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SHIRE OF KOJONUP

Town Planning Scheme No. 3 (District Scheme)

Updated to include AMD 14 GG 19/01/2021



Department of
Planning

Prepared by the
Department of Planning

Original Town Planning Scheme Gazettal
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Please advise the Department of Planning of any errors or omissions in this document.

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SHIRE OF KOJONUP TPS 3 - TEXT AMENDMENTS

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
1	4/7/00	3/7/00	DH	Schedule 2 - adding "No. 11 Lot 350 Barracks Place and Ptn Lot 19 Soldier Rd, Kojonup" with Scheme Map designation of "P" and Permitted Special use of "Aged Persons Accommodation". Schedule 1 - adding new interpretations "Plantation" and "Agroforestry". Table 1 - adding "Agroforestry" and "Plantations" to list of use classes and inserting these as 'P' uses in the 'Rural' zone and 'not permitted' in the other zones.
4	17/9/04	22/9/04	DH	Replacing Subdivision Guide Plan No. 1.
6	23/10/07	30/10/07	DH	Schedule 7 - adding new additional use 3. "Lots 122 and 123 Blackwood Road, Muradup" together with additional uses and special conditions. Part 5 - deleting the last sentence of Clause 5.17.1 part i) which reads "Such an approval to Planning Consent is required in addition to any licence pursuant to the Council's Signs and Hoarding and Bill Posting By-laws." Schedule 6 - deleting existing entry for 'Shops, Showrooms and other uses appropriate to a Shopping Area' and inserting new entry.
8	8/9/09	30/9/09	DH	Part 7 - adding Clause "7.7 Delegation of Functions" and updating Table of Contents.
7	23/03/12	17/04/12	NM	Inserted 'Lots 1 and 3 Albany Highway, Kojonup' into Schedule VII – Additional Uses.
10	24/04/14	13/05/14	ML	Scheme Map amendment - Remove Lot 3 Spring Street from Recreation Local Scheme Reserve to Public Purposes Local Scheme Reserve.
11	17/04/15	06/05/15	MLD	Removed Lot 200 and a portion of Lot 292 Tunney Road, Kojonup from the Public Purposes Local Scheme Reserve classification and included it within the Special Rural Zone. Extended the boundary of the Subdivision Guide Plan No 4 - Kojonup West to include Lot 200 and a portion of Lot 292 Tunney Road, Kojonup. Amended the face of the Scheme Map accordingly.
12	28/07/15	29/07/15	NG	Include additional sub-clauses within clause 6.3 Determination of Applications. Delete note at the bottom of Schedule III(c). Include Notes 1, 2 and 3 at the bottom of Schedule III(c). Include definition for 'Substantially commenced' within Schedule I- Interpretations.
13	14/07/17	17/07/17	GM	Designated a portion of Lot 11 Albany Highway, Boscabel as Additional Use Site A5 and included the site in Schedule VII - Additional Uses. Scheme Map amended accordingly.
14	19/01/2021	20/1/2021	MLD	Removing Lot 2 (No. 32) Spring Street, Kojonup from the Recreation Local Scheme Reserve classification and including it within the Public Purposes Local Scheme Reserve classification. Amend the face of the Scheme Map accordingly.

SHIRE OF KOJONUP
TOWN PLANNING SCHEME NO. 3
(DISTRICT SCHEME)

The Kojonup Shire Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended) hereinafter referred to as 'the Act', hereby makes the following Town Planning Scheme for the purposes laid down in the Act.

SHIRE OF KOJONUP
TOWN PLANNING SCHEME NO. 3
(DISTRICT SCHEME)

The Kojonup Shire Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended) hereby makes the following Town Planning Scheme for the purpose of:

- (a) setting aside land for future public use as reserves;
- (b) controlling development;
- (c) other matters authorised by the enabling Act.

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PART I PRELIMINARY

1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Kojonup Scheme No. 3 hereinafter called 'the Scheme' and shall come into operation on the publication of the notice of the Minister's final approval thereof in the Government Gazette.

1.2 RESPONSIBLE AUTHORITY

The Authority responsible for implementing the Scheme is the Council of the Shire of Kojonup, hereinafter called 'the Council'.

1.3 SCHEME AREA

The Scheme applies to the whole of the District of the Shire of Kojonup, as delineated on the Scheme Map by the broken black border.

1.4 CONTENTS OF SCHEME

The Scheme comprises:

- (a) this Scheme Text;
- (b) the Scheme Maps.

1.5 ARRANGEMENT OF SCHEME TEXT

The Scheme Text is divided into the following parts:

PART I	PRELIMINARY
PART II	LOCAL RESERVES
PART III	ZONES
PART IV	NON-CONFORMING USES
PART V	DEVELOPMENT REQUIREMENTS
PART VI	PLANNING CONSENT
PART VII	ADMINISTRATION

1.6 SCHEME OBJECTIVES

The intent of the Scheme is to direct and control development in the Scheme Area in such a way as shall promote and safeguard health, safety, convenience and economic and general welfare of its inhabitants, the amenities of the area and the environment.

1.7 GENERAL OBLIGATIONS

Subject to the provisions of the Town Planning and Development Act, 1928 (as amended) and all regulations made thereunder, and to the provisions of this Scheme, no person shall depart or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or permit the use of any land or building or undertake or permit any new work if the use, new work, reconstruction, alteration or modification does not conform with the Scheme or would tend to delay the effective operation of the Scheme.

1.8 RELATIONSHIP OF THE SCHEME TO BY-LAWS

The provisions of the Scheme shall have effect, notwithstanding any by-law for the time being in force in the area and, where the provisions of the Scheme are at variance with the provisions of any by-law, the provisions of the Scheme shall prevail.

1.9 INTERPRETATION

- 1.9.1 Except as provided in Schedule 1 or Clause 1.9.2 the words and expressions of the Scheme have their normal and common meaning.
- 1.9.2 In the Scheme unless the context otherwise requires, or unless it is otherwise provided herein, words and expressions have the respective meanings given to them in Schedule 1 and the Residential Planning Codes.
- 1.9.3 Where a word or term is defined in the Residential Planning Codes, then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Planning codes.

1.10 REVOCATION OF EXISTING SCHEME

The Shire of Kojonup Town Planning Scheme No. 2 (District Scheme) as amended, which came into operation by publication in the Government Gazette on 27 September, 1985, is hereby revoked.

PART II LOCAL RESERVES

2.1 LOCAL AUTHORITY SCHEME RESERVES

The lands shown as Local Authority Scheme reserves on the Scheme Map, hereinafter called 'Local Reserves' are lands reserved under the Scheme for local authority purposes or for the purposes shown on the Scheme Map.

These local reserves are set out hereunder:

- (a) Recreation
- (b) Public Purposes

2.2 MATTERS TO BE CONSIDERED BY THE COUNCIL

Where an Application for Planning consent is made with respect to land within a Local Reserve, the Council shall have regard to:

- (a) the objectives as outlined below; and
- (b) the ultimate purpose intended for the reserve;

and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent.

2.3 OBJECTIVES

2.3.1 The objectives for land shown as Recreation on the Scheme Map are:

- (a) To secure and reserve land for public access and recreation.
- (b) To maintain public recreation areas for the use of sporting and recreation bodies.
- (c) To preserve areas of natural vegetation worthy of retention.
- (d) To provide visual or noise buffer areas between incompatible uses.
- (e) To reflect and protect areas already set aside for National Parks or Crown Reserves.

2.3.2 The objectives for land shown as Public Purposes on the Scheme Map are:

- (a) To protect areas already set aside for public purposes by Crown Reserves.
- (b) To enable the Council to control development in public purpose reserves.

2.4 COMPENSATION

2.4.1 Where the Council refuses planning consent for the development of a local reserve on the ground that the land is reserved for local authority purposes or for the purposes shown on the Scheme Map, or grants consent subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.

2.4.2 Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing planning consent or granting it subject to conditions that are unacceptable to the applicant.

2.4.3 In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price representing the unaffected value of the land at the

time of refusal of planning consent or of the grant of consent subject to conditions that are unacceptable to the applicant.

PART III ZONES

3.1 ZONES

3.1.1 There are hereby created the several zones set out hereunder:

- (i) Residential
- (ii) Residential Development
- (iii) Commercial
- (iv) Industrial
- (v) Special Use
- (vi) Special Rural
- (vii) Rural

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

3.2 OBJECTIVES

3.2.1 Residential Zone

The use of land in the Residential Zone shall be consistent with the following objectives:

- (a) The zone shall be predominantly residential.
- (b) Non-residential uses shall be compatible in character, scale and operation with the predominant residential use.
- (c) A non-residential use shall only be permitted if the use does not detract from the amenity of the area.

3.2.2 Residential Development Zone

The use of land in the Residential Development Zone shall be consistent with the following objectives:

- (a) The Council will not allow any development or support subdivision in a Residential Development Zone without the preparation of, and its approval of, a Guided Development Plan for the area.
- (b) To allow a variety of uses in the zone without the need to rezone the area where minor modifications are required to the Guided Development Plan prior to the final subdivision.

3.2.3 Commercial Zone

The use of land in the Commercial Zone shall be consistent with the following objectives:

- (a) To provide a variety of service functions, predominantly commercial, service, and administrative uses.
- (b) To maintain a compact and accessible centre.
- (c) To centralise commercial and service functions.

- (d) To maintain safety and efficiency of traffic flows and provide for adequate facilities for the storage and circulation of vehicles.
- (e) To preclude the storage of bulky and unsightly goods where they may be in public view.
- (f) To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.
- (g) To provide sheltered places for pedestrians.
- (h) To restrict industrial type uses to service or low impact, labour intensive industries that relate to the centre functions.
- (i) To reduce uses attracting large volumes of truck traffic other than to service retail outlets.
- (j) To provide for residential uses only where the uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level where it is impracticable or inappropriate to establish a shop or office.

3.2.4 Industrial Zone

The use of land in the Industrial Zone shall be consistent with the following objectives:

- (a) to provide a location for light and service industries which operate as an integral part of the function of a town centre;
- (b) to provide a location for outlets that provide a service to the community and are compatible with the scale and operation of the town centre and surrounding areas.
- (c) To provide a location for diverse industries that would otherwise have a detrimental impact on the other uses in the town.
- (d) To provide a location where separate vehicular access is provided.
- (e) To provide a location for depots, warehouses, and large vehicle parking and servicing areas.

3.2.5 Special Use Zone

The use of land in the Special Use Zone shall be consistent with the following objectives:

- (a) To provide an area where special uses can be operated under the specific control of the Council in order to maintain the safety, health and welfare of surrounding users.
- (b) To enable the Council to impose specific conditions to restrict the use and operation of any development that would normally not fit within the ambit of any other zone in this Scheme.

3.2.6 Special Rural Zone

The use of land in the Special Rural Zone shall be consistent with the following objectives;

- (a) To provide for closer development on smaller lots in the rural area without detrimentally affecting the rural character, amenity or viability of surrounding properties.
- (b) To provide for such uses as hobby farms, horse breeding and rural-residential

- retreats.
- (c) To ensure that the more intensive use of land makes provision for the retention or improvement of the rural landscape and environment.
- (d) To reduce or eliminate the detrimental affect of keeping of livestock in the zone by limiting stock numbers to those kept for hobby purposes and not for commercial gain.
- (e) To ensure that all applications for new Special Rural Zone areas comply with the Council's policies for the preparation and submission of proposals.
- (f) To ensure that the provisions for controlling subdivision and development in specific Special Rural Zones shall be as laid down in Schedule V to the Scheme. Future subdivision will generally accord with the Subdivision Guide Plan for the specified area referred to in the Schedule and such Subdivision Guide Plan shall form part of the Scheme.

