

[Go to contents page](#)

SHIRE OF MT MARSHALL

Local Planning Scheme No. 3

Updated to include AMD 1 GG 29/12/17



Prepared by the
Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal
27 December 2013

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Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

Please advise the Department of Planning, Lands and Heritage of any errors or omissions in this document.

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SHIRE OF MT MARSHALL LPS 3 – TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
-	27/12/13	25/02/14	ML	Scheme Gazetted
2	21/07/17	25/07/17	GM	<p>Inserted references to the deemed provisions in the preamble to the Scheme.</p> <p>Inserted references to the deemed provisions and supplemental provisions in clause 1.4 by inserting new sub-clauses (b) and (c) and renumbering the sub-clauses accordingly.</p> <p>Inserted references to the Regulations accordingly in clauses 1.7.1(b)(ii), 1.7.2 and 1.7.3.</p> <p>Correct Schedule references to clauses 1.5(g) and 5.6.1.</p> <p>Deleted the following clauses from the Scheme Text, as they have been superseded by the deemed provisions set out in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2:</p> <ul style="list-style-type: none"> • Parts 2, 7, 8, 9, 10 and 11 in their entirety • Clause 1.9 and 5.10 • Schedules 6, 7, 8 and 9. <p>Inserted new Schedule A – Supplemental Provisions.</p> <p>Amended the following clauses by removing the cross reference to the clause deleted by the amendment and replace them with cross reference to the deemed provisions set out in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule 2: 3.3.1(b), 3.3.2(a), 4.3.2, 4.3.3, 4.4.2(b), 4.8(c), 4.9.2, 5.4.2, 5.5.2(a), 5.5.3(a).</p> <p>Deleted references to the following terms and replaced them with the corresponding term throughout the scheme:</p> <ul style="list-style-type: none"> • 'planning approval' replaced with 'development approval'; • 'council' replaced with 'local government'; • 'Town Planning Act' with 'Planning and Development Act'. <p>Modified the zoning table to update use class names to correspond with the appropriate definition within Schedule 1 Part 6 of the Model Provisions for Local Planning Schemes.</p> <p>Deleted use classes Storage and Plantation and their permissibility from the zoning table as they are covered by other use classes.</p> <p>Removed clause 8.5 and inserted as clause 4.10.</p> <p>Amended Schedule 1 and inserted definitions "Industry: cottage" and "Industry: service".</p> <p>Renumbered the scheme provisions and schedules sequentially and updated any cross referencing to the new clause numbers and deemed provisions as required.</p>
1	29/12/17	10/01/18	GM	<p>Modified Table 1 – Zoning Table to permit 'Group Dwelling' in a Rural zone as a 'D'.</p> <p>Inserted new clause 4.9.2 – Additional Dwellings into Part 4 – General Development Requirements.</p> <p>Modified Clause 4.9 – Rural Zone.</p>



SHIRE OF MT MARSHALL

LOCAL PLANNING SCHEME No 3

JULY 2013

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SHIRE OF MT MARSHALL

Local Planning Scheme No. 3

Preamble

This Local Planning Scheme of the Shire of Mt Marshall consists of this Scheme Text, the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2) and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the Shire.

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

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

Queries regarding any aspect of the Scheme and how it may affect proposals for future development and use of land within the local government district should be directed to the Shire of Mt Marshall Administration Centre, 80 Monger Street, Bencubbin (Tel: (08) 9685 1202, Fax: (08) 9685 1299)

Resolution

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

Table of Contents

TABLE OF CONTENTS	5
PART 1 – PRELIMINARY	7
1.1 CITATION	7
1.2 RESPONSIBLE AUTHORITY	7
1.3. SCHEME AREA	7
1.4. CONTENTS OF SCHEME	7
1.5. PURPOSES OF SCHEME	7
1.6 THE AIMS OF THE SCHEME	8
1.7 DEFINITIONS	8
1.8 RELATIONSHIP WITH LOCAL LAWS	9
PART 2 - RESERVES	10
2.1 RESERVES.....	10
2.2 LOCAL RESERVES	10
2.3 USE AND DEVELOPMENT OF LOCAL RESERVES	10
PART 3 - ZONES AND THE USE OF LAND	11
3.1 ZONES	11
3.2 OBJECTIVES OF THE ZONES	11
3.3 TABLE 1 - ZONING TABLE	14
3.4 INTERPRETATION OF THE ZONING TABLE	15
3.5 ADDITIONAL USES.....	16
3.6 RESTRICTED USES	16
3.7 SPECIAL USE ZONES	16
TABLE 1 – ZONING TABLE.....	17
3.8 NON-CONFORMING USES	20
3.9 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE.....	20
3.10 DISCONTINUANCE OF NON-CONFORMING USE	20
3.11 TERMINATION OF A NON-CONFORMING USE.....	21
3.12 DESTRUCTION OF NON-CONFORMING USE BUILDINGS.....	21
PART 4 - GENERAL DEVELOPMENT REQUIREMENTS.....	22
4.1 COMPLIANCE WITH DEVELOPMENT STANDARDS AND REQUIREMENTS	22
4.2 RESIDENTIAL DESIGN CODES	22
4.3 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES	22
4.4 RESTRICTIVE COVENANTS	23
4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS	23
4.6 ENVIRONMENTAL CONDITIONS	23
4.7 SITE AND DEVELOPMENT REQUIREMENTS	24
TABLE 2 - DEVELOPMENT TABLE	25
4.8 CARETAKER’S DWELLING	26
4.9 RURAL ZONE.....	26
4.10 REQUIREMENT FOR CONSULTATION TO COMMENCE MINING	27
PART 6 - SPECIAL CONTROL AREAS	28
SCHEDULE A – SUPPLEMENTAL PROVISIONS	30
SCHEDULE 1 — DICTIONARY OF DEFINED WORDS AND EXPRESSIONS	31
SCHEDULE 2 — ADDITIONAL USES	32
SCHEDULE 3 — RESTRICTED USES.....	33
SCHEDULE 4 — SPECIAL USE ZONES.....	34
SCHEDULE 5 — EXEMPTED ADVERTISEMENTS	35
SCHEDULE 6 — ENVIRONMENTAL CONDITIONS.....	36

