolution.

5.17.14.3 If the Shire varies a Structure Plan by resolution, and the variation proposes changes to the subdivision potential of land, the Shire is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.

5.17.14.4 As soon as practicable after receiving the copy of the variation referred to in clause 5.17.14.3, the Commission is to determine whether to endorse the proposed variation.

5.17.14.5 The Commission is to notify the Shire of its determination under clause 5.17.14.4.

5.17.14.6 A variation to a Structure Plan by resolution comes into effect—

- (a) where the variation proposes changes to the subdivision potential of land, on the day on which it is endorsed by the Commission pursuant to clause 5.17.14.4; or
- (b) on the day on which the Shire resolves to make the variation under clause 5.17.14.1 (a) in all other cases.

5.17.15 Detailed area plan

5.17.15.1 Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a Structure Plan for a particular lot or lots, a detailed area plan may be prepared by—

- (a) the Shire; or
- (b) an owner.

5.17.15.2 A detailed area plan may include details as to—

- (a) building envelopes;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;

- (h) landscaping, finished site levels and drainage;
 - (i) protection of sites of heritage, conservation or environmental significance;
 - (j) special development controls and guidelines; and
 - (k) such other information considered relevant by the Shire.
- 5.17.15.3 When a proposed detailed area plan is prepared under clause 5.17.15.1, the Shire is to—
- (a) advertise, or require the owner who submitted the proposed detailed area plan to advertise, the proposed detailed area plan for public inspection by one or more of the following ways—
 - (i) notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;
 - (ii) a sign or signs displaying notice of the proposed detailed area plan to be erected in a conspicuous place or places in the area to which the proposed detailed area plan applies; and
 - (b) give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to—
 - (i) all owners whose land is included in the proposed detailed area plan;
 - (ii) all owners and occupiers who, in the opinion of the Shire, are likely to be affected by the adoption of the proposed detailed area plan;
 - (iii) such public authorities and other persons as the Shire nominates.
- 5.17.15.4 The advertisement and notice are to—
- (a) explain the scope and purpose of the proposed detailed area plan;
 - (b) specify when and where the proposed detailed plan may be inspected; and
 - (c) invite submissions to the Shire by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.
- 5.17.15.5 The Shire is to consider all submissions received and—
- (a) approve the detailed area plan with or without conditions; or
 - (b) refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.
- 5.17.15.6 If within 60 days of receiving a detailed area plan prepared under clause 5.17.15.1(b), or such longer period as may be agreed in writing between the owner and the Shire, the Shire has not made one of the determinations referred to in clause 5.17.15.5, the Shire is deemed to have refused to approve the detailed area plan.
- 5.17.15.7 Once approved by the Shire, the detailed area plan constitutes a variation of the Structure Plan.
- 5.17.15.8 The Shire may vary a detailed area plan in accordance with the procedures set out in clause 5.17.15 onwards provided such variations do not prejudice the intention of any related Structure Plan.
- 5.17.16 Application for review (Appeal)
- 5.17.16.1 An owner who has submitted a proposed Structure Plan under clause 5.17.7.1 may apply to review, under Part 14 of the Planning Act—
- (a) any failure of the Shire to advertise, or require the owner to advertise, a proposed Structure Plan within the required time period under clause 5.17.8.1;
 - (b) any determination of the Shire—
 - (i) to refuse to adopt a proposed Structure Plan (including a deemed refusal); or
 - (ii) to require modifications to a proposed Structure Plan that are unacceptable to that owner.
- 5.17.16.2 An owner who has submitted a detailed area plan in accordance with clause 5.17.15 may apply to review, in accordance with Part 14 of the Planning Act, any discretionary decision made by the Shire under clause 5.17.15.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of Special Control Areas

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

- (a) Middle Helena Catchment Area;
- (b) Mundaring Weir Catchment Area;
- (c) Aircraft Noise Exposure Forecast;
- (d) Bush Fire Prone Areas;
- (e) Flood Prone Areas; and
- (f) Special Design Areas.

6.1.2 In respect of a Special Control Area shown on a Scheme Map, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

Note: The designation of particular parts of the district within a Special Control Area should not be interpreted to imply that areas outside the designated areas have none of the risks, hazards or values specifically ascribed to land within the designated areas.

6.2 Middle Helena Catchment Area

6.2.1 The Middle Helena Catchment Area is the catchment for that section of the Helena River from the Mundaring Weir downstream to the Helena Pumpback Dam (also known as the Lower Helena Diversion Dam). The portion of the Middle Helena Catchment Area that falls within the Shire of Mundaring is shown on the Scheme Map. The area is subject to the *Middle Helena Catchment Area Land Use and Water Management Strategy*, which identifies three priority areas (Priority 1, Priority 2 and Priority 3). These priority classifications are also shown on the Scheme Map.

6.2.2 The purpose of this Special Control Area is to implement the *Middle Helena Catchment Area Land Use and Water Management Strategy*. The objectives of this Special Control Area are to—

- (a) ensure that the long-term quality of the Middle Helena Catchment as a public drinking water source is not compromised; and
- (b) reduce potential nutrient, contaminant and sediment export into the Helena River.

6.2.3 All development within the Special Control Area requiring planning approval shall be subject to the Shire's discretion, notwithstanding that the use may be designated a "P" use under the Scheme. However, this discretion does not allow the Shire to approve a use that is prohibited ("X") under the Scheme.

6.2.4 The Shire may refer an application for planning approval to the Department of Water for comment where that application is for a use which is identified as compatible with conditions or incompatible within the relevant priority area on the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas*, incorporating the following variations to that Table specific to the Middle Helena Catchment Area—

- (a) in the P2 area, the land use "Restaurants (including cafes and tea rooms)" shall be compatible with conditions;
- (b) in the P2 area, the land use "Exhibition Centre" shall be compatible with conditions; and
- (c) in the land containing the Mundaring Recreation Oval and Golf Course (Reserve 7045), Mundaring Weir Road, Mundaring, the land uses "Irrigated golf courses or recreational parks" and "Public swimming pools/aquatic centres" shall be compatible with conditions.

6.2.5 A use which is identified as incompatible within the relevant priority area on the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas*, incorporating the variations to that Table specific to the Middle Helena Catchment Area as set out in clause 6.2.4, shall not be approved.

6.2.6 Notwithstanding clause 4.9.3 of this Scheme, a use which is a non-conforming use due to clause 6.2.5 shall not be changed to another non-conforming use that is also non-conforming due to clause 6.2.5.

6.2.7 In determining or making recommendation on an application for planning approval within the Special Control Area, or making recommendation on an application for subdivision within the Special Control Area, the Shire shall have particular regard to—

- (a) any advice received from the Department of Water;
- (b) the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas*, incorporating the variations to that Table specific to the Middle Helena Catchment Area as set out in clause 6.2.4;
- (c) the recommendations of the *Middle Helena Catchment Area Land Use and Water Management Strategy*, particularly those specific to the relevant priority area;
- (d) the requirements of State Planning Policy No. 2.7, *Public Drinking Water Source Policy*;
- (e) the potential impact of the proposal on the quality of the water resource; and
- (f) the drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.

6.2.8 The Shire may refuse any application for planning approval or may impose appropriate conditions on any planning approval so as to protect the water resource.

6.3 Mundaring Weir Catchment Area

6.3.1 The Mundaring Weir Catchment Area is the catchment for that section of the Helena River and its tributaries above the Mundaring Weir. The water impounded by Mundaring Weir is known as Lake C.Y. O'Connor. The portion of the Mundaring Weir Catchment Area that falls within the Shire of Mundaring is shown on the Scheme Map. The area is subject to the Department of Water's *Mundaring Weir Catchment Area Drinking Water Source Protection Plan*, which identifies 3 priority classification water source protection areas (Priority 1, Priority 2 and Priority 3). These priority classifications are also shown on the Scheme Map.

6.3.2 The purpose of this Special Control Area is to implement the *Mundaring Weir Catchment Area Drinking Water Source Protection Plan*. The objectives of this Special Control Area are to—

- (a) ensure the long-term quality of the Mundaring Weir Catchment as a public drinking water source is not compromised; and
- (b) reduce potential nutrient, contaminant and sediment export into the Helena River and Lake C.Y. O'Connor.

6.3.3 All development within the Special Control Area requiring planning approval shall be subject to the Shire's discretion, notwithstanding that the use may be designated a "P" use under the Scheme. However, this discretion does not allow the Shire to approve a use that is prohibited ("X") under the Scheme.

6.3.4 The Shire may refer an application for planning approval to the Department of Water for comment where that application is for a use which is identified as Conditional or Incompatible within the relevant priority classification water source protection area on the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas*, incorporating any variations to that Table specific to the Mundaring Weir Catchment Area, or any other application where it is considered there is the potential for adverse impact on the water source.

6.3.5 A use which is identified as Incompatible within the relevant priority classification water source protection area on the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas*, incorporating any variations to that Table specific to the Mundaring Weir Catchment Area, shall not be approved.

6.3.6 In determining or making recommendation on an application for planning approval within the Special Control Area, or making recommendation on an application for subdivision within the Special Control Area, the Shire shall have particular regard to—

- (a) any advice received from the Department of Water;
- (b) the Department of Water's Land Use Compatibility Table in the Water Quality Protection Note *Land Use Compatibility in Public Drinking Water Source Areas*, incorporating any variations to that Table specific to the Mundaring Weir Catchment Area;
- (c) the Department of Water's *Mundaring Weir Catchment Area Drinking Water Source Protection Plan*;
- (d) the Department of Water's *Helena River Salinity Situation Statement* (May 2007), or any successive document;
- (e) the requirements of State Planning Policy No. 2.7, *Public Drinking Water Source Policy*;
- (f) the potential impact of the proposal on the quality of the water resource; and
- (g) the drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.

6.3.7 The Shire may refuse any application for planning approval or may impose appropriate conditions on any planning approval so as to protect the water resource.

6.4 Aircraft Noise Exposure Forecast

6.4.1 The Australian Noise Exposure Forecast (ANEF) 20 and 25 contours for Perth Airport are shown on the Scheme Map. All land within the ANEF 20 contour, including that also within the ANEF 25 contour, is subject of this Special Control Area.

6.4.2 The purpose of this Special Control Area is to implement State Planning Policy No. 5.1, *Land Use Planning in the Vicinity of Perth Airport*. The objectives of this Special Control Area are to—

- (a) protect Perth Airport from unreasonable encroachment by incompatible development, particularly noise-sensitive development, to provide for its ongoing development and operation; and
- (b) minimise the impact of airport operations on residents within the Shire of Mundaring.

6.4.3 Any Single House proposed on a lot wholly within the Special Control Area shall require planning approval.

6.4.4 Any Single House on a lot partly within the Special Control Area shall require planning approval if—

- (a) the lot has an area less than 1,000 m²; and/or
- (b) the Single House is proposed to be located wholly or partly on that portion of the lot within the Special Control Area.