3.2.7 Rural Zone

The use of land in the Rural Zone shall be consistent with the following objectives:

- (a) The zone shall consist of predominantly rural uses.
- (b) To protect land from urban uses that may jeopardise the future use of that land for other planned purposes which are compatible with the zoning.
- (c) To protect the land from closer development which would detract from the rural character and amenity of the area.
- (d) To prevent any development which may affect the viability of a holding.
- (e) To provide for limited commercial accommodation opportunities in a rural environment consistent with the Council's policy for 'Farmstay', 'Bed and Breakfast Accommodation' and 'Chalet' facilities.

3.3 ZONING TABLE

3.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, the several uses permitted in the Scheme Area in the various zones, such uses being determined by cross reference between the list of use classes on the left hand side of the Table and the list of zones at the top of the Zoning Table.

3.3.2 The symbols used in the cross reference in the Zoning Table have the following meanings:

'P' means that the use is permitted provided it complies with the relevant standards and requirements laid down in the Schemes and all conditions (if any) imposed by the Council in granting planning consent.

'AA' means that the Council may, at its discretion, permit the use.

'SA' means that the Council may, at its discretion, permit the use after notice of application has been given in accordance with Clause 6.2.

'IP' means that a use is not permitted unless it is determined by the Council to be incidental to the predominant use.

3.3.3 Where no symbol appears in the cross reference of a use class against a zone in the Zoning Table a use of that class is not permitted in that zone.

3.3.4 Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

3.3.5 If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use classes, the Council may:

- (a) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted; or
- (b) determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 6.2 in considering an Application for Planning Consent.

3.4 ADDITIONAL USES

Notwithstanding anything contained within the Zoning Table the land specified in Schedule VII may, subject to compliance with any condition specified in the Schedule with respect to the land, be used for the purpose set against that land. The use so specified is in addition to the other uses permitted in the zone in which the land is situated unless any of those uses is excluded or modified by a condition specified in that Schedule.

3.5 SPECIAL USE ZONE

No person shall use land or any building or structure thereon in a special use zone, except for the purpose set against that land in Schedule II and subject to compliance with any conditions specified in the Schedule, or in a Town Planning Scheme Policy, with respect to the land.

TABLE 1 - ZONING TABLE

KEY TO COLUMNS

USE CLASS	1	RESIDENTIAL	5	SPECIAL USE
	2	RESIDENTIAL DEVELOPMENT	6	SPECIAL RURAL
	3	COMMERCIAL	7	RURAL
	4	INDUSTRIAL		

Zones	1	2	3	4	5	5	7
RESIDENTIAL							
Aged or Dependent Persons Dwelling	SA	SA			*	**	
Caretaker's Dwelling	IP	IP	IP	IP	*	**	
Home Occupation	IP	IP	IP	IP	*	**	IP
Lodging House	SA	SA	AA		*	**	SA
Residential Building	AA	AA			*	**	
Residential							
- Single House	P	P	SA		*	**	P
- Grouped Dwelling	P	P	AA		*	**	
- Multiple Dwelling	AA	AA	AA		*	**	
TOURIST AND ENTERTAINMENT							
Amusement Parlour			AA		*	**	
Amusement and Recreation			AA	SA	*	**	AA
Bed and Breakfast	SA	SA	AA		*	**	AA
Camping Area					*	**	SA
Caravan Park					*	**	
Holiday Accommodation			AA		*	**	AA
Hotel			P		*	**	
Motel			AA		*	**	
Private Recreation	SA	SA	AA		*	**	SA
Tavern			P		*	**	
COMMERCE							
Betting Agency			P		*	**	
Convenience Store	SA	SA	P	SA	*	**	
Dry Cleaning Premises			AA	P	*	**	
Fast Food Outlet			AA		*	**	
Garden Centre			P	AA	*	**	
Kiosk	SA	SA	P	AA	*	**	
Liquor Store			P		*	**	
Market			AA	SA	*	**	
Medical Centre	SA	SA	AA		*	**	
Medical Clinic	SA	SA	AA		*	**	

TABLE 1 - ZONING TABLE

KEY TO COLUMNS

1	RESIDENTIAL	5	SPECIAL USE
2	RESIDENTIAL DEVELOPMENT	6	SPECIAL RURAL
3	COMMERCIAL	7	RURAL
4	INDUSTRIAL		

USE CLASS

Zones	1	2	3	4	5	5	7
COMMERCE (Cont'd)							
Office			P	IP	*	**	
Plant Nursery			AA	P	*	**	SA
Professional Office	SA	SA	AA	AA	*	**	SA
Reception Centre			P		*	**	
Restaurant			P		*	**	SA
Restricted Premises			P		*	**	
Shop			P	IP	*	**	
Service Station			AA	P	*	**	
Showroom			P	P	*	**	
Trade Display			AA	P	*	**	
Transport Depot			SA	P	*	**	
Vehicle Hire Station			AA	P	*	**	
Vehicle Sales Premises			AA	AA	*	**	
Wineshop			P		*	**	SA
INDUSTRY							
Cottage Industry	SA	SA	AA	P	*	**	SA
Extractive Industry				SA	*	**	SA
Factoryettes				P	*	**	
General Industry				AA	*	**	
Hazardous industry					*	**	
Light Industry			AA	P	*	**	
Motor Vehicle Repair Station			AA	P	*	**	
Noxious Industry				SA			
Rural Industry				SA	*	**	P
Service Industry			AA	P	*	**	
Warehouse				P	*	**	
CIVIC AND COMMUNITY							
Civic Use	SA	SA	AA	AA	*	**	
Community Use	SA	SA	P		*	**	
Day Care Centre	SA	SA	AA		*	**	
Educational Establishment	SA	SA	P		*	**	
Kindergarten	SA	SA	AA		*	**	
Place of Worship			P		*	**	

TABLE 1 - ZONING TABLE

KEY TO COLUMNS

	1	RESIDENTIAL	5	SPECIAL USE
	2	RESIDENTIAL DEVELOPMENT	6	SPECIAL RURAL
	3	COMMERCIAL	7	RURAL
USE CLASS	4	INDUSTRIAL		

Zones	1	2	3	4	5	5	7
RURAL							
Agroforestry	IP	IP	IP	IP	IP	IP	P
Plantation	IP	IP	IP	IP	IP	IP	P
Rural Pursuit				SA	*	**	P
Stockyard				SA	*	**	IP
Wayside Stall					*	**	AA
Intensive Agriculture				SA	*	**	AA
OTHER							
Animal Boarding House				AA	*	**	SA
Funeral Parlour			SA	P	*	**	SA
Public Utility	AA	AA	AA	AA	*	**	AA
Radio & TV Installation			AA	P	*	**	AA
Veterinary Consulting Rooms			SA	P	*	**	SA
Veterinary Hospital			SA	P	*	**	SA

- * means Uses as determined by the Council as per Schedule II and the Scheme Map.
 ** means Uses as determined by the Council as per Schedule VIII and the Scheme Map.

PART IV NON-CONFORMING USES

4.1 NON-CONFORMING USE RIGHTS

No provision of the Scheme shall prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the time of coming into force of the Scheme; or
- (b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits, lawfully required to authorise the development to be carried out, were duly obtained and are current.

4.2 EXTENSION OF NON-CONFORMING USE

A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the planning consent of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme.

4.3 CHANGE OF NON-CONFORMING USE

Notwithstanding anything contained in the Zoning Table the Council may grant its planning consent to the change of use of any land from one non-conforming use to another use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the non-conforming use and is, in the opinion of the Council, closer to the intended uses of the zone or reserve.

4.4 DISCONTINUANCE OF NON-CONFORMING USE

- 4.4.1 When a non-conforming use of any land or building has been discontinued for a period of six months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.
- 4.4.2 The Council may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that property, and may enter into an agreement with the owner for that purpose.

4.5 DESTRUCTION OF BUILDINGS

If any building is, at the gazettal date, being used for a non-conforming use, and is subsequently destroyed or damaged to an extent of 75% or more of its value, the land on which the building is built shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner or position not permitted by the Scheme.

PART V DEVELOPMENT REQUIREMENTS

5.1 DEVELOPMENT OF LAND

- 5.1.1 Subject to Clause 5.1.2 a person shall not commence or carry out development of any land zoned or reserved under the Scheme without first having applied for and obtained the planning consent of the Council under the Scheme.
- 5.1.2 The planning consent of the Council is not required for the following development of land:
- (a) The development of land in a local reserve, where such land is held by the Council or vested in a public authority;
 - (i) for the purpose for which the land is reserved under the Scheme; or
 - (ii) in the case of land vested for a public utility, for any purpose for which such land may be lawfully used by that authority.
 - (b) The erection of a boundary fence except as otherwise required by the Scheme;
 - (c) The erection on a lot of a single dwelling house, including ancillary outbuildings, in a zone where the proposed use is designated with the symbol 'P' in the cross-reference to that zone in the Zoning Table, except where the single dwelling house is not the first erected on the lot;
 - (d) The carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act;
 - (e) The carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
 - (f) The carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services.

5.2 SPECIAL DESIGN AREAS

The following provisions shall apply to all land included in the area designated on the Scheme Maps as a Special Design Area in addition to any other provisions which are more generally applicable to such land under this Scheme.

The Council shall prepare, or cause to be prepared, a Townscape Plan for the Area. The plan should satisfy the following objectives;

- a) To cater for convenient, shaded and safe pedestrian areas.
- b) To ensure that town centre traffic and vehicular parking is adequately catered for.
- c) To provide adequate landscaping to both enhance the visual amenity of the town centre and to provide for suitably shaded areas for travellers and residents.
- d) To provide for the necessary tourist information and other facilities considered necessary by the Council.
- e) To provide adequate land for the continued public purposes and suitable screening of such areas.

5.3 DEVELOPMENT ON LAND SUBJECT TO DAMPNES OR FLOODING

5.3.1 Where, in the opinion of the Council, the dampness of the site on which a building is proposed to be constructed so warrants, the Council may require that one or all of the following measures shall be carried out;

- (a) the subsoil shall be effectively drained;
- (b) the surface of the ground beneath the building shall be regraded or filled and provided with adequate outlets to prevent any accumulation of water beneath the building;
- (c) the surface of the ground beneath the building shall be covered with an approved damp-resisting material.

5.3.2 Where, in the opinion of the Council, land is liable to flooding or inundation and unsuitable for development the Council may not permit a building to be constructed on that land.

5.4 DEVELOPMENT TABLE

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

5.4.1 Development Requirements

Where requirements for a particular use are not set out in this Scheme, the development shall conform to the provisions for the predominant use of the zone in which it is situated, as determined by the Council, or where such provisions are inappropriate, to such requirements as the Council shall determine.

For the purposes of this Clause, the predominant uses in zones and local reserves shall be deemed to be as outlined in their respective objectives.

5.4.2 Combined Uses

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

5.5 DEVELOPMENT OF LAND SUBJECT TO NON-CONFORMING USE RIGHTS

5.5.1 Except where otherwise provided, development of non-conforming uses shall be in conformity with the provisions of the Scheme relevant to that use. In a particular case, the Council may require that a non-conforming use comply with the setbacks and other provisions set out for the predominant use of that zone.

5.5.2 Any change of use or development shall be in accordance with Table I provided that the Council may permit:

- (i) minor repairs or maintenance necessary to ensure the safety and health of the public and users of the property;
- (ii) an extension of the buildings subject to the non-conforming use by up to 20% of the floor area of the building existing at the time of gazettal of the Scheme, or by such greater proportion which the Council considers will not prejudice the objectives of this Scheme, provided always that such extension is within the limits of the setbacks in this Scheme.

TABLE II - DEVELOPMENT TABLE

CONTROLS USE CLASS	MINIMUM BOUNDARY SETBACK (metres)			MAXIMUM PLOT RATIO	MINIMUM LANDSCAPED AREA (%)	MINIMUM NUMBER OF CAR PARKING BAYS
	FRONT	REAR (average)	SIDES			
Club	*	*	*	0.5	*	1 for every 45m ² of gross floor area.
Consulting Rooms	*	*	*	0.4 in Res Zone 0.5 elsewhere	30 in Res Zone	1 for every 30m ² of gross floor area, plus 1 for each person employed.
Day Care Centre	7.5	7.5	*	*	*	1 for each employee.
Educational Establishment	9.0	7.5	5.0	*	30	1 per full time employee, plus bays for students as determined by the Council.
Funeral Parlour	*	*	*	*	10	As determined by the Council, (minimum 6).
Hall	*	*	*	*	10	1 for every 4 persons whom the building is designed to accommodate.
Hospital	9.0	7.5	5.0	0.4 in Res Zone 0.5 elsewhere	20	1 per 4 beds and 1 per employee.
Hostel	7.5	7.5	*	*	30	1 per dwelling.
Hotel/Tavern	*	*	*	*	10	1 for every bedroom plus 1 per 2m ² of bar and lounge area.
Industrial - Service	7.5	7.5	*	*	10	1 per 2 employees.
Industrial - Light	7.5	7.5	*	*	10	1 per 2 employees.
Industrial - General	7.5	7.5	*	*	15	1 per 2 employees.
Motel	9.0	7.5	3.0 per storey	1.0	30	1 per unit, plus 1 space per 25m ² of service area.
Office	*	*	*	*	*	1 for every 30m ² plot ratio area.
Professional Office	*	*	*	0.5	*	1 for every 30m ² plot ratio area.
Restaurant	*	*	*	*	*	1 for every 10m ² of gross floor area or 1 for every 4 seats provided, whichever is the greater.
Service Station	7.5	7.5	*	*	5	1 for every working bay, plus 1 for each person employed on site.
Shop	*	*	*	*	*	1 for every 15m ² of gross floor area.
Showroom	*	*	*	*	10	1 for every 100m ² of gross floor area.
Vehicle Sales	*	*	*	*	5	1 for every 250m ² of sales area, plus 1 for every person employed on site.

NOTES: i) * means 'to be determined by the Council' in each particular case.
 ii) Landscaping to be generally at the street frontage.

5.6 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

Except for development in respect of which the Residential Planning Codes apply under this Scheme, if a development, other than a residential development, the subject of an application for planning consent, does not comply with a standard or requirement prescribed by the Scheme with respect to that development the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

The power conferred by this Clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and
- (c) the spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.

5.7 RESIDENTIAL DEVELOPMENT

5.7.1 Development in the Residential Zone shall comply with the objectives for that Zone as outlined in Part III and the Residential Planning Codes.

5.7.2 (a) For the purpose of the Scheme 'Residential Planning Codes' means the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No. 1, together with any amendments thereto.

(b) A copy of the Residential Planning Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

(c) Unless otherwise provided for in the Scheme, development of land for any of the residential purposes dealt with by the Residential Planning Codes shall conform to the provisions of those Codes.

5.7.3 (a) The Residential Planning Code for land zoned Residential and Commercial shall be R10/R20 unless otherwise indicated on the Scheme Maps.

(b) Residential development with the R10/20 code shall be permitted at the R10 density, however, the Council may approve developments up to the R20 density as an 'AA' use.

(c) Any development proposed at a density greater than R10, subject to clause (b) above, will only be considered by the Council if it can be proven that an effective method of effluent disposal, or connection to the reticulated sewer network, satisfactory to the Council's requirements, can be provided. If this cannot be provided, development of residential use shall be permitted to the R10 code.

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

5.8 DEVELOPMENT ON LAND ABUTTING A RESIDENTIAL ZONE

In determining an Application for Planning Consent relating to any non-residential development on land abutting a Residential Zone the Council may;

- a) assess the proposed development for conformity with such standards as the Council considers necessary to address the potential nuisance of the proposed development on the residential areas; and,

- b) impose such conditions considered by the Council to be necessary to ameliorate the impact of the proposed development on residential areas.

5.9 COMMERCIAL DEVELOPMENT

- 5.9.1 Commercial development in the Commercial Zone shall comply with the requirements of Table II and the objectives for that Zone as outlined in Part III.
- 5.9.2 Loading Docks and access ways shall be provided sufficient in size to wholly contain delivery vehicles on site or within the building and to permit the passage of vehicles from and to the street without backing.
- 5.9.3 Where the Council considers it appropriate, rear access shall be provided to each tenement, in order to avoid using the front entrance, another tenement or an arcade for service deliveries.

5.10 INDUSTRIAL DEVELOPMENT

- 5.10.1 Industrial Development in the Industrial Zone shall comply with the requirements of Table II and the objectives for that Zone as outlined in Part III.
- 5.10.2 Prior to the issue of Planning Consent for an industry in the Industrial Zone, the Council will ascertain the appropriate buffer for that industry, and such industry may only be granted consent if the relevant buffer can be accommodated wholly within the zone.
- 5.10.3 Prior to making recommendations to the WA Planning Commission on subdivisional proposals for the Industrial Zone the Council shall require the preparation and adoption of a Development Guide Plan for the land. The Development Guide Plan shall show graduating buffer distances from the perimeter of the zone, anticipated major roads, creek lines, wetlands and associated areas, remnant vegetation and other areas worthy of protection together with the interface between the industrial and other land uses including the provision of landscaping.
- 5.10.4 Following receipt of a Development Guide Plan prepared in accordance with Clause 5.10.3, the Council shall cause the plan to be advertised in accordance with the Scheme requirements.
- 5.10.5 A proposed Development Guide Plan shall be deemed refused by the Council where a decision on the proposal has not been determined by the Council within 3 months of the Council's receipt of the proposal or within such further time as may be agreed in writing between the applicant and the Council.
- 5.10.6 Where the Council rejects the Development Guide Plan, or attaches conditions or requires modification which the applicant considers unreasonable, the applicant shall have a right of appeal pursuant to Part V of the Act.
- 5.10.7 Notwithstanding clause 5.10.6 the applicant shall prior to exercising any right of appeal pursuant to Part V of the Act, submit the Development Guide Plan and Council's resolution to the Western Australian Planning Commission and request the Commission make a determination.
- 5.10.8 All development shall be landscaped at the perimeter of the zone.
- 5.10.9 In considering proposals for industries which would generate industrial liquid, solid or gaseous wastes the Council may refer such proposals to the Department of Environmental Protection, and the granting of Planning Consent for such industries shall be subject to wastes being treated and disposed of in accordance with advice/guidelines received.
- 5.10.10 The front setback area may be used only for the purposes of landscaping, visitors carparking or access. The Council may approve the use of the front setback area for display or for loading and unloading of vehicles. No material or product may be stored

within the front setback area.

- 5.10.11 Where an open storage area is visible from a public place or street, and is not of a display nature, it shall be screened to the satisfaction of the Council.
- 5.10.12 Street setback areas shall be landscaped, including an area of not less than one metre wide adjacent to each side boundary, except where an access is shared between adjacent lots. Areas other than the front setback that are visible from a public street or place shall be developed with landscaped open space or screened to the approval of the Council.
- 5.10.13 Loading Docks and access ways shall be provided sufficient in size to wholly contain delivery vehicles on site or within the building and to permit the passage of vehicles from and to the street without backing.
- 5.10.14 Where the Council considers it appropriate, rear access shall be provided to each tenement, in order to avoid using the front entrance, another tenement or an arcade for service deliveries.
- 5.10.15 The Council may require a bond or bank guarantee from a developer to ensure that landscaping and/or other development works are designed and carried out to the satisfaction of the Council. In the case of planting, the works shall be brought to a standard considered by the Council to be properly established.

5.11 SPECIAL USE DEVELOPMENT

- 5.11.1 Where Council considers a particular development or use to be incompatible with the predominant uses in other zones, it may require such a development or use be restricted to the Special Use Zone.
- 5.11.2 Schedule II outlines the restricted uses allowed in the Special Use Zone.
- 5.11.3 Development in a Special Use Zone shall be permitted in accordance with the requirements of Table II for the use specified on the Scheme Map and outlined in Schedule II, and with any other requirements specified by the Council.

5.12 SPECIAL RURAL DEVELOPMENT

- 5.12.3 Development in a Special Rural Zone shall be permitted in accordance with the requirements of Table II and the objectives for that zone as outlined in Part III, and with any other requirements specified in Schedule V.
- 5.12.2 No more than one dwelling house shall be permitted on any lot unless that lot and the dwellings existed prior to the Special Rural Zoning of the land.
- 5.12.3 No dwelling or other structure shall be permitted within 15 metres of a lot boundary unless the Council considers that a lesser setback will not adversely affect the amenity of the area and the neighbouring properties.
- 5.12.4 Land within a Special Rural Zone shall not be used for intensive agriculture, including the breeding or keeping of animals for commercial gain, without the Council's approval.
- 5.12.5 No trees or other substantial vegetation shall be removed from a Special Rural property unless otherwise approved by the Council.
- 5.12.6 No advertising signs or billboards shall be erected without the approval of the Council.
- 5.12.7 Any proposals for further subdivision of land in the Special Rural Zone will require justification to be based on a detailed land capability assessment and any other appropriate and relevant requirements of the Commission's or the Council's policies and guidelines.

5.13 RURAL DEVELOPMENT

Development in the Rural Zone shall comply with the objectives for that Zone as outlined in Part III, and with such requirements as the Council shall see fit relative to the proposed use.

5.14 DEVELOPMENT OF OTHER STRUCTURES

Development standards, including the height, area, setbacks and construction materials, for the following structures shall be determined by the Council; an out-building; carport or garage; pergola; shadehouse or conservatory; shed or workshop; any accommodation designed to house livestock, including a kennel, stable, aviary, fowlhouse and pigeon loft.

5.15 CAR PARKING

5.15.1 Car Parking required to be provided pursuant to the provisions of this Scheme shall be laid out and constructed in accordance with the layouts of parking bays and manoeuvring aisles shown in Schedule IV. - Car Parking Layouts, except that where the angles of car parking vary from those shown, Council may determine the width of the manoeuvring aisle which in no case shall be less than four metres. Car Parking bays shall be capable of use independently of each other.

All driveways and parking areas shall be :-

- (a) constructed and surfaced to the Council's satisfaction with appropriate measures for drainage and the disposal of surface water, and,
- (b) provided at the time of the development and thereafter maintained to the satisfaction of the Council.

5.15.2 Where the Council so decides, it may accept cash payments in lieu of the provision of paved parking spaces but only subject to the following requirements being satisfied:-

- (a) the cash-in-lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking spaces required by the Scheme, plus the value, as estimated by Council of that area of his land which would have been occupied by the parking space.
- (b) Payments made under this Clause shall be paid into a special fund to be used for the provision of public car parking facilities and the Council may use this Fund to provide public parking facilities anywhere within the proximity of the site in respect of which a cash-in-lieu arrangement is made.
- (c) If an owner or developer shall object to the amount or the costs or values determined by Council pursuant to sub-clause (a), the matter may be referred to arbitration.