6.4.5 The Shire shall refer to the Westralia Airports Corporation for comment and advice any application for planning approval for—

- (a) a use identified as unacceptable on the building site acceptability table in Appendix 1 of State Planning Policy No. 5.1, with respect to the ANEF contours relevant to the subject lot;
- (b) any development involving penetration of Prescribed Airspace or other controlled activities under the *Airports (Protection of Airspace) Regulations*;
- (c) a use involving artificial light, generation of glare from reflected sunlight, or emissions of smoke, dust, other particulate matter, steam or other gas; or
- (d) any use or development which is likely to attract significant gathering of birds.

6.4.6 In considering any application for planning approval, the Shire shall have regard to the provisions of State Planning Policy No. 5.1 and to any advice received from the Westralia Airports Corporation.

6.4.7 Notwithstanding anything else in the Scheme or the Residential Design Codes, the Shire may at its discretion refuse an application for use or development due to its inconsistency with State Planning Policy No. 5.1.

6.4.8 The Shire may impose a condition or conditions on any planning approval requiring noise insulation to be installed, in accordance with State Planning Policy No. 5.1.

6.4.9 The Shire shall impose a condition on any planning approval, and shall recommend to the Commission that a condition be imposed on any subdivision approval, within the Special Control Area requiring a notification on title advising of the potential for noise nuisance, except where the development or the probable use of the land being subdivided is for a use identified as Acceptable within the relevant ANEF contours on the building site acceptability table in Appendix 1 of State Planning Policy No. 5.1.

6.5 Bush Fire Hazard

6.5.1 Areas of Extreme and Moderate bush fire hazard are shown on the Scheme Map. All of these areas comprise the Bush Fire Hazard Special Control Area. These bush fire hazard levels have been determined in accordance with the Type 1 and Type 2 Bush Fire Hazard Assessment Procedures in *Planning for Bush Fire Protection* (2001), published by the Commission and the Fire and Emergency Services Authority.

6.5.2 The purpose of the Bush Fire Hazard Special Control Area is to implement State Planning Policy 3.4 Natural Hazards and Disasters and the *Planning for Bush Fire Protection Guidelines* (2010), published by the Commission, the Fire and Emergency Services Authority and the Department of Planning, within the context of the particular local characteristics of the Shire of Mundaring. The objectives of this Special Control Area are to—

- (a) identify bush fire prone areas, where bush fires pose a significant threat to life and property;
- (b) avoid any development of habitable buildings in areas where there is a significant risk to life and property from bush fires, except where such development rights existed prior to the gazettal of this Scheme and there is no alternative location for development on a particular land parcel that has a lower risk;
- (c) encourage the improvement of vehicular access and egress for residents and fire fighting vehicles in bush fire prone areas;
- (d) ensure that a bush fire attack level assessment is carried out on land that is subject, or likely to be subject, to bush fire hazard; and
- (e) ensure that land use and development in areas where there is a significant risk to life and property from bush fires takes into account bush fire safety requirements and includes specified protection measures, while having regard for the amenity and environmental values of the locality.

6.5.3 The Bush Fire Hazard Special Control Area shall also comprise a Designated Bushfire Prone Area. Dwelling construction (including an Ancillary Dwelling) within a Designated Bushfire Prone Area will be subject to the relevant bushfire prone area building requirements of the Building Code of Australia and Australian Standard 3959, as current at the time of development.

6.5.4 The development of, or external addition to, a Single House within the Bush Fire Hazard Special Control Area shall require planning approval, but, except as otherwise required by this Scheme or the Residential Design Codes of Western Australia, an outbuilding or other development incidental to a Single House within the Special Control Area shall not require planning approval.

6.5.5 Prior to the adoption or amendment of a structure plan resulting in the introduction or intensification of development, or approval of a subdivision application within the Bush Fire Hazard Special Control Area, a bush fire attack level assessment satisfactorily addressing the level of bush fire hazard applying to the land is to be submitted.

6.5.6 An application for development approval must be accompanied by—

- (a) a bush fire attack level assessment carried out in accordance with the methodology contained in the *Planning for Bush Fire Protection Guidelines* (2010); and
- (b) a statement or report that demonstrates that all relevant bush fire protection acceptable solutions, or alternatively all relevant performance criteria, contained in the *Planning for Bush Fire Protection Guidelines* (2010) have been considered and complied with, and effectively address the level of bush fire hazard applying to the land.

6.5.7 An owner of land wholly or partly affected by the Bush Fire Hazard Special Control Area may request in writing that the Shire reconsider the bush fire hazard level applying to that land or portion thereof.

6.5.8 On receipt of a request referred to in clause 6.5.7, the Shire, having regard to the advice of the Shire's Chief Bush Fire Control Officer, may determine—

- (a) that the land or portion(s) thereof have different bush fire hazard levels; or
- (b) that the bush fire hazard levels shown on the Scheme Map are correct.

In making its decision the Shire shall determine the bush fire hazard levels applying to the site in accordance with the bush fire hazard assessment procedures in the *Planning for Bush Fire Protection Guidelines* (2010).

6.5.9 The Shire's determination pursuant to clause 6.5.8 shall be communicated to the owner in writing. The determination shall have effect notwithstanding the bushfire hazard levels shown on the Scheme Map. Where the Shire determines that the land or a portion thereof has a Low bush fire hazard level, that land or portion thereof shall not be considered a designated Bushfire Prone Area for the purpose of clause 6.5.3.

6.5.10 The Shire may amend the Bush Fire Hazard Special Control Area boundary and the bush fire hazard levels shown therein on the Scheme Map from time to time to reflect determinations pursuant to clause 6.5.8 and/or any other bush fire hazard assessments conducted within the Scheme Area.

6.5.11 In order to protect the safety of human life and property as well as the environmental and aesthetic values of bushland, there shall be a strong presumption against any rezoning or recoding of land with an Extreme bush fire hazard level to facilitate intensification of development and/or subdivision potential.

6.5.12 Subdivision and development within the Bush Fire Hazard Special Control Area shall comply with all relevant Acceptable Solutions set out in Appendix 2 of the *Planning for Bush Fire Protection Guidelines* (2010). Where a proposed subdivision or development does not comply with one or more Acceptable Solutions set out in Appendix 2 of the *Planning for Bush Fire Protection Guidelines* (2010),

the proposed subdivision or development shall be assessed by the Shire in accordance with the relevant Performance Criteria and the relevant procedures for such assessment set out in the *Planning for Bush Fire Protection Guidelines (2010)*. In determining an application for development that does not comply with one or more Acceptable Solutions set out in Appendix 2 of the *Planning for Bush Fire Protection Guidelines (2010)*, the Shire shall have regard to the advice of the Shire's Chief Bush Fire Control Officer.

6.5.13 Non-residential buildings, in which workers, occupiers or visitors may be exposed to bushfire hazard, within the Special Control Area shall be assessed in accordance with clause 6.5.12, as if it were residential development.

6.5.14 In its determination of any application for planning approval, and in providing a recommendation in relation to subdivision, the Shire is to have particular regard to—

- (a) State Planning Policy 3.4 Natural Hazards and Disasters;
- (b) the potential hazards occasioned by the vegetation, topography and prevailing winds during the bush fire season, and the extent (if any) to which any change in land use may increase such hazards;
- (b) the design and siting of buildings, works and access with reference to the performance standards set out in the *Planning for Bush Fire Protection Guidelines* and Australian Standard 3959, *Construction of Buildings in Bushfire-Prone Area*;
- (c) avenues of escape in the event of a bush fire, and the level of hazard associated with any vehicular access facilities;
- (d) practicability of reducing the risk associated with bush fire events, including fire breaks, reduction in fuel load and roof/wall irrigation systems;
- (e) the effects of any proposed fire protection measures on the amenity and environmental values of the locality, including but not limited to landscape values, Local Natural Areas and soil stability;
- (f) availability and adequacy of fire services including water supplies and equipment for use in fire fighting;
- (g) the adequacy of any fire prevention plan or fire response plan which may have been adopted for the locality; and
- (h) any advice from the Shire's Chief Bush Fire Control Officer.

6.5.15 The Shire may refuse any application for planning approval, notwithstanding that it may be for a "P" use, if it is inconsistent with the objectives or other provisions of the Bush Fire Hazard Special Control Area and/or if it does not satisfy the Acceptable Solutions or Performance Criteria in the *Planning for Bush Fire Protection Guidelines*.

6.5.16 The Shire may impose conditions on any planning approval to minimise the risk to life and/or property from bushfire, including—

- (a) the requirement to register a notification under section 70A of the *Transfer of Land Act 1893* on the title to the land giving notice of the bushfire hazard and any restrictions and/or protective measures required to be maintained at the owner's cost;
- (b) the provision of a fire fighting water supply;
- (c) the provision of fire services access;
- (d) the preparation of a fire management plan in accordance with the *Planning for Bush Fire Protection Guidelines (2010)* and implementation of specific fire protection measures set out in that plan;
- (e) the requirement for financial contributions for on-going fire equipment where a strategy has been adopted by the Shire and which clearly identifies the areas where fire equipment is to be provided, estimated cost of the fire equipment, timing of the provision of the fire equipment and detailing the equitable apportionment of the costs of providing that fire equipment.

6.5.17 Where a proposed subdivision would result in improved vehicular access and safety for adjacent or surrounding residents within the Bush Fire Hazard Special Control Area and where vehicular access in that area has been recognised as inadequate by appropriate experts, the Shire may recommend approval to the proposed subdivision, notwithstanding that such subdivision is not otherwise supported by the Scheme.

6.5.18 In the case of any subdivision approved pursuant to clause 6.5.17, the Shire may recommend to the Commission that the subdivider be responsible for the construction of all of the improved vehicular access route, notwithstanding that it may serve other properties.

6.5.19 In any subdivision of land zoned Rural Residential within the Special Control Area, where the subject land is part of a wider area that has or has had subdivision potential under the Scheme, and where provision of a water tank is required, the Shire may recommend a condition of subdivision approval requiring a financial contribution towards the coordinated provision of an appropriately located water tank site and water tank with hydrant or standpipe in accordance with a contribution plan adopted by the Shire.

6.6 Flood Prone Areas

6.6.1 Flood Prone Areas are delineated on the Scheme Map in accordance with 1 in 100-year flood levels and associated mapping produced by the Department of Water. The Flood Prone Areas Special Control Area highlights the potential for flooding within this area and provides a basis for avoiding or minimising flood damage associated with any development in this area. Flood Prone Areas include Floodways and Flood Fringes.

6.6.2 All building development or earthworks within Flood Prone Areas shall require planning approval, and it shall be within the discretion of the Shire to refuse any use or development, notwithstanding that the use may be designated a permitted (“P”) use under the Scheme.

6.6.3 No building or filling is to take place within a Floodway, except for a public work having all necessary approvals under any written law.

6.6.4 Unless otherwise approved by the Shire, all habitable buildings constructed within the Flood Fringe are to have a floor level of at least 0.5 m above the relevant 1 in 100-year flood level as determined by the Department of Water.

6.6.5 Where building is approved within the Flood Fringe, appropriate measures are to be employed to protect the foundations from water erosion during extreme flood events.