5.16 PLACES OF HERITAGE VALUE

5.16.1 Purpose and Intent

The purpose and intent of the heritage provisions are to:

- (a) ensure the conservation of any place, area, building, object or structure of heritage value;
- (b) afford the opportunity for existing traditional uses to be continued or allow for the approval of alternative uses which are compatible with the heritage values and amenity of the locality;
- (c) ensure that development or redevelopment within or adjacent to places of heritage value has due regard to the heritage value of the place and is in harmony with the character of the locality.

5.16.2 Heritage List

5.16.2.1 The Council shall establish and maintain a heritage list of buildings, objects, structures and places considered by the Council to be of heritage significance and worthy of conservation.

5.16.2.2 For the purposes of this part, the heritage list means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the heritage list.

5.16.2.3 The Council shall keep copies of the heritage list with the Scheme documents for public inspection during normal office hours.

5.16.3 Designation of Heritage Precincts

5.16.3.1 The Council may designate an area of land to be a heritage precinct where, in the opinion of the Council, special planning control is needed to conserve and enhance the heritage values and character of the area.

5.16.3.2 The Council shall adopt for each heritage precinct a policy statement which shall comprise:-

- (i) a map showing the boundaries of the precinct;
- (ii) a list of any buildings, objects, structures or places of heritage significance;
- (iii) objectives and guidelines for the conservation of the precinct;

5.16.3.3 The Council shall keep a copy of the policy statement for any designated heritage precinct with the Scheme documents for public inspection during normal office hours.

5.16.3.4 The Council before designating a heritage precinct shall:

- (i) advertise notice of Council's intention in a newspaper circulating in the district and by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council considers necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation;
- (ii) invite submissions on the Council's intention within 28 days of the date specified in the notice in (i) above;
- (iii) carry out such other consultations as it thinks fit;
- (iv) consider any submissions made and resolve to designate the heritage precinct with or without modification or reject the proposal;
- (v) forward notice of its decision to the Heritage Council of WA and WA Planning Commission.

5.16.3.5 The Council may modify or may cancel a heritage precinct or any policy statement which related to it by following the procedure set out in clause 5.16.3.4 above.

5.16.4 Applications for Planning Consent

- 5.16.4.1 In dealing with any matter which may affect a heritage precinct or individual entry on the heritage list, including any application for Planning Consent, the Council shall have regard to any heritage policy of the Council.
- 5.16.4.2 The Council may, in considering any application that may affect a heritage precinct or individual entry on the heritage list, solicit the views of the Heritage Council of WA, the Australian Heritage Commission, the National Trust of Australia (WA) and those of any other relevant bodies, and take those views into account when determining the application.
- 5.16.4.3 Notwithstanding any existing assessment on record, the Council may require a heritage assessment to be carried out prior to the approval for any development proposed in a heritage precinct or individual entry listed on the heritage list.
- 5.16.4.4 Notwithstanding any other provision of the Scheme, no person shall commence or carry out any development affecting any building, object, structure or place listed in the inventory or contained within a heritage precinct without first having applied for and obtained the Planning Consent of the Council pursuant to the provisions of clause 5.16.5 of the Scheme.
- 5.16.4.5 For the purposes of clause 5.16.4.3 the term 'development' shall have the meaning as set out in the Town Planning and Development Act (as amended) but shall also include, in relation to any building, object, structure or place entered in the heritage list or contained within a heritage precinct, any act or thing that:
- (i) is likely to change the character of the place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration to the fabric of any building.

5.16.5 Formalities of Application

- 5.16.5.1 In addition to the application formalities prescribed in clause 5.16.4 and any formalities or requirements associated with applications for Planning Consent contained in any other provision of the Scheme, the Council may require an applicant for Planning Consent, where the proposed development may affect a place of cultural heritage significance or a heritage precinct, to provide one or more of the following to assist the Council in its determination of the application:
- (i) 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;
 - (ii) side and rear elevations of the proposed development, drawn to a scale of not smaller than 1:100;
 - (iii) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;

- (iv) an assessment of the cultural significance of any existing buildings and the development site according to policy guidelines adopted by the Council;
- (v) a detailed schedule of all finishes, including materials and colours of the proposed development, and unless the Council exempts the applicant from the requirement or any part of it, also the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
- (vi) any other information which the Council indicates that it considers relevant.

5.16.6 Power to Determine Application

5.16.6.1 Without affecting the generality of any other provision of the Scheme specifying the manner in which the Council is obliged or permitted to deal with an application for Planning Consent, the Council in dealing with any such application may, for reasons related to the conservation of a place of cultural heritage significance or a heritage precinct;

- (i) refuse approval;
- (ii) grant approval without conditions; or
- (iii) grant approval with conditions including conditions aimed at the conservation of the place or precinct.

5.16.7 Variations to Scheme Provisions

5.16.7.1 The Council may approve any development which involves the conservation of the whole or part of any place of cultural heritage significance or heritage precinct or its replacement if accidentally destroyed, notwithstanding the proposed works do not comply with the Residential Planning Codes or any provision, standard or requirement of the Scheme.

5.16.8 Conservation Incentives

5.16.8.1 In dealing with any application concerning or affecting a place of cultural heritage significance or a heritage precinct, the Council may for the purpose of conserving or enhancing the place or precinct give a special approval, benefit, allowance or incentive, including but not limited to, the granting of density bonuses.

5.16.8.2 Where in the Council's opinion the granting of a conservation incentive is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the incentive, the Council shall consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to Clause 6.2 and shall have regard to any expressed views prior to making its decision to grant the incentive.

5.16.8.3 In granting a conservation incentive under clause 5.16.8.1 the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the incentive. The agreement may specify the owner's obligations and contain covenants noted on relevant certificates of title.

5.16.9 Density Bonuses

- 5.16.9.1 Within a heritage precinct, the Council may permit on a residential lot an increase up to 50% of permitted dwelling density which otherwise would not apply on that lot under the Residential Planning Codes. The density bonus shall only be granted where the increased development would not adversely affect the cultural heritage significance or character or amenity of the place, the streetscape or precinct, and if one or more of the following circumstances apply:
- (i) provision is made for the preservation of significant landscape features, including significant trees or other vegetation;
 - (ii) provision is made for the carrying out of conservation works approved by the Council on a heritage place; or
 - (iii) an agreement is otherwise entered into for a contribution to be made to the Council's current Municipal Heritage Conservation program.
- 5.16.9.2 In a case where the Council has allowed under Clause 5.16.9.1 an increase in the permitted dwelling density, the standards and provisions of the higher density code applicable to that permitted dwelling density shall apply.

5.17 CONTROL OF ADVERTISING

5.17.1 Power to Control Advertisements

- i) For the purpose of this scheme, the erection, placement and display, and, subject to the provisions of Part 5, the continuance of advertisements is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. ~~Such an approval to Planning Consent is required in addition to any licence pursuant to the Council's Signs and Hoarding and Bill Posting By-laws. DELETED BY AMD 6 GG 23/10/07~~
- ii) Applications for the Council's Planning Consent pursuant to this part shall be submitted in accordance with the provisions of Clause 5.1 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Schedule VI giving details of the advertisement(s) to be erected, placed or displayed on the land.

5.17.2 Existing Advertisements

Advertisements which -

- i) were lawfully erected, placed or displayed prior to the approval of this Scheme, or
- ii) may be erected, placed or displayed pursuant to a licence or other approval granted by the Council prior to the approval of this Scheme, hereinafter in this Part referred to as 'existing advertisements', may, except as otherwise provided, continue to be displayed or erected and displayed in accordance with the licence or approval as appropriate.

5.17.3 Consideration of Applications

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for Planning Consent to erect, place or display an advertisement, the Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, The amenity of adjacent areas which may be affected and traffic safety..

5.17.4 Exemptions from the Requirement to Obtain Planning Consent

Subject to the Provisions of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of Clause 5.17.1, the Council's prior Planning Consent is not required in respect of those advertisements listed in Schedule VI which for the purpose of this Part are referred to as 'exempted advertisements'. The exemptions listed in Schedule VI do not apply to buildings:

- (i) listed by the National Trust.
- (ii) Listed on the Register of the National Estate.
- (iii) Included in Local Authority Town Planning Schemes because of their heritage or landscape value.

5.17.5 Discontinuance

Notwithstanding the Scheme objectives and Clause 5.17.4 where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Part, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt, or otherwise modify the advertisement within a period of time specified in the notice.

5.17.6 Derelict or Poorly Maintained Signs

Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the Council may by notice in writing require the advertiser to :-

- i) repair, repaint or otherwise restore the advertisement to a standard specified by Council in the notice, or
- ii) remove the advertisement.

5.17.7 Notices

- i) 'The advertiser' shall be interpreted as any one or any group comprised of the owner, occupier, licensee or other person having interest in or drawing benefit from the display of the advertisement concerned.
- ii) Any notice served in exceptional circumstances pursuant to Clauses 5.17.5 and 5.17.6 shall be served upon the advertiser and shall specify:
 - a) the advertisement(s) the subject of the notice,
 - b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice,
 - c) the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.
- iii) Any person upon whom a notice is served pursuant to this Clause may within a period of 60 days from the date of the notice appeal to the Hon. Minister for Planning or the Town Planning Appeal Tribunal in accordance with Part V of the Act, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

5.17.8 Scheme to Prevail

Where the provisions of this Part are found to be at variance with the provisions of the Council's Signs, Hoarding and Bill Posting By-laws, the provisions of the Scheme shall prevail.

5.17.9 Enforcement and Penalties

Any advertiser who:

- i) erects, places or displays or who permits to be erected, placed or displayed an advertisement otherwise than in accordance with the provisions of this Part: or
- ii) fails to comply with any notice issued pursuant to this Part;

commits an offence and is liable to the remedies available to the Council pursuant to Section 10 of the Act.

PART VI PLANNING CONSENT

6.1 APPLICATION FOR PLANNING CONSENT

- 6.1.1 Every Application for Planning Consent shall be made in the form prescribed in Schedule III(a) to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.
- 6.1.2 Unless Council waives any particular requirement every Application for Planning Consent shall be accompanied by:
- (a) A plan or plans to a scale of not less than 1:500 showing:
 - (i) Street names, lot number(s), north point, and the dimensions of the site.
 - (ii) The location and proposed use of any existing buildings to be retained and the location and use of buildings proposed to be erected on the site.
 - (iii) The existing and proposed means of access for pedestrians and vehicles to and from the site.
 - (iv) The location, number, dimensions and layout of all carparking spaces intended to be provided.
 - (v) 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.
 - (vi) The location, dimensions and design of any landscaped, open storage or trade display area and particulars of the manner in which it is proposed to develop the same;
 - (b) Plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
 - (c) Any other plan or information that the Council may reasonably require to enable the Application to be determined.

6.2 ADVERTISING OF APPLICATIONS

- 6.2.1 Where an application is made for Planning Consent to commence or carry out development which involves an 'SA' use the Council shall not grant consent to that application unless notice of the application is first given in accordance with the provisions in this Clause.
- 6.2.2 Where an application is made for Planning Consent to commence or carry out development which involves an 'AA' use, or for any other development which requires the planning consent of the Council, the Council may give notice of the application in accordance with the provisions of this Clause.
- 6.2.3 Where the Council is required or decides to give notice of an Application for Planning Consent the Council shall cause one or more of the following to be carried out:
- (a) Notice of the proposed development to be served on the owners and occupiers of land within an area determined by the Council as likely to be affected by the granting of Planning Consent stating that submissions may be made to the Council within twenty-one days of the service of such notice;
 - (b) Notice of the proposed development to be published in a newspaper circulating in the Scheme area stating that submissions may be made to the

Council within twenty-one days from the publication thereof;

- (c) A sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph (b) of this Clause.

6.2.4 The notice referred to in Clause 6.2.3(a) and (b) shall be in the form contained in Schedule III(b) with such modifications as circumstances require.

6.2.5 After expiration of twenty-one days from the serving of notice of the proposed development, the publication of notice or the erection of a sign or signs, whichever is the later, the Council shall consider and determine the application.

6.3 DETERMINATION OF APPLICATIONS

6.3.1 In determining an Application for Planning Consent the Council may consult with any authority which, in the circumstances, it thinks appropriate.

6.3.2 The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality, may refuse to approve any Application for Planning Consent or may grant its approval unconditionally or subject to such conditions as it thinks fit.

6.3.3 The Council shall issue its decision in respect of an Application for Planning Consent in the form prescribed in Schedule III(c) to the Scheme.

6.3.4 Where the Council approves an Application for Planning Consent under this Scheme the Council may limit the time for which that consent remains valid.

6.3.5 Amending or revoking a Planning Consent

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

6.3.6 Unauthorised existing developments

(a) The local government may grant Planning Consent 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.

(b) Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of Planning Consent, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of Planning Consent.

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

6.3.7 Term of Planning Consent

6.3.7.1 Where the local government grants Planning Consent 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.

6.3.7.2 A written request may be made to the local government for an extension of the term of Planning Consent at any time prior to the expiry of the approval period in clause 6.3.7.1.

6.3.8 Scope of Planning Consent

Planning Consent 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.

6.3.9 Approval subject to later approval of details

- (a) Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent Planning Consent of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.
- (b) In respect of an approval requiring subsequent Planning Consent, the local government may require such further details as it thinks fit prior to considering the application.
- (c) Where the local government has granted approval subject to matters requiring the later Planning Consent of the local government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

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6.4 DEEMED REFUSAL

- 6.4.1 Where the Council has not within sixty days of the receipt by it of an Application for Planning Consent either conveyed its decision to the applicant or given notice of the Application in accordance with Clause 6.2 the Application may be deemed to have been refused.
- 6.4.2 Where the Council has given notice of an Application for Planning Consent in accordance with Clause 6.2 and where the Council has not within ninety days of receipt by it of the Application conveyed its decision to the applicant, the Application may be deemed to have been refused.
- 6.4.3 Notwithstanding that an Application for Planning Consent may be deemed to have been refused under Clauses 6.4.1 or 6.4.2 the Council may issue a decision in respect of the Application at any time after the expiry of the sixty day or ninety day period specified in those Clauses, as the case may be.

PART VII ADMINISTRATION

7.1 POWERS OF THE SCHEME

The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers:

- (a) The Council may enter into any agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme;
- (b) The Council may acquire any land or buildings within the district pursuant to the provisions of the Scheme or the Act. The Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with Law and for such purpose may make such agreements with other owners as it considers fit;
- (c) An officer of the Council, authorised by the Council for the purpose, may at all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being served.

7.2 OFFENCES

7.2.1 A person shall not erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building for any purpose:

- (a) otherwise than in accordance with the provisions of the Scheme;
- (b) unless all consents required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the grant and issue of any consent required by the Scheme have been and continue to be complied with;
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that land or building or that part have been and continue to be complied with.

7.2.2 A person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to the penalties prescribed by the Act.

7.3 NOTICES

7.3.1 Twenty-eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act.

7.3.2 The Council may recover expenses under Section 10(2) of the Act in a Court of competent jurisdiction.

7.4 CLAIMS FOR COMPENSATION

Except where otherwise provided in the Scheme, the time limit for the making of claims for compensation pursuant to Section 11(1) of the Act is six (6) months after the date of publication of the Scheme in the Government Gazette.

7.5 APPEALS

An applicant aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part V of the Act and the Rules and

Regulations made pursuant to the Act.

7.6 POWER TO MAKE POLICIES

- 7.6.1 In order to achieve the objectives of the Scheme, the Council may make Town Planning Scheme Policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the control of development.
- 7.6.2 A Town Planning Scheme Policy shall become operative only after the following procedures have been completed:
- a) The Council having prepared and having resolved to adopt a Draft Town Planning Scheme Policy, shall advertise a summary of the Draft Policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the Draft Policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.
 - b) The Council shall review its Draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the Draft Policy with or without amendment, or not proceed with the Draft Policy.
 - c) Following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme Documents for inspection during normal office hours.
- 7.6.3 A Town Planning Scheme Policy may only be altered or rescinded by:
- a) Preparation and final adoption of a new Policy pursuant to this clause, specifically worded to supersede an existing policy.
 - b) Publication of a formal notice of rescission by the Council twice in a newspaper circulating in the area.
- 7.6.4 A Town Planning Scheme Policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the Policy and objectives which the Policy was designed to achieve before making its decision.

7.7 DELEGATION OF FUNCTIONS

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- 7.7.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
- 7.7.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 7.7.1.
- 7.7.3 The exercise of the power of delegation under clause 7.7.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.
- 7.7.4 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.

SCHEDULE I INTERPRETATIONS

Absolute Majority - means a total majority of the members for the time being of the Council whether present and voting or not;

Act - means the Town Planning and Development Act, 1928 (as amended);

Advertisement - means the erection or display of signs or hoardings giving public notice but does not include:

- (a) a sign relating to the carrying out of building or similar work on the land on which it is displayed;
- (b) a sign relating to the sale or letting of the land on which it is displayed; or
- (c) directional signs, street signs or other like signs erected by a public authority;

Agroforestry - means land used commercially for both tree production and agriculture where trees are planted in blocks of more than 1 hectare.

Amenity - means the quality of the environment as determined by the character of an area, its appearance and land use, which contributes to its pleasantness and harmony and to its better enjoyment;

Amusement and Recreation - means land and buildings used for the amusement, recreation or entertainment of the public, with or without charge, including a cinema, drive-in cinema, racecourse, trotting track and showgrounds;

Amusement Facility - means land and buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use;

Amusement Machine - means a machine, device or games table, mechanically or electronically powered, that releases or makes available balls, discs or other items for projection in or on the machine by the use of springs, flippers, paddles or cues, or electronic devices which are controlled or partly controlled by computer associated with the electronic screen(s) operated by one or more players for amusement or recreation;

Amusement Parlour - means land and buildings, open to the public, where the predominant use is amusement by amusement machines and where there are more than two amusement machines operating within the premises;

Animal Boarding House - means land and buildings used for the boarding and breeding of animals where such premises are registered or required to be registered by the Council, these premises include a cattery; and may include the sale of animals where such use is incidental to the predominant use;

Appendix - means an appendix to the Scheme;

Bed and Breakfast Accommodation - means short stay residential accommodation offering overnight lodgings, with or without breakfast, in a domestic environment;

Betting Agency - means a totalisator agency established and operated in accordance with the Totalisator Agency Board Act 1960;

Building Line - means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act;

Building Setback - means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected;

Builders Yard - means land or land and a building or buildings used for the storage, assembly or dismantling of building materials;

Camping Area - means land set aside for the erection of tents and other similar structures for temporary accommodation;

Car Park - means land or a building or buildings used primarily for parking private cars whether open to the public or not but does not include any part of a public road or any land or building on or in which vehicles are displayed for sale;

Caravan Park - means an area of land set aside for the parking of caravans when used or available for use as a temporary habitation or for dwelling or sleeping purposes, whether or not any portion of the land is set aside or used a camping area or for chalets;

Caretaker's Dwelling - means a building used as a residence by the proprietor or manager of an industry, business, office building or recreation area existing upon the same site and occupied by a person having the care of the building, plant, equipment or grounds thereof;

Civic Use - means land and buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose;

Commission - means the WA Planning Commission constituted under the WA Planning Commission Act, 1985;

Community Use - means land used by a club or association or other body approved by the Council as a meeting place for formal and informal activity, including entertainment and includes any land appurtenant thereto used for recreation, and includes a residential club;

Constructed Road - means a track that has been graded and stabilised within a gazetted road reserve.

Convenience Store - means land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 200 m² gross leasable area;

Day Care Centre - means land and building used for the daily or occasional care of children in accordance with the Child Welfare (Care Centres) Regulations, 1968 (as amended);

Development - has the meaning assigned to it by the Act which is as follows:

"development means the use or development of any land and includes the erection, construction, alteration or carrying out, as the case may be, of any building, excavation or other works on any land";

District - means the District of the Shire of Kojonup;

Drycleaning Premises - means land and buildings used for the cleaning of garments and other fabrics by chemical processes;

Educational Establishment - means a school, college, university, technical institute, academy or other educational centre, or a lecture hall, but does not include a reformative institution;

Effective Frontage - means the length of the lot boundary which is on the street alignment or the width of the lot at the minimum distance from the street alignment at which buildings may be constructed, whichever is the greater. If the lot has two or more boundaries on a street alignment then the least of the measurements shall be considered for ascertaining the effective frontage. In the case of a battleaxe lot the effective frontage shall be the smallest horizontal dimension.

Factoryette - means a portion of a factory building that is or is intended to be the subject of a separate occupancy;

Fast Food Outlet - means land and buildings used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, including drive in facilities, but does not include a fish shop;

Frontage - means the boundary line or lines between a site and the street or streets upon which the site abuts;

Funeral Parlour - means land and buildings occupied by undertakers, where bodies may be stored and prepared for burial or cremation;

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

Gazettal Date - means the date of which notice of the approval of the Minister to this Scheme is published in the Government Gazette;

Gross Floor Area (or the abbreviation gfa) - means in relation to a building, the floor area of each storey measured over the enclosing walls, if any, and includes the portion of any party walls forming part of the building;

Holiday Accommodation - means accommodation comprising two or more cabins, apartments, chalets, cottages, or flats which, by way of trade or business, or for the purpose of any trade or business is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor.

Home Occupation - means a business or activity carried on with the written permission of the Council within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant:

Hotel - means land and a building or buildings the subject of a hotel licence or a limited hotel licence granted under the provisions of the Liquor Act, 1970;

Industry: Cottage - means an industry which produces arts and craft goods which cannot be carried out under the provisions relating to a 'home occupation' and that:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid waste or waste products;
- (b) where operated in a Residential Zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;
- (c) is conducted in an outbuilding which is compatible to the zone and its amenity and does not occupy an area in excess of 55m²;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located; and
- (e) does not display a sign exceeding 0.2m² in area;

Industry: Extractive - means an industry which involves the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land, and also the storage, treatment or manufacture of products from those materials is extracted or on land adjacent thereto;

Industry: General - means an industry other than a cottage, extractive, hazardous, light, noxious, rural or service industry;

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

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 will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services;

Industry: Noxious - means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act, 1911 - 1979 (as amended), but does not include a fish shop, dry cleaning premises, marine collectors yard, laundromat, piggery or poultry farm.

Industry: Rural - means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality;

Industry: Service - means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced;

Institutional Building - means a building or a group of buildings used or designed for use wholly or principally for the purpose of:

- (a) a hospital or sanatorium for the treatment of infectious or contagious diseases;
- (b) a penal or reformatory institution;
- (c) a hospital for treatment or care of the mentally sick; or

Intensive Agriculture - means the use of land for the purpose of trade, commercial reward or gain, including such buildings and earthworks, normally associated with the following:

- (a) The production of grapes, vegetables, flowers, exotic and native plants, fruit and nuts.
- (b) The establishment and operation of plant and fruit nurseries.
- (c) The development of land for irrigated fodder production and irrigated pasture (including turf farms).
- (d) The development of land for the keeping, rearing or fattening of pigs, poultry (for either eggs or meat production), rabbits (for either meat or fur production), and other livestock in feedlots.
- (e) Dairy milking sheds.
- (f) The development of land for the keeping, rearing or fattening of other livestock above those rates recommended by Agriculture Western Australia for the applicable pasture type in consultation with the surrounding farmers.
- (g) Aquaculture. Aquaculture means any fish farming operation for which a fish farm licence issued pursuant to the provisions of Part V of the Fisheries Act 1905 (as amended) and the Fisheries Regulations 1938 (as amended) is required.