6.6.6 The Shire may refuse any application for planning approval or impose conditions on any planning approval so as to—

- (a) constrain the location of development;
- (b) control the form of construction, including foundations and associated works;
- (c) determine the form, location and construction of access; and
- (d) require the registration of a notification under section 70A of the *Transfer of Land Act 1893* on the title to the land, giving notice of the potential risk associated with flood events, at the applicant’s cost.

6.7 Special Design Area No. 1

6.7.1 Special Design Area No. 1 is bounded by Coongan Avenue, Great Eastern Highway and Scott Street, Greenmount and is delineated on the Scheme Map. The purpose of this Special Control Area is to apply particular controls to an area identified for medium density housing but constrained by existing lot layout and vehicular access issues.

6.7.2 Local Subdivision and Infrastructure Plan No. 326, adopted pursuant to Town Planning Scheme No. 3, has been revoked by clause 5.7.3.3 of this Scheme. A new Structure Plan is required for this Special Control Area as a prerequisite to subdivision. This Structure Plan is to—

- (a) avoid or minimise additional direct vehicular access onto Great Eastern Highway or Scott Street; and
- (b) maximise the opportunities for landowners to subdivide independent of other landowners, and minimise the number of landowners who must subdivide as a prerequisite to other landowners subdividing.

6.7.3 No Grouped Dwelling or Multiple Dwelling shall be permitted within the Special Control Area in the absence of an endorsed Structure Plan.

6.8 Special Design Area No. 2

6.8.1 Special Design Area No. 2 applies to Lots 85 and 213 Balfour Road, and a portion of adjacent unnamed road reserve, Swan View, and is delineated on the Scheme Map. The purpose of this Special Control Area is to provide for development of the site in such a manner as to address and mitigate noise and vibration from the adjacent railway lines, the Aircraft Noise Exposure Forecast Special Control Area and setbacks from the power lines affecting the site.

6.8.2 All single houses shall require planning approval.

6.8.3 Investigations and treatments to respond to site conditions are to be consistent with relevant Commission policy and Australian Standards.

6.8.4 Dwellings likely to be affected by rail and aircraft noise and/or vibration are to be constructed in accordance with relevant Australian Standards.

6.9 Special Design Area No. 3

6.9.1 Special Design Area No. 3 applies to a portion of Lot 206 Helena Valley Road, Helena Valley and is delineated on the Scheme Map. The purpose of this Special Control Area is to apply particular controls to an area coded R20, but where development up to the density allowed under the R30 code may be supported in certain circumstances.

6.9.2 Notwithstanding the Residential Design Code of R20 applying to the area, the Shire may permit development, or support subdivision, in accordance with the R30 Residential Design Code where—

- (a) the R30 code is delineated on a Structure Plan approved by the Shire and adopted by the Commission;
- (b) more than 70% of the proposed lot is outside of the Australian Noise Exposure Forecast (ANEF) 20 to 25 contours for Perth Airport as shown on the Scheme Map; and
- (c) a high standard of dwelling design is achieved in accordance with any Detailed Area Plan or local planning policy, relating to the area, adopted by the Shire.

6.9.3 In considering any application for planning approval or making recommendation on any application for subdivision, the Shire shall have regard to any Detailed Area Plan or local planning policy, relating to the area, adopted by the Shire.

6.10 Special Design Area No. 4

6.10.1 Special Design Area No. 4 applies to a portion of Lot 2 Helena Valley Road, Helena Valley and is delineated on the Scheme Map. The purpose of this Special Control Area is to apply specific controls relating to the protection of the Bush Forever site on a portion of the subject land.

6.10.2 The Shire shall not support any subdivision of the identified Bush Forever site on the subject land.

6.10.3 No development shall be approved within the Bush Forever site on the subject land other than appropriate incidental development associated with recreational or conservation use of the Bush Forever site.

6.10.4 While a Rural Residential 2 zone applies to the subject land, the balance portion of the subject land outside of the Bush Forever site may be subdivided down to a minimum lot size of 1 ha so long as an overall average lot size no less than 2 ha is achieved for the entire subject land, in accordance with Clause 5.9.1.4.

6.11 Special Design Area No. 5

6.11.1 Special Design Area No. 5 applies to Lot 3 Old Northam Road, Chidlow and is delineated on the Scheme Map. The purpose of this Special Control Area is to apply specific controls relating to emergency access, as much of the subject land and most of the adjacent area has an Extreme bush fire hazard.

6.11.2 The Shire shall recommend to the Commission that, as a condition of any approval to subdivide the land subject of this Special Design Area, trafficable emergency access shall be constructed along the Snowden Road reserve adjacent to the land and along the eastern boundary of the land, providing access between Snowden Road and Old Northam Road.

6.12 Special Design Area No. 6

6.12.1 Special Design Area No. 6 applies to Lot 20 (No. 90) Falls Road, Parkerville and is delineated on the Scheme Map. The purpose of this Special Control Area is to apply specific controls relating to bush fire risk and protection of Local Natural Areas, as much of the subject land and most of the adjacent area has an Extreme bush fire hazard.

6.12.2 The Shire shall recommend to the Commission that, as a condition of any approval to subdivide the land subject of this Special Design Area, lots be configured to provide for building envelopes in predominantly cleared portions of the land, adequately separated from bush fire risk, with appropriate access and egress and without the need to significantly clear vegetation.

PART 7—HERITAGE PROTECTION

7.1 Heritage List

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

7.1.2 In the preparation of the Heritage List the Shire is to—

- (a) have regard to the municipal inventory prepared by the Shire under section 45 of the *Heritage of Western Australia Act 1990*; and
- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

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

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

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

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

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

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

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

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

7.2 Designation of a heritage area

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

7.2.2 The Shire is to—

- (a) adopt for each heritage area a Local Planning Policy which is to comprise—
 - (i) a map showing the boundaries of the heritage area;
 - (ii) a record of places of heritage significance; and
 - (iii) objectives and guidelines for the conservation of the heritage area; and

- (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.

7.2.3 If the Shire proposes to designate an area as a heritage area, the Shire 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 two consecutive weeks in a newspaper circulating in the Scheme area;
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) such other methods as the Shire considers appropriate to ensure widespread notice of the proposal; and
- (c) carry out such other consultation as the Shire considers appropriate.

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

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

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

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

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

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

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

7.3 Heritage agreements

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

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

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

7.4 Heritage assessment

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

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

Where desirable to—

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

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

PART 8—DEVELOPMENT OF LAND

8.1 Requirement for approval to commence development

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

Note: 1. The planning approval of the Shire is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).

Note: 2. Development includes the erection, placement and display of any advertisements.

Note: 3. Approval to commence development may also be required from the Commission under the Metropolitan Region Scheme and by the Minister for the Environment for development on land within the Swan River Trust Development Control Area.

8.2 Permitted development

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

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
 - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) included on the Heritage List under clause 7.1 of the Scheme or included in the municipal heritage inventory adopted by the Shire;
- (b) the erection on a lot of a Single House including any extension, ancillary outbuildings and swimming pools, except where—
 - (i) the proposal requires the exercise of a discretion by the Shire because it does not comply with one or more of the Acceptable Development provisions of the Residential Design Codes;
 - (ii) the development will be located in a heritage area designated under the Scheme;
 - (iii) the development will be located in a Special Control Area designated under Part 6 of the Scheme, where the provisions of Part 6 of the Scheme for that Special Control Area require planning approval for a single house;
 - (iv) the development will be located on land within the Swan River Trust Development Control Area;
 - (v) the development will be located outside of the building envelope(s) designated for the lot in the Register of Building Envelopes;
 - (vi) the proposal requires the exercise of a discretion by the Shire under the Scheme to vary one or more requirements of an adopted Precinct Plan;
 - (vii) the development is on land zoned Rural Residential, Rural Small Holdings or General Agriculture, and will be located wholly or partly within a Local Natural Area identified in the Local Planning Strategy on a lot where a portion of the lot outside of the Local Natural Area(s) is sufficiently large to accommodate the proposed development;
 - (viii) within a Bush Forever site, contained within the State Government's document *Bush Forever*;
 - (ix) the development is on a lot zoned Residential and identified in the Local Planning Strategy as containing Priority or Declared Rare Flora, Priority Fauna or granite outcrops;
 - (x) the development is, or includes, a transportable structure; or
 - (xi) to vary any of the other development requirements set out in Part 5 of the Scheme.
- (c) the demolition of any building or structure except where the building or structure is—
 - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
 - (iii) included on the Heritage List under clause 7.1 of the Scheme; or
 - (iv) located within a heritage area designated under the Scheme;
- (d) a home office;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the Shire agrees;
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area or included in the municipal heritage inventory adopted by the Shire;
- (g) the erection, construction, maintenance, improvement or alteration of a boundary fence or wall, except where the proposal is contrary to, or requires the exercise of a discretion by the Shire under, the Scheme or requires the exercise of a discretion by the Shire under the Residential Design Codes;
- (h) minor filling, excavation or re-contouring of land, provided there is no more than 0.5 m change to the natural ground level, which change is to include any sand pad or site works associated with building development;
- (i) removal of vegetation except where approval of such development is otherwise required by the provisions of the Scheme;
- (j) the use of any land or building on an occasional basis for the purpose of recreation, entertainment, community or other similar activity, such as a market, fair, sausage sizzle, cake stall or artistic performance, which in the opinion of the Shire does not prejudice the orderly and proper planning or the preservation of the amenity of the locality in which the land or building is situated.

Note 1: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under section 157 of the Planning Act.

Note 2: Works by public authorities, acting pursuant to the provisions of any Act, in, over or under a public street, are exempt from the requirement for planning approval, either as Public Works under the Planning Act or, in the case of a utility provider, exempt pursuant to their particular enabling Act.

8.3 Amending or revoking a planning approval

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

8.4 Unauthorized existing developments

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

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

Note: 1. Applications for approval to an existing development are made under Part 9.

Note: 2. The approval by the Shire of an existing development does not affect the power of the Shire to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.

8.5 Requirement for consultation to commence mining

In considering proposals to commercially extract minerals, the Shire may exercise its discretion to inform the Minister of Mines and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of the Scheme and the Local Planning Strategy.

PART 9—APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of application

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

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a “P” use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
- (c) commencement of a “D” use or an “A” use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under clause 10.8.1;
- (l) the erection, placement or display of an advertisement; and
- (m) any other use or development requiring planning approval under the Scheme

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

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

- Note: 1. Under the provisions of the Metropolitan Region Scheme, an application for planning approval in respect of land which is wholly within a regional reserve is to be referred by the Shire to the Commission for determination. No separate determination is made by the Shire.
2. An application for planning approval in respect of land which is wholly within the Swan River Trust Development Control Area is to be referred by the Shire to the Swan River Trust for determination by the Minister responsible for the *Swan and Canning Rivers Management Act 2006*.
 3. An application for planning approval in respect of land which is zoned under the Metropolitan Region Scheme and is—
 - (a) affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme;
 - (b) within or partly within a planning control area declared by the Commission under section 112 of the Planning Act;
 - (c) partly within the Swan River Trust Development Control Area or which abuts waters that are in that area; or

- (d) affected by a notice of delegation published in the *Gazette* by the Commission under section 16 of the Planning Act and is not of a type which may be determined by the Shire under that notice,

is to be referred by the Shire to the Commission in accordance with the requirements of the Metropolitan Region Scheme and notice of delegation. Separate determinations are made by the Shire under the Scheme and the Commission under the Region Scheme.

4. An application for planning approval in respect of land which is zoned under the Metropolitan Region Scheme and abuts the Swan River Trust Development Control Area shall be referred to the Swan River Trust for advice. Where a recommendation made by the Swan River Trust is not supported by the Shire, the application shall be forwarded to the Commission for determination.

9.1.3 The Shire may refuse to consider an application for approval, which does not conform to the requirements of this Part.

9.2 Accompanying material

9.2.1 Unless the Shire 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, floor area 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, such plans to include details of proposed materials;
- (c) any specialist studies that the Shire 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 Shire may require to enable the application to be determined.

9.3 Additional material for heritage matters

Where an application relates to a place entered on the Heritage List or within a heritage area, the Shire may require an applicant to provide one or more of the following to assist the Shire 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 Shire 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;
- (c) an assessment of the cultural heritage significance of any existing buildings and the development site itself according to policy guidelines adopted by the Shire in relation to the precinct or place which may be affected.

9.4 Advertising of applications

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

- (a) an “A” use as referred to in clause 4.3.2; or
- (b) a use not listed in the Zoning Table in accordance with clause 4.4.2(b),

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

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

9.4.3 The Shire 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 Shire, are likely to be affected by the granting of planning approval, stating that submissions may be made to the Shire 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 Shire by a specified date being not less than 14 days from the day the notice is published;
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

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

9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the administration centre of the Shire.

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

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with other authorities

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

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

10.2 Matters to be considered by the Shire

The Shire 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 Shire relevant to the use or development the subject of the application—

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved 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 Shire under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Shire under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1 or the Municipal Inventory adopted by the Shire, 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 persons with a disability;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any known heritage site under the *Aboriginal Heritage Act 1972*;
- (zb) any other planning consideration the Shire considers relevant.

10.3 Determination of applications

In determining an application for planning approval the Shire may—

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

10.4 Form and date of determination

10.4.1 As soon as practicable after making a determination in relation to the application, the Shire 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 Shire's determination.

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

10.5 Term of planning approval

10.5.1 Where the Shire grants planning approval for the development of land—

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

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

10.6 Temporary planning approval

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

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

10.7 Scope of planning approval

Planning approval may be granted—

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

10.8 Approval subject to later approval of details

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

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

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

10.9 Deemed refusal

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

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

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

10.10 Reviews

An applicant aggrieved by a determination of the Shire in respect of the exercise of a discretionary power under the Scheme may seek a review of the determination under Part 14 of the Planning Act.

PART 11—ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the Shire

11.1.1 The Shire of Mundaring in implementing the Scheme has the power to—

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

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

11.2 Removal and repair of existing advertisements

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

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

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

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

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

11.2.4 A person on whom notice is served under this clause may seek a review under Part 14 of the Planning Act of the determination of the Shire to serve the notice.

11.3 Delegation of functions

11.3.1 The Council of the Shire may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the Chief Executive Officer (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 Shire 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.

11.3.5 The Shire may by decision of absolute majority revoke or rescind any delegation made under the Scheme.

11.4 Person must comply with provisions of the Scheme

A person must not—

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area—
 - (i) otherwise than in accordance with the Scheme;
 - (ii) unless all approvals required by the Scheme have been granted and issued;
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and

- (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the Shire under the Scheme with respect to that building or that use.

Note: Section 218 of the Planning Act 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 an area the subject of a local planning otherwise than 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 the Act or the scheme with respect to the development, or otherwise fails to comply with any such condition,

is guilty of an offence.

Penalty: \$200,000, and a daily penalty of \$25,000.

11.5 Compensation

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

11.5.2 In the case of a claim in respect of injurious affection referred to in section 174(1)(c) of the Planning Act, the time within which a claim must be made is 6 months after the gazettal date of the Scheme.

Note: 1. A claim for compensation in respect of the refusal of planning approval or the imposition of conditions on land reserved under the Metropolitan Region Scheme should be made under the Planning Act.

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

11.6 Purchase or taking of land

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

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

Note: Sections 190 and 191 of the Planning Act empower the Shire to purchase or compulsorily acquire land comprised in a scheme.

SCHEDULES

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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;

- “**advertiser**” means an owner or occupier of premises where an advertisement is displayed, or any other entity which has caused an advertisement to be displayed in any premises.
- “**amenity**” means all those factors which combine to form the character of an area and include the present and likely future amenity;
- “**amusement machine**” means a machine designed and constructed for the purpose of enabling a person or persons to participate in a game or an amusement, involving payment of money, but does not include a lottery ticket dispensing machine;
- “**building envelope**” means a specified 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 are to be contained;
- “**Commission**” means the Western Australian Planning Commission established by section 7 of the *Planning and Development Act 2005*;
- “**commercial vehicle**” means a vehicle, whether licensed or not, which is used or designed or intended for use in conjunction with a profession, trade or business and, without limiting the generality of the foregoing, shall include trailers, tractors and their attachments, buses and earthmoving machines, whether self-propelled or not, but shall not include a passenger car, a derivative [as defined by the *Road Traffic Code 2000* (as amended)], or a van, utility or light truck, which is rated by the manufacturer as being suitable to carry loads of up to 1.5 tonnes;
- “**conservation**”, when used with respect to heritage 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*;
- “**development**” has the same meaning as in section 4 of the *Planning and Development Act 2005*;
- “**flood fringe**” means that area beyond the extent of the floodway which is affected by flooding, where the natural ground level is below the 1 in 100-year flood level;
- “**floodway**” means that part of a floodplain which determines the flow capacity of the waterway, and where any obstruction within the area has the potential to increase the flood height upstream of the obstruction;
- “**floor area**” has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;
- “**frontage**”, when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
 - (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;
- “**Gazettal date**”, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 87 of the *Planning and Development Act 2005*;
- “**gross lettable area (GLA)**” means, in relation to a building, the area of all floors capable of being exclusively occupied and used by a tenant, which area shall be measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas;
- “**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 natural ground level and the finished wall or roof height directly above;
- “**hive**” means a moveable or fixed structure, container or object in which a colony of bees is kept;
- “**incidental use**” means a use of premises which is ancillary and subordinate to the predominant use;
- “**infrastructure**” means such services and items as are or may reasonably be required to enable land to be subdivided and developed including the services reasonably required or expected to be provided in a fully developed area of the kind in question and without limiting the generality of the foregoing, may include such items as sewerage, drainage, water supply, power supply, telecommunications, thoroughfares and transport services;
- “**local government**” means the Shire of Mundaring (the Shire);
- “**Local Natural Area**” has the same meaning as in the Shire’s Local Biodiversity Strategy, adopted by the Shire;
- “**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 Act but does not include a strata or survey strata lot;
- “**Metropolitan Region Scheme**” means the Metropolitan Region Scheme within the meaning of the *Planning and Development Act 2005*;
- “**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” means a use of land which although lawful immediately prior to the coming into operation of the Scheme is not in conformity with a provision of the Scheme dealing with the zoning or classification of land and the permissibility of uses on land so zoned or classified. The term shall apply in the same way to a use becoming unlawful as a result of an amendment of the Scheme. A use is not lawful for the purpose of this definition if any planning approval of the Council or other planning authority was not obtained;

“occupier” in relation to any land, means—

- (a) the person by whom or on whose behalf the land is actually occupied and will include a lessee or licensee, and if an owner is on the land, will include the owner; or
- (b) if there is no occupier, the person entitled to possession of the land and includes the owner; or
- (c) a person in unauthorized occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;

“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;

“park home” has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

“place”, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;

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

“plot ratio”, in the case of residential dwellings has the same meaning as in the Residential Design Codes, and in the case of non-residential buildings means the ratio of the total floor area of a building to the area of land within the boundaries of the lots on which that building is located;

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

“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;

“remnant native vegetation” has the same meaning as “native vegetation” in Clause 51A of the *Environmental Protection Act 1986* (as amended) and as further defined by Clause 4 of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*;

“Residential Design Codes” means the Residential Design Codes in Appendix 1 to the Western Australian Planning Commission Statement of Planning Policy No. 3.1, as amended from time to time;

“retail” means the sale or hire of goods or services to the public;

“setback” means the horizontal distance between a wall or supporting structure at any point and an adjacent lot boundary measured at right angles (90°) to the boundary;

“Shire” means the Shire of Mundaring;

“site coverage” means the ratio of the floor area at ground floor level of all development on a lot to the area of the lot;

“street verge” means the land within a road reserve between the boundary with an adjacent lot and the road pavement;

“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;

“watercourse” means any river, stream or creek in which water flows in a natural channel, whether permanently or intermittently;

“**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;

“**activity centre**” has the same meaning as in State Planning Policy 3.1 Residential Design Codes;

“**aged or dependent persons’ dwelling**” means a dwelling, either in isolation or in a group, designed for the accommodation of aged persons or dependent persons, as defined in the Residential Design Codes, and used for the accommodation of one or more aged persons or dependent persons or the surviving spouse of such a person;

“**aged persons’ village**” means five or more aged or dependent persons’ dwellings and may include buildings and parts of buildings used for communal facilities, food preparation, dining, recreation, laundry or medical care;

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

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

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

“**agroforestry**” means land used commercially for tree production and agriculture where trees are planted in blocks of more than 1 hectare;

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

“**ancillary dwelling**” in the Residential zone has the same meaning as in the *Residential Design Codes*; and in all other zones means self-contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling;

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

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

“**aquaculture**” shall have the same meaning as given to the term in and for the purposes of the *Fish Resources Management Act 1994*;

“**auction mart**” means premises on or in which goods are exposed or offered for sale by auction, but does not include a place used for the sale by auction of fresh food, fruit, vegetables or livestock;

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

“**beekeeping**” means the keeping of bees in more than 2 hives on a lot;

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

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

“**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;

“**car wash**” means any land or buildings used for vehicle washing and cleaning on a commercial basis;

“**cattery**” means land or buildings where more than 3 cats over the age of 3 months are kept;