Kindergarten - means land and buildings used as a school for developing the intelligence of young children by object lessons, toys, games, singing and similar methods;

Kiosk - means the use of land or buildings which is incidental to the predominant use and which complements that use for the purpose of the display and sale of souvenirs and/or refreshments to patrons of the predominant use.

Liquor Store - means premises in respect of which a store licence has been granted under the Liquor Act, 1970;

Lodging House - shall have the same meaning as is given to it in and for the purposes of the Health Act, 1911 - 1979 (as amended);

Lot - has the meaning given to it by the Act.

Market - means land and buildings used for a fair, a farmer's or producer's market, or a swapmeet in which the business or selling carried on or the entertainment provided is by independent operators or stallholders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental;

Medical Centre - means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the interpretations of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists;

Medical Clinic - means premises in which facilities are provided for two or more of the following: a medical practitioner, a dental practitioner, physiotherapist, chiropractor, masseur;

Minister - means the Minister for Planning or other member of the Executive Council for the time being charged by the Governor with the administration of the Act;

Motel - means land and a building or buildings used or intended to be used to accommodate patrons, including holiday makers and travellers, for temporary periods in a manner similar to a hotel but with separate bathing and toilet facilities for each suite and in which special provision is made for the accommodation of patrons with motor vehicles and includes holiday flats and chalets;

Mobile Home - means any vehicle or similar relocatable structure having been manufactured with wheels (whether or not such wheels have been removed) and having no footings other than wheels, jacks or skirtings, and so designed or constructed as to permit independent occupancy for continuous dwelling purposes incorporating its own facilities including bathroom and toilet facilities;

Mobile Home Park - means land upon which two or more mobile homes, occupied for dwelling purposes, are located regardless of whether or not a charge is made for such accommodation;

Net Lettable Area - means the area of all floors confined within the internal finished surfaces of permanent walls but excluding the following cases;

- i) all stairs, toilets, cleaners cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- ii) lobbies between lifts facing other lifts serving the same floor;
- iii) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- iv) 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.

In the case of subdivided floors, the measurement of the net lettable area is taken to the centre line of any walls or partitions between tenancies.

Non-Conforming Use - means a use of land which, though lawful immediately prior to the coming into operation of this Scheme, is not in conformity with the Scheme.

Office - means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services, and services of a similar nature;

Owner - when used in relation to land includes the Crown and every person who, jointly and severally, whether at law or in equity:

- (a) is entitled to the land for an estate in fee simple in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land in possession; or
- (c) is a lessee or licensee from the Crown; or
- (d) is entitled to receive or is in receipt of or if the lands were let to a tenant would be entitled to receive the rents and profits thereof, whether as a beneficial owner, trustee, mortgagee in possession or otherwise;

Places of Natural Beauty - means the natural beauties of the area including rivers, lakes and other inland waters, banks of rivers, hill slopes and summits and valleys;

Place of Worship - includes buildings used primarily for the religious activities of a church but does not include an institution for primary, secondary, or higher education, or a residential training institution;

Plantation - has the same meaning as in the *Code of Practice for timber Plantations in Western Australia (1997)* published by the Department of Conservation and Land Management and the Australian Forest Growers.

Plant Nursery - means the growing of trees, plants, shrubs or flowers, for replanting in domestic, commercial or industrial gardens;

Primary Produce - includes;

- (a) produce resulting directly from the cultivation of land;
- (b) fresh meat, poultry, fish and their bodily produce; but with the exception of the processing required to prepare fresh meat, poultry and fish for sale, shall not include any goods that have undergone any secondary process;

Private Hotel - means land and buildings used for residential purposes the subject of a Limited Hotel Licence granted under the provisions of the Liquor Act, 1970 (as amended);

Professional Office - means a building used for the purposes of his profession by an accountant, architect, artist, author, barrister, chiropractor, consular official, dentist, doctor, engineer, masseur, nurse, physiotherapist, quantity surveyor, solicitor, surveyor, teacher (other than a dancing teacher or music teacher), town planner, or valuer, or a person having an occupation of a similar nature; and

Professional Person has a corresponding interpretation.

Public Utility - means any work or undertaking constructed or maintained by a public authority or the Council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services;

Radio or T.V. Installation - means land, buildings, devices or structures for the transmission or receiving of signals or pictures or both but does not include domestic radio and television receivers;

Reception Centre - means land and buildings used by parties for functions on formal or ceremonious occasions, but not for unhosted use for general entertainment purposes;

Residential Planning Codes - means the Residential Planning Codes adopted as a policy by the West Australian Planning Commission and Gazetted on 13 December, 1991, together with all amendments or additions thereto or any code, by-laws or regulations replacing them and applying or being applicable within the district;

Restaurant - means a building or portion of a building wherein food is prepared solely for sale and consumption within the building or portion thereof and the expression shall include a licensed restaurant, cafe or nightclub, and also includes a restaurant at which food for consumption outside the building, or portion thereof, is sold where the Council is of the opinion that it forms a minor part of the business only;

Restricted Premises - means any premises, part or parts thereof, used or designed to be used primarily 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 publications pursuant to the Indecent Publications and Articles Act 1902 (as amended); or
- (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;

Restoration - means any work or process on at or in respect of a building structure of place which wholly or partly brings back the building structure or place to its original condition or which reinstates its historic or natural character either by rebuilding or repairing its fabric or by removing accretions or

additions;

Rural Pursuit - means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:

- (a) the growing of vegetables, fruit, cereals or food crops;
- (b) the rearing or agistment of poultry, sheep, cattle or beasts of burden;
- (c) the stabling, agistment or training of horses;
- (d) the sale of produce grown solely on the lot;

but does not include the following except as approved by the Council:

- (i) the keeping of pigs;
- (ii) the processing, treatment or packing of produce; and
- (iii) the breeding, rearing or boarding of domestic pets;

Schedule - means a schedule to the Scheme;

Service Station - means land and buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use; but does not include transport depot, panel beating, spray painting, major repairs or wrecking;

Shop - means land and a building or portion of a building wherein goods are kept, exposed or offered for sale by retail, and includes a convenience store or an establishment by any name retailing convenience goods but does not include a bank, fuel depot, a wholesale market, service station, milk depot, marine store, timber yard or land or buildings used for the sale of vehicles or for any purpose falling within the definition of industry and does not include a warehouse;

Showroom - means a building wherein goods are displayed and may be offered for sale by wholesale and/or by retail, excluding the sale by retail of: foodstuffs, liquor or beverages; items of clothing or apparel; magazines, books or paper products; medical or pharmaceutical products; china, glassware or domestic hardware; and items of personal adornment;

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

Substantially commenced – means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed.

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Tavern - means land and a building or buildings the subject of a tavern licence granted under the provision of the Liquor Act, 1970;

Trade Display - means land and buildings used for the display of trade goods and equipment for the purposes of advertisement;

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

Vehicle Hire Station - means land and buildings used for the hiring out of motor vehicles and when conducted on the same site, the storage and cleaning of motor vehicles for hire but does not include mechanical repair or servicing of such vehicles;

Vehicle Repair Station - means land and buildings used for the mechanical repair and overhaul of motors or motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis re-shaping;

Vehicle Sales Premises - means land and buildings used for the display and sale of new or second-hand motorcycles, cars, trucks, caravans and boats or any one or more of them and may include the servicing of motor vehicles sold from the site;

Veterinary Consulting Rooms - means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight;

Veterinary Hospital - means land and a building or buildings used for or in connection with the treatment of sick animals and includes the accommodation of such animals whether or not the building or buildings are used as a veterinary clinic;

Warehouse - means:

- (a) a building or enclosed land, or part of a building or enclosed land, used for storage of goods, the carrying out of commercial transactions involving the sale of such goods by wholesale; or,
- (b) a bulk store or depot;

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

Wholesale - means the sale of any goods to any person or persons other than the ultimate consumer of those goods by a person or his trustee, registered as a 'wholesale merchant' for Sales Tax purposes under the provisions of the Sales Tax Assessment Act No. 1, 1930 (as amended);

Wineshop - means premises in respect of which a winehouse licence has been granted under the Liquor Act, 1970.

Zone - means a portion of the Scheme Area shown on the Scheme Map by distinctive colouring, patterns, symbols, hatching, or edging for the purpose of indicating the restrictions imposed by the Scheme on the erection and use of buildings or the use of land, but does not include reserved land.

SCHEDULE II SCHEDULE OF USES IN SPECIAL USE ZONE

No	Lot Description	Scheme Map Designation	Permitted Special Use
1	Lot 1 Albany Highway, KOJONUP	W	Place of Worship
2.	Reserve 14096 Cnr Spencer and Honner Sts, KOJONUP	W	Place of Worship
3.	Lot 5, Loc 110, cnr Katanning Rd and Albany Hwy, KOJONUP	SS	Service Station
4.	Location 206, Newstead Rd, KOJONUP	CP	Caravan Park and ancillary uses
5.	Lot 8, Location 45, Albany Highway, KOJONUP	SS	Service Station and Road House
6.	Ptn Lot 1, Location 10, btn Albany Highway and Katanning Road, KOJONUP	W	Place of Worship
7.	Lots 1, Albany Highway, and Pde., KOJONUP	SS	Service Station
8.	Lots 101, Albany Highway, and Blackwood Rd., KOJONUP	SS	Service Station
9.	Ptn. Loc 53 cnr Church Ave., Spring Rd., Albany Hwy, KOJONUP	W	Place of Worship
10	Lot 321 Albany Highway, KOJONUP	W	Place of Worship
11.	Lot 350 Barracks Place and Ptn Lot 19 Soldier Rd, KOJONUP	APA	Aged Persons Accommodation

SCHEDULE III (A) APPLICATION FOR PLANNING CONSENT

FORM 1

SHIRE OF KOJONUP TOWN PLANNING SCHEME NO. 3

APPLICATION FOR PLANNING CONSENT

Name of Owner of Land) Surname.....
on which development) Christian Names
proposed) Address in Full

Submitted by

Address for Correspondence

Locality of Development.....

Titles Office Description of Land:

Lot No..... Street Loc No

Plan or Diagram Certificate of Title Vol..... Fol

The type of development and the nature of the proposed buildings are as follows:

.....
.....
.....
.....

The approximate cost of proposed development is

The estimated time of completion is

The approximate number of persons to be employed when the development is completed is

Three copies of the Site Plan and other necessary plans of the proposals are submitted with this application.

Signed by the Owner of the Land

NOTE: A separate application is required to be submitted to the Council for a building licence (where applicable).

SCHEDULE III (B) NOTICE OF APPLICATION FOR PLANNING CONSENT

**SHIRE OF KOJONUP
TOWN PLANNING SCHEME NO. 3**

NOTICE OF APPLICATION FOR PLANNING CONSENT

TO THE OCCUPIER/OWNER

IN ACCORDANCE with the provisions of this Scheme the Council of the Shire of Kojonup hereby gives you notice that an Application for Planning Consent has been received as detailed below. The Council invites submissions from interested parties concerning the proposal within twenty-one (21) days of the service of this notice. The Council will duly consider such submissions prior to determining the Application.