- “**child care premises**” means land or buildings used for a child care service as defined under section 4 of the *Child Care Services Act 2007*, but does not include family day care;
- “**cinema/theatre**” means premises where the public may view a motion picture or theatrical production;
- “**civic use**” means premises used by a government department, an instrumentality of the Crown, or the Shire, for administrative, recreational or other purposes;
- “**club premises**” means premises used by a legally constituted club or association or other body of persons united by a common interest;
- “**commercial vehicle parking**” means the parking of a commercial vehicle as defined in this Scheme;
- “**community purpose**” means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations involved in activities for community benefit;
- “**consulting rooms**” means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;
- “**corrective institution**” means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;
- “**dam**” means a barrier or structure constructed to capture surface runoff, or to hold back or constrict the flow of water in a watercourse, but excludes any drainage works undertaken as part of an approved subdivision of land, or public works undertaken by the authority responsible for the management or maintenance of the particular watercourse;
- “**display home/land sales centre**” means a dwelling or structures (or part thereof) intended to be open to the public for inspection and/or enquiries for the purpose of marketing land and/or dwellings and/or the services of a particular builder or building company;
- “**educational establishment**” means premises used for the purposes of education and includes a school, tertiary institution, business college, academy, riding school or other educational centre;
- “**equipment hire**” means the use of land and/or buildings for the storage and hire of domestic trailers, lawnmowers and other machinery and bulky equipment, but does not include the hire of motor vehicles, caravans or boats;
- “**exhibition centre**” means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;
- “**family day care**” means premises used to provide family day care in accordance with the *Child Care Services Act 2007*;
- “**fast food outlet**” means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, on or off the premises, but does not include a lunch bar;
- “**fuel depot**” means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;
- “**funeral chapel**” means a building or part of a building where funeral services are performed, and may include facilities for the viewing of bodies which have been prepared for burial, but does not include the preparation or storage of bodies;
- “**funeral parlour**” means premises used to prepare and store bodies for burial or cremation;
- “**garden centre/nursery**” means land or buildings used to propagate, rear and sell plants and to store, display and sell garden products, including garden ornaments, seeds, domestic garden implements and motorised implements, but does not include the manufacture of pre-fabricated garden buildings;
- “**grouped dwelling**” has the same meaning as in the *Residential Design Codes*;
- “**holiday accommodation**” means premises used for accommodation and recreation for holiday purposes but does not include a hotel, motel, bed and breakfast or caravan park;
- “**home business**” means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—
- (a) does not employ more than 2 people not members of the occupier’s household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 50 m², or if located in the Rural Small Holdings zone or the General Agriculture zone, an area in excess of 100 m²;
 - (d) does not involve the retail sale, display or hire of goods of any nature;
 - (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
 - (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

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

- (a) does not employ any person not a member of the occupier’s household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 m²;
- (d) does not display a sign exceeding 0.2 m²;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

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

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

“hospital” means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital, but excludes a nursing home;

“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 licensed bar or motel;

“industry” means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for—

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

incidental to any of those industrial operations;

“industry—cottage” means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which—

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier’s household;
- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50 m², or if located in the Rural Small Holding zone or the General Agriculture zone, an area in excess of 100 m²; and
- (e) does not display a sign exceeding 0.2 m² in area;

“industry—extractive” means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry—mining;

“industry—general” means an industry other than a cottage, extractive, light, mining, noxious, rural or service industry;

“industry—light” means an industry—

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

“industry—mining” means land used commercially to extract minerals from the land;

“industry—rural” means—

- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes;

“industry—service” means—

- (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

- “kennels”** means any land or building used for the purpose of keeping, breeding or temporary care of dogs where such premises are registered or required to be registered under the *Dog Act 1976* and any by-laws made under that act;
- “licensed bar”** means a tavern, or a small bar subject of a small bar license under section 41 of the *Liquor Control Act 1988*;
- “lunch bar”** means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas, and catering primarily for workers in the immediate locality;
- “market”** means premises used for the display and sale of goods from stalls by independent vendors;
- “medical centre”** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);
- “motel”** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Control Act 1988*;
- “motor vehicle, boat or caravan sales”** means premises used to sell or hire motor vehicles, boats or caravans, but excludes equipment hire;
- “motor vehicle repair”** means premises used for or in connection with—
- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
 - (b) repairs to tyres,
- but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;
- “motor vehicle wash”** means premises where the primary use is the washing of motor vehicles;
- “multiple dwelling”** has the same meaning as in the *Residential Design Codes*;
- “night club”** means premises—
- (a) used for entertainment with or without eating facilities; and
 - (b) licensed under the *Liquor Control Act 1988*;
- “nursing home”** means premises in which persons who do not require constant medical attention are received as patients and lodged for the purposes of medical supervision and nursing care;
- “office”** means premises used for administration, clerical, technical, professional or other like business activities;
- “outbuilding”** has the same meaning as in the *Residential Design Codes*;
- “park home park”** has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;
- “place of worship”** means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;
- “plantation”** has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;
- “reception centre”** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;
- “recreation—private”** means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;
- “recreation—public”** means land used for indoor or outdoor leisure, recreation or sport which are usually open to the public without charge;
- “residential building”** has the same meaning as in the *Residential Design Codes*;
- “restaurant”** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*;
- “restricted premises”** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- (a) publications that are classified as restricted under the *Classification (Publications Films and Computer Games) Enforcement Act 1996*;
 - (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;
- “roadside stall”** means a place, stand, vehicle or other thing which offers for sale to the general public, produce or any commodity which is grown or manufactured on the land or site, upon which the stall is located;
- “rural pursuit”** means any premises used for—
- (a) the rearing or agistment of animals;
 - (b) the stabling, agistment, or training of horses;
 - (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
 - (d) the sale of produce grown solely on the lot,
- but does not include agriculture—extensive or agriculture—intensive;

- “rural workers’ accommodation”** means premises used for accommodation by a person or persons and the spouse and dependants of that person or persons engaged in agriculture or animal husbandry on the same land and includes both permanent dwellings and temporary accommodation for seasonal workers;
- “salvage yard”** means any land or buildings used for the storage or sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery and boats;
- “service station”** means premises used for the retail sale of petroleum products and motor vehicle accessories and may include—
- (a) the retail sale of convenience goods commonly sold in supermarkets, delicatessans or newsagents; and/or
 - (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles,
- but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;
- “shop”** means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;
- “showroom”** means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;
- “single house”** has the same meaning as in the *Residential Design Codes*;
- “stock yards”** means premises used for the sale of animal stock and/or the holding of animals prior to sale;
- “storage”** means premises used for the storage of goods, equipment, plant or materials;
- “tavern”** means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;
- “telecommunications installation—small scale commercial”** means masts, aerials and associated equipment or other equipment of a like kind considered by the Shire to be visually unobtrusive, used by commercial enterprises for the transmission or reception of communications or electronic signals but does not include any other type of building or equipment requiring frequent servicing;
- “telecommunications installation—large scale commercial”** means buildings, masts, aerials and associated equipment used by commercial enterprises for the transmission or reception of communication or electronic signals;
- “trade display”** means premises used for the display of trade goods and equipment for the purpose of advertisement;
- “transportable structure”** means a structure that is brought to a property and is held in place primarily by its own mass and includes sea containers, decommissioned railway carriages and transport conveyances and transportable buildings;
- “transport depot”** means premises used for the parking or garaging of two or more commercial vehicles, or premises used for the transfer of goods or people from one such vehicle to another and includes the maintenance and repair of such vehicles;
- “vehicle wrecking”** means any land or buildings used for the breaking up, dismantling or storage of vehicles, and includes the sale of second hand parts and accessories;
- “veterinary centre”** means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;
- “warehouse”** means premises used to store or display goods and may include sale by wholesale;
- “winery”** means premises used for the production of viticultural produce and may include sale of the produce and/or the incidental use of a restaurant in association with the winery.
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SCHEDULE 2
ADDITIONAL USES

[cl. 4.5]

No.	Description of land	Additional use	Conditions
1	Lots 2, 4, 13, 16, 19 and 20 Great Eastern Highway and Lot 17 Coongan Avenue, Greenmount	<ul style="list-style-type: none"> • office 	<ol style="list-style-type: none"> 1. All development relating to additional uses shall be at the Shire's discretion. 2. Vehicular access and egress to/from Great Eastern Highway shall be to the satisfaction of Main Roads Western Australia and may require agreed shared access arrangements with adjoining lots as a prerequisite to approval.
2	Lot 1 Old York Road, Greenmount	<ul style="list-style-type: none"> • liquor store • shop 	<ol style="list-style-type: none"> 1. All development relating to additional uses shall be at the Shire's discretion. 2. Clauses 5.13.2.1 and 5.13.2 with respect to retail floorspace shall apply to this site as if it were zoned Local Centre.
3	Portion of Lot 7 and Lots 1, 3-7, 116, 364-368, 371-373 and 441-443 Morrison Road, Swan View	<ul style="list-style-type: none"> • lunch bar • medical centre • office • restaurant • shop 	<ol style="list-style-type: none"> 1. All development relating to additional uses shall be at the Shire's discretion after giving special notice in accordance with clause 9.4. 2. Additional uses shall only be approved if carried out in existing residences or other existing buildings on each lot, or if in the opinion of the Shire any new buildings are of a size and appearance in keeping with the scale and style of adjacent existing houses. 3. The Shire shall not approve a Shop unless such use is limited to the provision of services of a personal nature (including a hairdresser or beauty therapist).
4	Lot 501 Richardson Road, Hovea	<ul style="list-style-type: none"> • camping ground • uses incidental to the above 	<ol style="list-style-type: none"> 1. All development relating to additional uses shall be at the Shire's discretion. 2. Development shall be sited so as to avoid or minimise the clearing of Local Natural Areas.
5	Lot 5 Mundaring Weir Road, Mundaring	<ul style="list-style-type: none"> • psychotherapeutic and rehabilitation centre • residential quarters including chalets • meditation room • craft/workshop machinery shed • kiln shed • uses incidental to the above 	<ol style="list-style-type: none"> 1. All development relating to additional uses shall be at the Shire's discretion. 2. The maximum number of persons resident in the facility at any one time shall be 18.
6	Lot 238 Binder Street, Mount Helena	<ul style="list-style-type: none"> • industry—rural 	<ol style="list-style-type: none"> 1. All development relating to additional uses shall be at the Shire's discretion after giving special notice in accordance with clause 9.4. 2. Rural industry use on the site shall be limited to manufacture and sale of chaff.

No.	Description of land	Additional use	Conditions
7	Lot 34 Bunning Road, Mount Helena	<ul style="list-style-type: none"> • meditation centre • uses incidental to the above 	1. All development relating to additional uses shall be at the Shire's discretion.
8	Lot 2 Great Eastern Highway, Sawyers Valley	<ul style="list-style-type: none"> • service station • restaurant • shop 	1. All development relating to additional uses shall be at the Shire's discretion.
9	Lot 13 Leschenaultia Place, Chidlow	<ul style="list-style-type: none"> • camping ground • uses incidental to the holiday accommodation, camping ground or private recreation uses approved on the lot 	1. All development relating to additional uses shall be at the Shire's discretion.
10	Lot 102 Toodyay Road, Bailup	<ul style="list-style-type: none"> • tourist activities associated with farming, including showroom and coffee shop 	1. All development relating to additional uses shall be at the Shire's discretion.

SCHEDULE 3
RESTRICTED USES

[cl. 4.6]

No.	Description of land	Restricted use	Conditions
1	Lot 12 Pine Terrace, Darlington	<ul style="list-style-type: none"> • aged or dependent persons' dwellings • aged persons/ village 	1. All development relating to restricted uses shall be at the Shire's discretion.
2	Lots 20-22 and 25-28 Wandeara Crescent, Mundaring (portion of lots fronting Darkan Street as delineated on the Scheme Map)	<ul style="list-style-type: none"> • single house • home occupation • storage • car parking 	<p>1. All development relating to restricted uses, other than a single house, shall be at the Shire's discretion.</p> <p>2. The use of the area for storage or car parking shall be at the Shire's discretion after giving special notice in accordance with clause 9.4. These uses shall only be permitted if incidental to the approved use(s) on the portion of the lot zoned Service Commercial and not subject to Restricted Use.</p> <p>3. Any use or development, other than a single house (including any home occupation) shall be screened from view from Darkan Street by—</p> <p style="margin-left: 40px;">(a) a visually impermeable wall of a minimum 2 m in height; and</p> <p style="margin-left: 40px;">(b) landscaping treatment,</p> <p>to the satisfaction of the Shire, in order to maintain the residential amenity of Darkan Street.</p> <p>4. No direct vehicular access shall be allowed onto Darkan Street other than for a single house (including any home occupation carried out on the portion of the lot subject to Restricted Use).</p>

SCHEDULE 4
SPECIAL USE ZONES

[cl. 4.7.1]

No.	Description of land	Special use	Conditions
1	Lot 500 Beaconsfield Avenue, Midvale	<ul style="list-style-type: none"> • child care premises • consulting rooms • medical centre • educational establishment • office 	<p>1. All development shall be at the Shire's discretion.</p> <p>2. Advertising on the site shall be limited in accordance with the residential setting of the site. No advertising other than a small name plate stating the name of the occupying service shall be fixed to buildings on the site. A single sign, which may be illuminated, advertising all services on the site, shall be permitted in a location approved by the Shire.</p>
2	Lot 10815 Longmore Loop and Portions of Lots 20 and 21 Weld Street, Swan View	<ul style="list-style-type: none"> • lifestyle village with permissibility of land uses as follows— <li style="padding-left: 20px;">“P” (as in clause 4.3.2 of the Scheme) uses— <li style="padding-left: 40px;">• grouped dwellings <li style="padding-left: 40px;">• communal facilities associated with grouped dwellings 	<p>1. Development shall generally accord with the density provisions of the Residential R30 code and a development plan to be prepared to the satisfaction of the Shire.</p> <p>2. The development plan referred to in Condition 1 above is to address the following—</p> <ul style="list-style-type: none"> (i) finished levels; (ii) retaining walls; (iii) drainage; (iv) visitor parking; (v) building elevations; (vi) type of boundary fencing; (vii) security measures; (viii) garbage disposal arrangements; (ix) pedestrian access; (x) landscaping; (xi) design guidelines; (xii) drainage measures (including calculations for compensating basin); (xiii) crossover locations; and (xiv) geotechnical report.
3	Lot 200 Innamincka Road, Greenmount	<ul style="list-style-type: none"> • private school • place of worship • uses incidental to the above 	<p>1. All development shall be at the Shire's discretion.</p>
4	Lot 9 Coongan Avenue, Greenmount	<ul style="list-style-type: none"> • aged persons' village • aged or dependent persons' dwellings • nursing home • uses incidental to the above 	<p>1. All development shall be at the Shire's discretion.</p>
5	Lots 11 and 237 Helena Valley Road, Helena Valley	<ul style="list-style-type: none"> • park home park • uses incidental to the above 	<p>1. All development shall be at the Shire's discretion.</p> <p>2. Development shall be generally consistent with a Development Plan approved by the Shire.</p>

No.	Description of land	Special use	Conditions
			3. The primary use of Lot 11 is for a water supply corridor owned and managed by the Water Corporation. Lot 11 may include uses incidental to the park home park, although this development is also subject to the consent of the Water Corporation (or its equivalent).
6	Portion of Lots 100 and 101 Helena Valley Road, Helena Valley	<ul style="list-style-type: none"> • park home park • uses incidental to the above 	<ol style="list-style-type: none"> 1. All development shall be at the Shire's discretion. 2. Development shall be generally consistent with a Development Plan approved by the Shire. 3. Prior to the approval of a Development Plan, a Fire Management Plan that complies with the <i>Planning for Bush Fire Protection Guidelines</i> must be prepared and approved by the Shire. 4. Prior to the approval of a Development Plan, an Aboriginal Heritage Survey must be prepared in accordance with the <i>Aboriginal Heritage Act 1972</i> and Department of Indigenous Affairs guidelines. 5. Prior to the first stage of development, the bushfire protection measures as specified in the approved Fire Management Plan must be implemented. 6. All dwellings must be constructed to Australian Standard 3959—1999 (or any updates). Australian Standard 3959 allows for a permanent cleared vegetation buffer of 100 metres or increased building requirements.
7	Lot 16 Great Eastern Highway, Glen Forrest	<ul style="list-style-type: none"> • service station • uses incidental to the above, but not including motor vehicle repair 	1. All development shall be at the Shire's discretion.
8	Lot 77 Bilgoman Road, Glen Forrest	<ul style="list-style-type: none"> • educational establishment • caretaker's dwelling • uses incidental to the above 	1. All development shall be at the Shire's discretion.
9	Lot 24 Darlington Road, Darlington	<ul style="list-style-type: none"> • place of worship 	1. All development shall be at the Shire's discretion.
10	Lot 202 Beenong Road, Darlington	<ul style="list-style-type: none"> • educational establishment • caretaker's dwelling • uses incidental to the above 	1. All development shall be at the Shire's discretion.
11	Lots 1, 2 and 11 Ryecroft Road, Darlington	<ul style="list-style-type: none"> • educational establishment • uses incidental to the above 	1. All development shall be at the Shire's discretion.
12	Lot 1 Beacon Road, Parkerville	<ul style="list-style-type: none"> • aviation beacon • telecommunications infrastructure—small scale or large scale commercial 	1. All development shall be at the Shire's discretion.

No.	Description of land	Special use	Conditions
13	Lot 82 Falls Road, Hovea	<ul style="list-style-type: none"> • camp, comprising of recreation areas, sleeping quarters, cook's quarters, recreation building, ablutions block and craft/recreation building • uses incidental to the above 	1. All development shall be at the Shire's discretion.
14	Lot 87 Falls Road, Hovea	<ul style="list-style-type: none"> • health and art retreat, comprising of an amphitheatre, art gallery, catering business, holiday accommodation, residence, seminar room, workshop and wellness hall 	<ol style="list-style-type: none"> 1. All development shall be at the Shire's discretion. 2. The amphitheatre shall only be used for purposes incidental to activities conducted as part of the health and art retreat. 3. Holiday accommodation provided on the site shall be limited to a maximum of 32 beds.
15	Lot 80 Richardson Road, Hovea	<ul style="list-style-type: none"> • private recreation • holiday accommodation • club premises • uses incidental to the above 	1. All development shall be at the Shire's discretion.
16	Lots 1636, 1854 and 3304 Beacon Road, Parkerville	<ul style="list-style-type: none"> • residential building • educational establishment • office • uses incidental to the above 	1. All development shall be at the Shire's discretion.
17	Lot 84 Strettle Road, Glen Forrest	<ul style="list-style-type: none"> • aged or dependent persons' dwellings • aged persons' village • single house • public recreation 	<ol style="list-style-type: none"> 1. All development shall be in accordance with a development plan approved by the Shire. 2. A development plan for the site shall indicate the density of development, areas for effluent disposal, area not to be developed due to geotechnical constraints, areas in which local natural vegetation on the site will be retained, and areas for public recreation to which public access will be maintained. 3. Special notice shall be given of a development plan for the site in accordance with Clause 9.4 prior to the Shire considering the development plan for approval.
18	Portion of Lot 1 Great Eastern Highway, Mahogany Creek	<ul style="list-style-type: none"> • restaurant • reception centre • caretaker's residence • holiday accommodation units • display and sale of local arts and crafts • car park 	<ol style="list-style-type: none"> 1. All development shall be at the Shire's discretion. 2. Any display and sale of local arts and crafts shall be of a scale such that it is incidental to the predominant uses of the site. 3. The maximum number of holiday accommodation units permitted on the site shall be 13.
19	Lot 77 Jacoby Street, Mundaring	<ul style="list-style-type: none"> • aged persons' village, including a rest home, and may include a caretaker's dwelling, manager's residence, administration office and uses incidental to the above 	1. All development shall be at the Shire's discretion.

No.	Description of land	Special use	Conditions
20	Lot 78 Jacoby Street, Mundaring	<ul style="list-style-type: none"> • meditation centre • meditation room building • kitchen/dining/store room building • laundry/workshop building 	1. All development shall be at the Shire's discretion.
21	Lot 100 Great Eastern Highway (corner Coppin Road), Mundaring	<ul style="list-style-type: none"> • private recreation (indoor) • hairdresser • uses incidental to the above 	1. All development shall be at the Shire's discretion.
22	Lot 23 Great Eastern Highway, Mundaring	<ul style="list-style-type: none"> • service station • shop 	1. All development shall be at the Shire's discretion.
23	Lot 120 Coolgardie Street, Mundaring	<ul style="list-style-type: none"> • educational establishment • place of worship • single house • rectory • pre-primary school 	1. All development shall be at the Shire's discretion.
24	Lot 800 Hartung Street, Mundaring	<ul style="list-style-type: none"> • aged or dependent persons' dwellings • aged persons' village 	<p>1. All development shall be at the Shire's discretion.</p> <p>2. The maximum number of dwelling units that shall be permitted on the land shall be 31.</p> <p>3. All development on the site shall be consistent with an overall development plan for the entire site approved by the Shire.</p>
25	Lot 500 Fenton Street, Mundaring	<ul style="list-style-type: none"> • aged persons' village • nursing home • uses incidental to the above 	1. All development shall be at the Shire's discretion.
26	Lot 293 Walker Street, Mundaring	<ul style="list-style-type: none"> • private school • place of worship • uses incidental to the above 	<p>1. All development shall be at the Shire's discretion.</p> <p>2. All development on the site falling wholly or partially within the Mundaring Wastewater Treatment Plant odour buffer, as shown in the Local Planning Strategy, shall be referred to the Water Corporation for comment.</p> <p>3. In determining an application for planning approval, the Shire shall have regard for any advice received from the Water Corporation and any potential impact of the proposed development on the ongoing optimal operation of the Wastewater Treatment Plant. The Shire may impose conditions on any approval relating to odour management measures.</p>
27	Lot 100 Great Eastern Highway, Mundaring	<ul style="list-style-type: none"> • holiday accommodation • caravan park • camping ground • caretaker's dwelling 	<p>1. All development shall be at the Shire's discretion.</p> <p>2. The maximum number of holiday accommodation units allowed on the site shall be 18.</p>
28	Lot 1037 Hall Road, Mundaring	<ul style="list-style-type: none"> • hotel • holiday accommodation • market • swimming pool • outdoor entertainment 	1. All development shall be at the Shire's discretion.