Application submitted by

Location of proposal

.....

The type of development and the nature of the proposed buildings are as follows:

.....
.....
.....
.....
.....

The estimated time of completion is

The approximate number of persons to be employed when the development is completed is

Interested parties may request further details from the Council office in KOJONUP.

Submissions shall be received within 21 days from the date indicated below.

.....
PRESIDENT DATE

.....
CHIEF EXECUTIVE OFFICER DATE

SCHEDULE III (C) DETERMINATION OF PLANNING CONSENT

**SHIRE OF KOJONUP
TOWN PLANNING SCHEME NO. 3
PLANNING APPROVAL*
REFUSAL OF PLANNING APPROVAL***

Application Dated: Owner of Land:

Applicant:.....
.....
.....
.....
.....

Details of Land:

Lot No..... Street Loc No.....

Certificate of Title Volume Folio.....

Conditions of Approval (where applicable):

.....
.....
.....
.....
.....

Signed
CHIEF EXECUTIVE OFFICER DATE

~~This Approval is valid for a period of months only.~~ DELETED BY AMD 12 GG 28/07/15

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

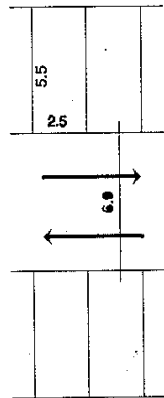
Note 2: Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be made within 28 days of the determination.

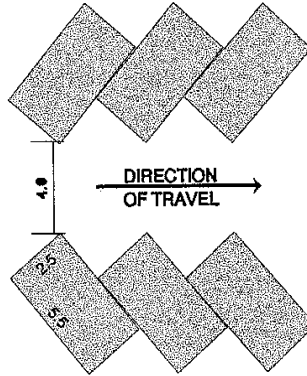
AMD 12 GG 28/07/15

** Delete as applicable*

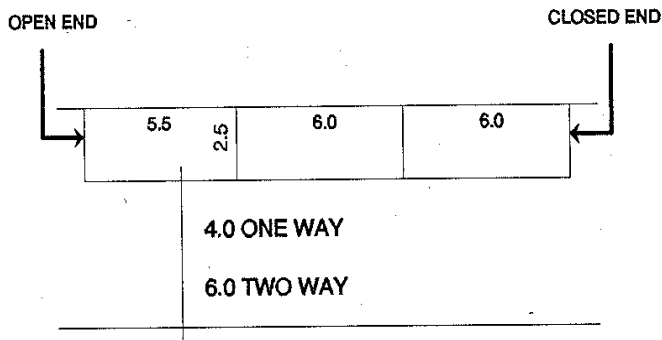
SCHEDULE IV CARPARKING LAYOUTS



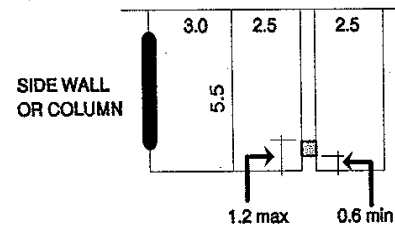
90° PARKING



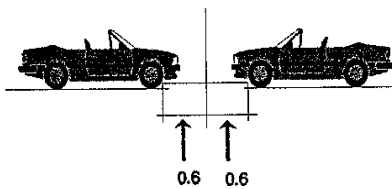
45° PARKING



PARALLEL PARKING

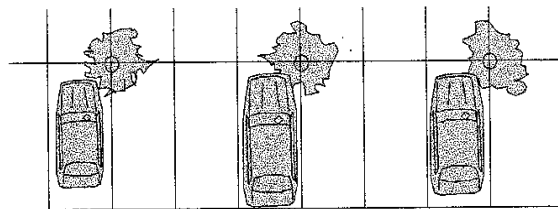


OBSTRUCTIONS



WHEEL STOP MODIFICATIONS

Not to affect drainage



SHADE TREE LANDSCAPING

Kerb ring not to exceed 900 mm diam

90° & 45° Parking - 5.5m x 2.5m
 Parallel Parking - 6.0m x 2.5m
 or 5.5m x 2.5m where open ended

Driveway Widths
 90° - 6.0m access
 45° - 4.0m one way access
 Parallel - 4.0m one way access
 - 6.0m two way

SCHEDULE V SPECIAL RURAL ZONES

No	Lot Description	Special Conditions
1	Pt Location 7 Cnr Albany Highway and Collie-Changerup Rds,	a) The minimum lot size shall be no less than 2.0 hectares b) Subdivision shall generally be in accordance with Subdivision Guide Plan No. 1.
2	Flanagan Road Area Kojonup North	a) The minimum lot size shall be no less than 2.0 hectares b) Subdivision shall generally be in accordance with Subdivision Guide Plan No. 2.
3	Delaney St, Stock Rd., Kojonup South	a) The minimum lot size shall be no less than 2.0 hectares b) Subdivision shall generally be in accordance with Subdivision Guide Plan No. 3.
4	Denny, Blackwood, Luz, Mather Rd area, Kojonup West	a) The minimum lot size shall be no less than 2.0 hectares b) Subdivision shall generally be in accordance with Subdivision Guide Plan No. 4.

SCHEDULE VI - EXEMPTED ADVERTISEMENTS PURSUANT TO CLAUSE 5.17

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (INCLUDES THE CHANGE OF POSTERS ON POSTER SIGNS AND APPLIES TO ALL NON-ILLUMINATED SIGNS UNLESS OTHERWISE STATED)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	One professional name-plate as appropriate	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned	0.2m ²
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed	Each advertisement sign not to exceed 5m ²
Shops, Showrooms and other uses appropriate to a Shopping Area <i>AMD 6 GG 23/10/07</i>	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building.	Not applicable
Industrial and Warehouse Premises	A maximum of 4 advertisements to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level	Total area of any such advertisements shall not exceed 15m ² Maximum permissible total area shall not exceed 10m ² and individual advertisement signs shall not exceed 6m ²
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets	Not Applicable
Public Places and Reserves	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or Council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and (b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the Council of a municipality, and (c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	Not Applicable Not Applicable Not Applicable
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at or upon a railway station	No sign shall exceed 2m ² in area
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings	Not Applicable
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof	0.2m ²

SCHEDULE VI - EXEMPTED ADVERTISEMENTS PURSUANT TO CLAUSE 5.17 (Cont'd)

TEMPORARY SIGNS	EXEMPTED SIGN TYPES AND NUMBER (All non illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
<p>Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows:</p> <p>1) Dwellings</p> <p>2) Multiple Dwellings, Shops, Commercial and Industrial Projects</p> <p>3) Large Development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height</p>	<p>One advertisement per street frontage containing details of the project, professional consultants and the contractors undertaking the construction work</p> <p>One sign as for (i) above</p> <p>One sign as for (i) above</p> <p>One additional sign showing the name of the project builder</p>	<p>2m²</p> <p>5m²</p> <p>10m²</p> <p>5m²</p>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose	2m ²
<p>Property Transactions - Advertisement signs displayed for the duration over which property transactions are offered and negotiated as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple Dwellings, Shops, Commercial and Industrial Projects</p> <p>(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha</p>	<p>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed</p> <p>One sign as for (a) above</p> <p>One sign as for (a) above</p>	<p>Each sign shall not exceed an area of 2m²</p> <p>Each sign shall not exceed an area of 2m²</p> <p>Each sign shall not exceed an area of 5m²</p> <p>Each sign shall not exceed an area of 10m²</p>
Display Homes - Advertisement signs displayed for the period over which homes are on display for public inspection	<p>(i) One sign for each dwelling on display</p> <p>(ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display</p>	<p>2m²</p> <p>5m²</p>

SCHEDULE VI ADDITIONAL INFORMATION SHEET FOR ADVERTISEMENT APPROVAL

ADDITIONAL INFORMATION SHEET FOR ADVERTISEMENT APPROVAL

(to be completed in addition to Application for Approval to Commence Development Form 1)

1. **Name of Advertiser** (if different from owner):

.....

2. **Address in full:**

.....

3. **Description of Property** upon which advertisement is to be displayed including full details of its proposed position within that property:

.....

4. **Details of Proposed Sign:**

Height: Width: Depth:

Colours to be used:

Height above ground level (to top of Advertisement)..... : (to underside):

Materials to be used:

Illuminated: Yes/No If yes;

- state whether steady, moving, flashing, alternating, digital, animated or scintillating etc.:

.....

- state intensity of light source:.....

5. **State period of time for which advertisement is required:**

.....

6. **Details of signs, if any, to be removed if this application is approved:**

.....

Signature of Advertiser(s): (if different from land owners)

Date

NB. 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 6 above.

SCHEDULE VII ADDITIONAL USES

No.	Lot Description	Additional Use	Special Conditions
1	Lot 6 Kojonup and Pellet Plant and activities Frankland Road	Pellet Plant and activities ancillary to the existing use	No further expansion of current activities
2.	Lots 7 and 8, Stock Road, KOJONUP	Dental Clinic	No further expansion of current activities
3.	Lots 122 and 123 Blackwood Road, Muradup <i>AMD 6 GG 23/10/07</i>	Vehicle Restoration Business	<ul style="list-style-type: none"> • That the business comply with the Environmental Protection Act 1986 • That if a sign is erected it be no larger than 0.2m² • That no refuelling of vehicles to be undertaken on the property. • A maximum of two (2) cars can be under repair on site at any one time. • That only members of the occupiers family be employed by the business. • That the premises be fitted with two fire extinguishers suitable for the purpose • That inflammable material be totally removed from the property in accordance with the requirements of the Firebreak Order relating to light industrial land.
4.	Lots 1 and 3 Albany Highway, KOJONUP	Transport Depot	<ol style="list-style-type: none"> 1. All development of the premises for transport depot uses shall be generally in accordance with adopted Concept Site Plan (DWG SK1 Dated Aug 08) or any minor variation approved by Council. Minor additional uses may be permitted by the Shire of Kojonup if it is satisfied that the use is incidental and ancillary to the predominant transport depot use. 2. Compliance with the Main Roads WA requirements regarding the crossover and drainage of the site. 3. No access/egress or use of Partridge Street for any transport depot activities is permitted.