No.	Description of land	Special use	Conditions
		<ul style="list-style-type: none"> • tourism related activities as approved by the Shire 	
29	Portion of Lot 1877 Great Eastern Highway, Sawyers Valley	<ul style="list-style-type: none"> • service station • uses incidental to the above 	1. All development shall be at the Shire's discretion.
30	Reserve 31053 (Lots 142, 143, 149, 150 and 151) Mathieson Road, Chidlow	<ul style="list-style-type: none"> • waste transfer and disposal • public recreation 	1. All development shall be at the Shire's discretion.
31	Lots 41, 42, 45, 46, 307, 17966 and 26063 Coothallie Road, Chidlow	<ul style="list-style-type: none"> • eco-village development (comprising a maximum of 104 strata titled residential lots, a village centre and land for rural, recreational and conservation purposes) with permissibility of land uses as follows— <p data-bbox="699 728 884 757"><i>Residential land</i></p> <p data-bbox="699 763 1002 913">Within land identified in the Structure Plan as Residential, permissibility of land uses shall be as per the Zoning Table for the Residential zone.</p> <p data-bbox="699 952 823 981"><i>Rural land</i></p> <p data-bbox="699 987 976 1115">Within land identified in the Structure Plan as Rural, permissibility of land uses shall be as follows—</p> <p data-bbox="743 1122 1015 1173">“P” (as in clause 4.3.2 of the Scheme) uses—</p> <ul style="list-style-type: none"> • public recreation • rural pursuit <p data-bbox="743 1238 1015 1290">“D” (as in clause 4.3.2 of the Scheme) uses—</p> <ul style="list-style-type: none"> • garden centre/nursery • industry—rural • market • rural pursuit (stable) <p data-bbox="743 1355 1015 1406">“A” (as in clause 4.3.2 of the Scheme) uses—</p> <ul style="list-style-type: none"> • consulting rooms • medical centre • place of worship • residential building • restaurant • transport depot <p data-bbox="699 1742 1002 1892">The use of office may be permitted where incidental to an approved use considered by the Shire to be a predominant use on a property.</p> <p data-bbox="699 1899 948 1951">All other uses shall be prohibited.</p> <p data-bbox="699 1989 916 2018"><i>Village Centre land</i></p> <p data-bbox="699 2024 976 2098">Within land identified in the Structure Plan as Village Centre,</p>	<p data-bbox="1043 488 1385 667">1. As a prerequisite to any subdivision or development of the land, a Structure Plan shall be submitted to and approved by the Shire in accordance with the provisions and procedures in the Scheme.</p> <p data-bbox="1043 674 1385 1048">2. In addition to any other matters required to be addressed in a Structure Plan by the Scheme, the Structure Plan for this Special Use zone shall include an economic impact statement to justify the commercial/office floor space proposed within the village centre along with provisions to ensure the commercial activities within the village centre complement and support those in the Chidlow townsite.</p> <p data-bbox="1043 1055 1385 1160">3. Provisions governing the use and development of any lot shall be determined by the Shire.</p> <p data-bbox="1043 1167 1385 1518">4. Development of land identified in the Structure Plan as Residential shall comply with the provisions of the Scheme applying to the Residential zone, with the exception of open space, setbacks and built form requirements. Open space, setbacks and built form requirements shall be controlled by Shire Policy relating to eco-village development.</p> <p data-bbox="1043 1525 1385 1675">5. Development of land identified in the Structure Plan as Rural shall comply with the provisions of the Scheme applying to the General Agriculture zone.</p> <p data-bbox="1043 1682 1385 1832">6. Development of land identified in the Structure Plan as Village Centre shall comply with the provisions of the Scheme applying to the Local Centre zone.</p> <p data-bbox="1043 1839 1385 1989">7. Within land identified in the local structure plan as Village Centre, the use classes of light industry and service industry is subject to the following requirements—</p> <ul style="list-style-type: none"> (i) no goods other than goods manufactured or serviced on the premises shall be sold

No.	Description of land	Special use	Conditions
		<p>permissibility of land uses shall be as follows—</p> <p>“P” (as in clause 4.3.2 of the Scheme) uses—</p> <ul style="list-style-type: none"> • child care premises • exhibition centre • market • office <p>“D” (as in clause 4.3.2 of the Scheme) uses—</p> <ul style="list-style-type: none"> • consulting rooms • educational establishment • holiday accommodation • medical centre • residential building <p>“A” (as in clause 4.3.2 of the Scheme) uses—</p> <ul style="list-style-type: none"> • industry—light • industry—service • place of worship • restaurant • shop <p>The use of car park may be permitted where incidental to an approved use considered by the Shire to be a predominant use on a property.</p> <p>All other uses shall be prohibited.</p>	<p>or offered for sale on the subject property; and</p> <p>(ii) the use shall not occupy an area exceeding 100 m².</p> <p>8. Only residential lots may be individually owned. All other land within the zone shall be retained in common ownership.</p> <p>9. The development of the land shall be based on a rural cluster design within the framework of the <i>Strata Titles Act 1985</i>.</p> <p>10. Provided there has been compliance with the Structure Plan in regard to water, power and affordable housing, the land may be subdivided to the full extent shown in the Structure Plan, that is to a total of 104 lots.</p> <p>11. Until servicing has been provided or substantially provided in accordance with clause 5.5 of the Structure Plan, no more than 80 lots for the Somerville Eco-village referred to in clause 5.1.1 of the Structure Plan shall be created.</p> <p>12. Compliance with the servicing requirements in Conditions 10 and 11 above shall be confirmed by the Western Australian Planning Commission following submission of appropriate supporting evidence by the proponents.</p>
32	Lots 513 and 514 Great Eastern Highway, The Lakes	<ul style="list-style-type: none"> • service station • restaurant • caravan park • tavern • fast food outlet • motel • office • uses incidental to the above 	1. All development shall be at the Shire’s discretion.

SCHEDULE 5
EXEMPTED ADVERTISEMENTS

[cl. 8.2(f)]

Land use and/or development	Exempted sign	Maximum size
Dwellings	One professional name-plate as appropriate	0.2 m ²
Home occupation/home business	One advertisement describing the nature of the home occupation	0.2 m ²
Places of worship, meeting halls and places of public assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2 m ²
Cinemas, theatres and drive-in theaters	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 5 m ²
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 of the roof of the building, and excluding signs projecting from a building, whether or not those signs are connected to a pole, wall or other building. A maximum of 2 free-standing advertisement signs not exceeding 5 m in height above ground level.	Total area of any such advertisements must not exceed 15 m ² Maximum total area shall not exceed 10 m ² and individual advertisement signs shall not exceed 6 m ²
Race courses, major racing tracks, sports stadium, 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 or non-illuminated) relating to the functions of government, a public authority or a local government, excluding those of a promotional nature constructed or exhibited by or on behalf of any such body (b) Advertisement signs (illuminated or 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 local government (c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein	Not applicable Not applicable Not applicable
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	0.2 m ²

Land use and/or development	Exempted sign	Maximum size
Building construction sites as follows— (a) Dwellings (b) Multiple dwellings, shops, commercial and industrial projects (c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height	Advertisement signs displayed only for the duration of the construction— One advertisement per street frontage containing details of the project and the contractor undertaking the construction work As per (a) above As per (a) above One additional sign showing the name of the project builder	2 m ² 5 m ² 10 m ² 5 m ²
Sales of goods or livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of good 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	2 m ²
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 ha	One sign per street frontage for each property relating the sale, leasing or impending auction of the property at or upon which the sign or signs are displayed As per (a) above As per (a) above	Each sign shall not exceed an area of 2 m ² Each sign shall not exceed an area of 5 m ² Each sign shall not exceed an area of 10 m ²
Display homes Advertisement signs displayed for a period over which homes are on display for public inspection	(a) One sign for each dwelling on display (b) In addition to (a) above, 1 sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display	2 m ² 5 m ²

SCHEDULE 6
FORM OF APPLICATION FOR PLANNING APPROVAL
Application for Planning Approval

Owner details

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 (e.g. easements, restrictive covenants):

Street name:

Suburb:

Nearest street intersection:

Existing building/land use:

Description of proposed development and/or use:

Nature of any existing buildings and/or use:

Approximate cost of proposed development:

Estimated time of completion:

OFFICE USE ONLY

Acceptance Officer's initials:

Date received:

Shire of Mundaring reference no:

**SCHEDULE 7
ADDITIONAL INFORMATION FOR ADVERTISEMENTS**

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

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

**SCHEDULE 8
NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL
SHIRE OF MUNDARING
LOCAL PLANNING SCHEME No. 4
Notice of public advertisement of planning proposal**

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

SCHEDULE 9
NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

[cl. 10.4.1]

PLANNING AND DEVELOPMENT ACT 2005

Shire of Mundaring.

TOWN PLANNING

Determination on application for planning approval

Property Details:

Application received on:

Description of proposed development:.....

The application for planning approval is:

- granted subject to the following conditions:
- refused for the following reasons(s):

Conditions/reasons for refusal:

.....

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

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

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under Part 14 of the *Planning and Development Act 2005*. An appeal must be lodged within 28 days of the determination.

Signed:

Dated

.....

.....

for and on behalf of the Shire of Mundaring.

(The content of the determination notice must conform to Schedule 9 but minor variations may be permitted to the format.)

SCHEDULE 10
ENVIRONMENTAL CONDITIONS

[cl. 5.6.1]

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

SCHEDULE 11

CONTINUANCE OF LOCAL SUBDIVISION AND INFRASTRUCTURE PLANS FROM TOWN PLANNING SCHEME No. 3

The following Local Subdivision and Infrastructure Plans (LSIPs) adopted by the Shire and the Commission under the previous Shire of Mundaring Town Planning Scheme No. 3 are hereby continued, and shall have force under this Scheme, as Structure Plans (pursuant to clause 5.7.3.1 and clause 5.17), as per the following Schedule, and subject to any Conditions set out in the Schedule for that Structure Plan.