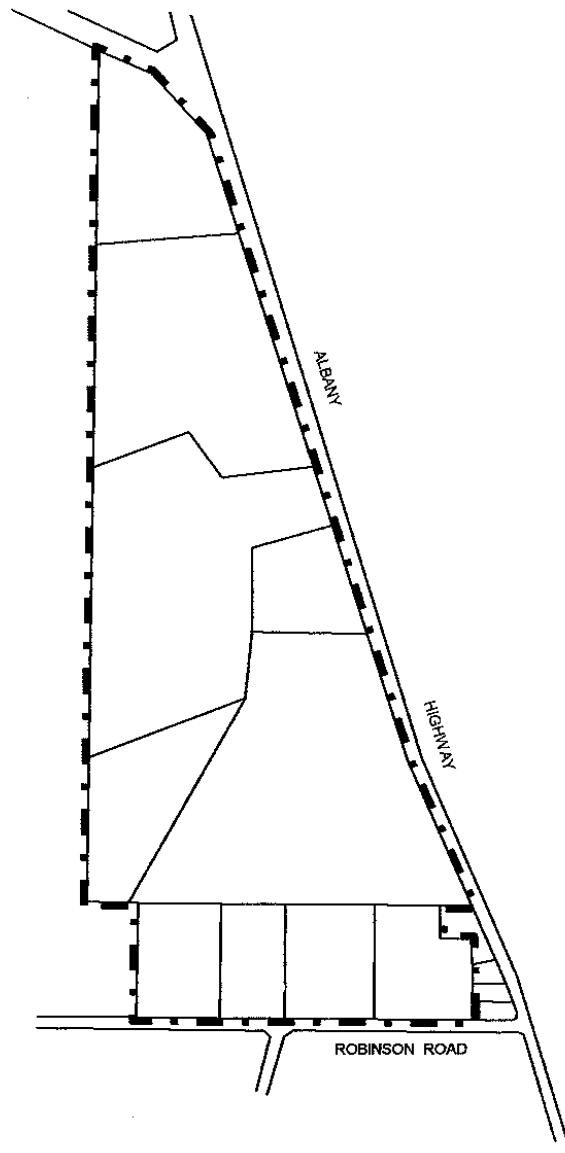
		<p>4. The transport depot operator is responsible to ensure that all activities on the premises are undertaken in such a manner that minimises any potential adverse impacts on neighbouring properties especially noise and dust to the satisfaction of the Shire of Kojonup and other relevant agencies including the Department of Environment and Department of Health. Should problems occur with the operation of the transport depot resulting in noise, dust or similar emissions adversely affecting neighbouring properties, Council will require the operator to undertake all necessary action(s) to ensure the emission is abated.</p> <p>5. The future use of the premises on Lot 1 and Lot 3 for commercial or residential uses will require the cessation of the transport depot activities as determined by Council.</p> <p>6. The use of adjoining Lot 2 for residential purposes is recognised by the Shire of Kojonup.</p> <p>7. No addition or expansion of the grain handling area (i.e. silos) or seed cleaning or drying is permitted without the prior written consent of the Council.</p> <p>8. Fuel storage shall be the subject of a separate planning consent application and shall be developed in accordance with the relevant standards and requirements.</p>
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		<p>9. Stormwater drainage of the site shall be in accordance with an overall Drainage Management Plan prepared by the operators to show collection and disposal of stormwater to the satisfaction of the Shire of Kojonup.</p> <p>10. In recognition of the temporary nature of the Additional Use, a person shall not commence or carry out the Additional Use without having first applied for and obtained the planning consent of Council under the scheme. In granting planning approval Council may set a time period from which any planning approval shall cease to have effect. Upon application made to it within the time period set by Council, Council may grant an extension of time to an approved period.</p> <p>11. The transport operator shall, to the satisfaction of Council—</p> <ul style="list-style-type: none"> (a) Establish a program for the provision of information to the neighbouring properties about emissions from the use; (b) Establish procedures for responding to any complaints received regarding operation of the use; (c) Identify actions, procedures and where necessary a timetable for the ongoing reduction of any impacts on the neighbouring properties;
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		<p>(d) Submit a report to Council within one month of the conclusion of each calendar year documenting the actions undertaken and the outcomes achieved in fulfilling the above; and</p> <p>(e) Submit a report to Council every two years documenting a review of the operations of the Additional Use including changes to operational practices, technological advancements, or other matters relevant to the operation of the Additional Use.</p>
<p>5. Portion of Lot 11 Albany Highway, Boscabel</p> <p><i>AMD 13 GG 14/07/17</i></p>	<p>Abattoir and Incidental uses, meaning uses consequent on, or naturally attaching, appertaining or relating to the predominant use of the land as an abattoir.</p>	<ol style="list-style-type: none"> 1. Development of the abattoir and any incidental uses is to be generally in accordance with a Local Development Plan, approved by the local government in accordance with Part 6 of the Deemed Provisions, setting out site and development standards and vehicular access arrangements. 2. Access to Albany Highway for the abattoir operations is to be restricted to Cherry Tree Pool Road. 3. A Traffic Management Plan, prepared to the specifications of the local government in consultation with Main Roads, is to be submitted in conjunction with any development application resulting in increased traffic movements. 4. Developments to be strategically located so that any buffers imposed by Works Approval and Licenses can be maintained within the boundary of abattoir landholdings.

SUBDIVISION GUIDE PLAN NO 1 – KOJONUP NORTH

AMD 4 GG 17/9/04



SUBDIVISION GUIDE
PLAN BOUNDARY



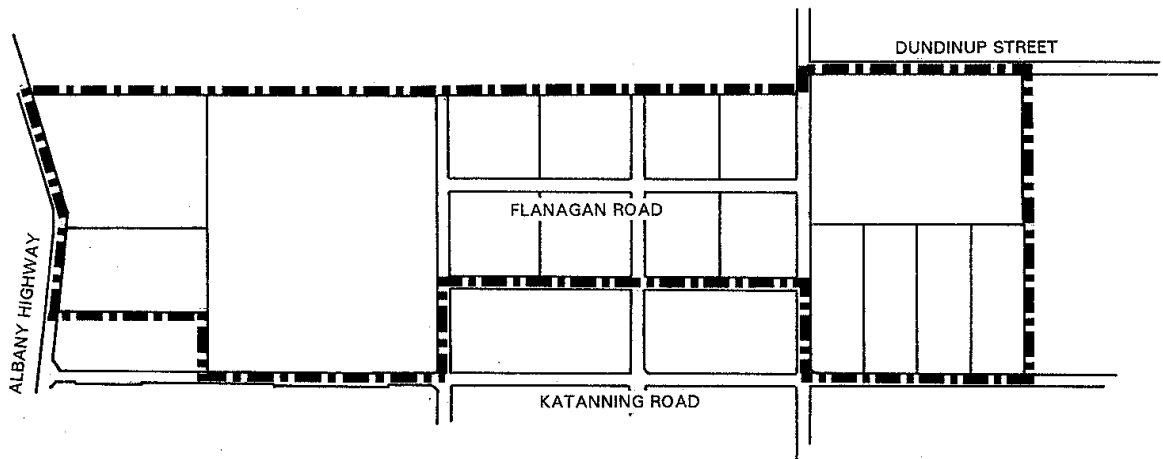
NOT TO SCALE

December 2001

TOWN PLANNING SCHEME No 3

SUBDIVISION GUIDE PLAN No 1

SUBDIVISION GUIDE PLAN NO 2 – FLANAGAN ROAD AREA



SUBDIVISION GUIDE
PLAN BOUNDARY

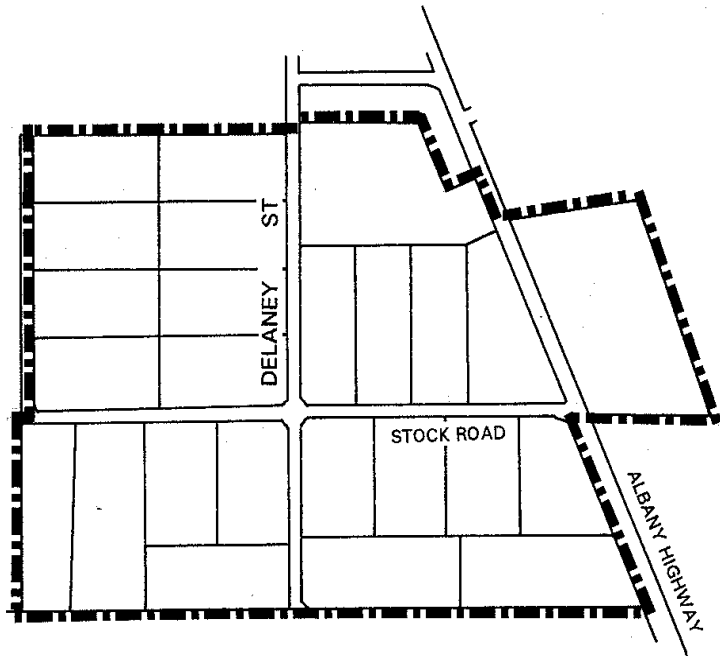


NORTH

SCALE 1:10,000

SUBDIVISION GUIDE PLAN No 2

SUBDIVISION GUIDE PLAN NO 3 – KOJONUP SOUTH



SUBDIVISION GUIDE
PLAN BOUNDARY

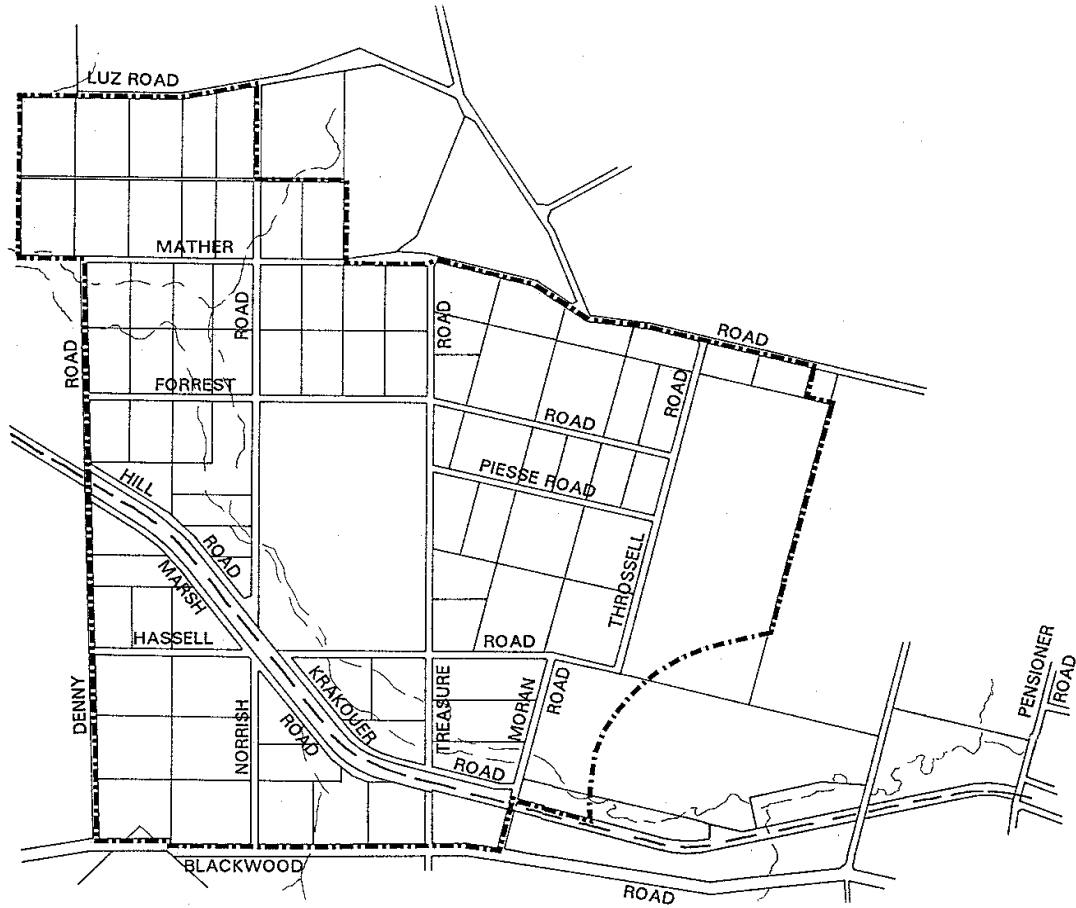


NORTH

SCALE 1:10,000

SUBDIVISION GUIDE PLAN No 3

SUBDIVISION GUIDE PLAN NO 4 – KOJONUP WEST



SUBDIVISION GUIDE
PLAN BOUNDARY



NORTH

SCALE 1:20,000

SUBDIVISION GUIDE PLAN No 4