Structure Plan Number (LPS No. 4)	Location	LSIP Number (TPS No. 3)	Conditions
1	Stoneville Road, Old Farm Lane, Stoneville	28	
2	Great Eastern Highway, Lion Street, Sawyers Valley	45	
3	Moola Road, Glen Forrest	62	
4	Glen Forrest Drive, Glen Forrest	77	
5	National Park Road, Tunnel Road, Swan View	82	1. The building envelopes shown on LSIP No. 82 do not apply under this Scheme.
6	National Park Road, Tunnel Road, Pechey Road, Swan View	91	1. The building envelopes shown on LSIP No. 91 do not apply under this Scheme.
7	Bushlands Road, Victoria Road, Alexandra Road, Oxley Road, Hovea	92	
8	Kilburn Road, Pear Tree Lane, Parkerville	112	
9	Richardson Road, Parkerville	128	1. The building envelopes shown on LSIP No. 128 do not apply under this Scheme. 2. 1790 (Lot 4) and 1880 (Lot 7) Richardson Road, coded R5 under this Scheme, may each be subdivided into two lots, subject to compliance with the requirements of the <i>Residential Design Codes of Western Australia</i> , without amendment to this Structure Plan.
10	Coppin Road, Parkerville	137	
11	Samuel Street, Bunning Road, Mount Helena	138	1. The building envelopes shown on LSIP No. 138 do not apply under this Scheme.
12	Lacey Road, Summit Road, Patrick Place, Mundaring	143	1. The building envelopes shown on LSIP No. 143 do not apply under this Scheme.
13	Thomas Road, Moola Road, Glen Forrest	146	
14	Mulumba Place, Sawmillers Court, Stoneville	148	
15	Bushlands Road, Mueller Place, Alexandra Road, Oxley Road, Hovea	149	
16	Shepherd Street, Hidden Court, Glen Forrest	155	1. The building envelopes shown on LSIP No. 155 do not apply under this Scheme.
17	Richardson Road, Iron Road, Stoneville	178	
18	Lilydale Road, Stone Street, Lake View Road, Chidlow	180	1. The building envelopes shown on LSIP No. 180 do not apply under this Scheme.
19	Coppin Road, Wilura Road, Kintore Road, Mundaring and Parkerville	192	1. The building envelopes shown on land zoned Residential on LSIP No. 192 do not apply under this Scheme.

Structure Plan Number (LPS No. 4)	Location	LSIP Number (TPS No. 3)	Conditions
			<p>2. The subdivision layout over that portion of LSIP No. 192 north of Mahogany Creek and on 205 (Lots 29 and 30) Wilura Road may require redesign at subdivision stage in order to ensure an appropriate location for building envelopes (to minimise loss of Local Natural Areas) and to achieve an adequate setback from the creek to the proposed subdivisional road.</p> <p>3. Any subdivision is to comply with the vehicular access component of the <i>Planning for Bush Fire Protection Guidelines (2010)</i> or any successor document.</p>
20	Richardson Road, Granite Road, Parkerville	194	1. The building envelopes shown on LSIP No. 194 do not apply under this Scheme.
21	Lacey Street, Mundaring	198	
22	Lockwood Road, Leyland Close, Beechina	201	
23	Stoneville Road, Yallara Rise, Mundaring	202	
24	Fern Hill Place, Glenroy Court, Hovea	204	
25	Phillips Road, Zamia Drive, Casotti Glade, Mahogany Creek	223	
26	Kintore Road, Parkerville	231	
27	Traylen Road, Glyn Place, Stretch Road, Stoneville and Mount Helena	245	
28	Sexton Street, Horace Street, Sawyers Road, Mount Helena	246	
29	Anketell Road, Stoneville Road, Prosperity Road, Stoneville and Mount Helena	248	
30	Alison Road, William Road, Mount Helena	249	
31	Lilydale Road, Stone Street, Liberton Road, Chidlow	252	
32	Great Eastern Highway, Sawyers Valley	257	
33	Parkerville Townsite Development, Highlands Drive, Wedgetail Circle, Parkerville	259	
34	Stoneville Townsite Development, Roland Road, Stoneville	265	
35	Bailup Road, Orchard Road, Wooroloo	267	
36	Bertram Street, Darlington	269	
37	Kintore Road, Parkerville	270	
38	Princess Road, Dibble Street, Cook Street, Alice Road, Mount Helena	272	
39	Thomas Road, Mack Court, Mahogany Creek	273	
40	Tannah Way, Alice Road, Mount Helena	274	

Structure Plan Number (LPS No. 4)	Location	LSIP Number (TPS No. 3)	Conditions
41	King Jarrah Rise, Dowell Street, Sawyers Valley	275	
42	Gill Street, Lacey Road, Bugle Street, Parkerville	278	
43	Eagle Street, Walker Street, Yarri Grove, Mundaring	280	
44	Traylen Road, Avoca Glen, Kalari Way, Stoneville	281	1. The building envelopes shown on land zoned Residential on LSIP No. 281 do not apply under this Scheme.
45	Clayton Road, Fyfe Street, Helena Valley	285	
46	Helena Valley Road, Helena Valley	296	
47	Helena Valley Road, Helena Valley	298	
48	Riley Road, Stoneleigh Road, Stoneville and Mount Helena	303	
49	Coppin Road, Kintore Road, Parkerville	309	
50	Packer Street, Treetop Way, Mount Helena	314	
51	Bertram Street, Darlington	320	
52	Strettle Road, Rickard Road, Glen Forrest	329	
53	Gill Street, Thornbury Place, Mundaring	340	
54	Needham Road, Wooroloo	342	
55	Stoneville Road, Carson Street, Prosperity Road, Short Street, Stoneville and Mount Helena	345	
56	Conradi Place, Mulumba Place, Stoneville	346	
57	Chidlow Eco-Village, Coothallie Road, Chidlow	357	
58	Lilydale Road, Chidlow	361	
59	Viveash Road, Swan View	363	
60	Helena Valley Road, Helena Valley	364	
61	Helena Valley Road, Helena Valley	365	
62	Woodlands Road, Stoneville	366	
63	Bedford Street, Alice Road, Mount Helena	367	
64	Richardson Road, Stoneville	368	
65	Hayden Street, Bunning Road, Trimble Road, Mount Helena	369	
66	Alice Road, Mount Helena	370	
67	Kambalda Road, Mundaring	371	
68	Balfour Road, Swan View	372	

SCHEDULE 12
 REQUIREMENTS APPLYING TO SPECIFIC DEVELOPMENT ZONES

[cl. 5.16.1.2]

Development Zone Number	Location	Requirements
1	Helena Valley Road, Tuckeroo Parade and Parkview Gardens, Helena Valley	<p>1. All subdivision and development shall be in accordance with a Structure Plan endorsed by the Shire and adopted by the Commission.</p> <p>2. The Structure Plan may, for particular areas within the Development Zone, assign a Zone and, for residential areas, a Residential Design Code density for those areas. In such instance, all provisions of this Scheme specific to that zone, including the Zoning Table, and where applicable the requirements of the Residential Design Codes of Western Australia for that Residential Design Code density, shall apply.</p> <p>3. The Structure Plan shall provide for the Development Zone to be primarily used for residential purposes but may also provide for commercial and/or community facilities ancillary to the residential use of the locality.</p>
2	Richardson Road, Parkerville	<p>1. All subdivision and development shall be in accordance with a Structure Plan endorsed by the Shire and adopted by the Commission.</p> <p>2. The Structure Plan shall make provision for a deviation of Roland to join Brooking Road in order to provide a bypass of the Parkerville Town Centre.</p> <p>3. The Structure Plan shall, for particular areas within the Development Zone, assign a Residential Design Code density for those areas. In such instance, all provisions of this Scheme and the requirements of the Residential Design Codes of Western Australia for that Residential Design Code density shall apply.</p> <p>4. The Structure Plan shall provide for the Development Zone to be a low-density residential neighbourhood. Unless otherwise indicated on the Structure Plan, the provisions of the Scheme relating to the Residential Zone, including the zoning table, shall apply.</p>
3	North Parkerville (Parkerville Townsite Development Area), Highlands Drive and Wedgetail Circle, Parkerville	<p>1. All subdivision and development shall be in accordance with a Structure Plan endorsed by the Shire and adopted by the Commission.</p> <p>2. No subdivision to create residential lots will be supported unless and until that land is zoned Urban under the Metropolitan Region Scheme.</p> <p>3. Technical provisions contained within the Structure Plan shall have the same force as if they were provisions of this Scheme.</p> <p>4. Technical provisions contained within the Structure Plan may, for particular areas within the Development Zone, assign a Zone and, for residential areas, a Residential Design Code density for those areas. In such instance, all provisions of this Scheme specific to that zone, including the Zoning Table, and where applicable the requirements of the Residential Design Codes of Western Australia for that Residential Design Code density, shall</p>

Development Zone Number	Location	Requirements
		<p>apply. To the extent of any inconsistency between other provisions of this Scheme and the requirements in this Schedule 12 or the technical provisions in the Structure Plan, the requirements in this Schedule 12 or the technical provisions in the Structure Plan shall prevail.</p> <p>5. The Structure Plan shall make provision for tourist facilities and tourist accommodation.</p> <p>6. The minimum lot size for rural residential lots abutting land outside the Development Zone shall be 2 ha.</p> <p>7. The provisions of Clauses 5.9.2 to 5.9.12 shall apply to any rural residential lots within the development zone.</p>
4	North Stoneville (Stoneville Townsite Development Area), Roland Road, Stoneville	<p>1. All subdivision and development shall be in accordance with a Structure Plan endorsed by the Shire and adopted by the Commission.</p> <p>2. No subdivision to create residential lots will be supported unless and until that land is zoned Urban under the Metropolitan Region Scheme.</p> <p>3. Technical provisions contained within the Structure Plan shall have the same force as if they were provisions of this Scheme.</p> <p>4. Technical provisions contained within the Structure Plan may, for particular areas within the Development Zone, assign a Zone and, for residential areas, a Residential Design Code density for those areas. In such instance, all provisions of this Scheme specific to that zone, including the Zoning Table, and where applicable the requirements of the Residential Design Codes of Western Australia for that Residential Design Code density, shall apply. To the extent of any inconsistency between other provisions of this Scheme and the requirements in this Schedule 12 or the technical provisions in the Structure Plan, the requirements in this Schedule 12 or the technical provisions in the Structure Plan shall prevail.</p> <p>5. The Structure Plan shall make provision for a commercial centre, community and education (school) facilities.</p> <p>6. The minimum lot size for rural residential lots abutting land outside the Development Zone shall be 2 ha.</p> <p>7. The provisions of Clauses 5.9.2 to 5.9.12 shall apply to any rural residential lots within the development zone.</p>

SCHEDULE 13
CAR PARKING DIMENSIONS

[cl. 5.7.20.13]

Parking angle	Bay width (m)	Bay length (m)	Bay depth (m)	Manoeuvring depth (m)	Total depth (m)
One-way access					
90°	2.6	5.5	5.5	6.0	11.5
60°	2.6	5.5	6.1	5.0	11.1
45°	2.6	5.5	5.8	4.0	9.8
30°	2.6	5.5	5.0	3.3	8.3
0° (parallel parking)	2.6	6.7	3.0	3.0	6.0
Two-way access					
90°	2.8	5.5	5.5	6.0	11.5

ADOPTION

Adopted by Resolution of the Shire of Mundaring at the meeting of the Council held on the 15th day of December 2009.

H. DULLARD, President.

Date: 24 December 2013.

M GRIFFITHS, Chief Executive Officer.

Date: 24 December 2013.

FINAL APPROVAL

1. Adopted by Resolution of the Shire of Mundaring at the meeting of the Council held on the 31st day July 2012 and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of—

H. DULLARD, President.

Date: 24 December 2013.

M GRIFFITHS, Chief Executive Officer.

Date: 24 December 2013.

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

2. Recommended/submitted for final approval—

N. COX, delegated under s. 16 of the PD Act 2005.

Date: 21 January 2014.

3. Final approval granted—

B. MARMION, Acting Minister for Planning.
(Shire of Mundaring LPS 4)

Date: 24 January 2014.