SCHEDULE 7 — RURAL RESIDENTIAL ZONES..... 37
ADOPTION..... 38

PART 1 – PRELIMINARY

1.1 Citation

1.1.1 The Shire of Mt Marshall Scheme No. 3 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2 The following is hereby revoked -

Shire of Mt Marshall Town Planning Scheme No 2.

1.2 Responsible authority

The Shire of Mt Marshall is the responsible authority for implementing the Scheme.

1.3. Scheme area

The Scheme applies to the Scheme area that covers the entire local government district of the Shire of Mt Marshall as shown on the Scheme Map.

1.4. Contents of Scheme

The Scheme comprises -

AMD 2 GG 21/07/17

- (a) the Scheme Text;
- (b) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2;
- (c) the supplemental provisions contained in Schedule A; and
- (d) the Scheme Map (Sheets 1 – 12).

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

1.5. Purposes of Scheme

The purposes of the Scheme are to -

- (a) set out the local government’s planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;

- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in Schedule 7 of the *Planning and Development Act*.
AMD 2 GG 21/07/17

1.6 The aims of the Scheme

The aims of the Scheme are -

- To assist the effective implementation of regional plans and policies including the State Planning Strategy.
- To ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space.
- To assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments, as well as providing opportunities for home-based employment.
- To facilitate a diverse and integrated network of open space catering for both active and passive recreation, consistent with the needs of the community.
- To promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities.
- To protect and enhance the environmental values and natural resources of the local government area and to promote ecologically sustainable land use and development.
- To safeguard and enhance the character and amenity of the built and natural environment of the local government area.

1.7 Definitions

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

- a) in the *Planning and Development Act*, or
- b) if they are not defined in that Act -
 - (i) in the Dictionary of defined words and expressions in Schedule 1;
 - (ii) in Schedule 1 Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)*;
AMD 2 GG 21/07/17
 - (iii) in the Residential Design Codes.

1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary in Schedule 1, the Regulations and the meaning of that word or expression in the Residential Design Codes - *AMD 2 GG 21/07/17*

a) in the case of a residential development, the definition in the Residential Design Codes prevails; and

b) in any other case the definition in Schedule 1 prevails.

1.7.3 A copy of Schedule 1 Part 6 of the Regulations is to be kept and made available for public inspection at the offices of the local government. *AMD 2 GG 21/07/17*

1.8 Relationship with local laws

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

PART 2 - RESERVES

2.1 Reserves

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

2.2 Local Reserves

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

2.3 Use and development of Local Reserves

2.3.1 A person must not -

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

without first having obtained development approval under Part 7 of the deemed provisions. *AMD 2 GG 21/07/17*

2.3.2 In determining an application for development approval the local government is to have due regard to -

- a) the matters set out in clause 67 of the deemed provisions; *AMD 2 GG 21/07/17*
- b) the ultimate purpose intended for the Local Reserve;

2.3.3 In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for development approval.

PART 3 - ZONES AND THE USE OF LAND

3.1 Zones

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

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

3.2 Objectives of the zones

The objectives of the zones are -

Residential zone

The objectives are;

- To provide for predominantly residential development with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes of Western Australia.
- Non-residential uses shall be compatible in character, scale and operation with the predominant residential use.
- A non-residential use shall only be permitted if the use does not detract from the amenity of the area.

Commercial zone

The objectives are;

- To maintain a coordinated, consolidated, compact and accessible centre.
- To centralise commercial, office, showroom, open air display and service functions.
- To maintain safety and efficiency of traffic flows and provide for adequate facilities for the storage and circulation of vehicles.
- To preclude the storage of bulky and unsightly goods where they may be in public view.
- To maintain the compatibility with the general streetscape for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.
- To reduce uses attracting large volumes of heavy vehicle traffic other than to service retail outlets.

- To provide for residential uses only where the residential uses are combined with a commercial use, e.g. hotel, or where the residential uses occupy a floor level or location where it is impracticable or inappropriate to establish a shop or office.
- To provide street furniture, planting and sheltered places for pedestrians.
- To encourage the provision of public art to improve the amenity and ambiance of the town centre area.

Light Industry zone

The objectives are;

- To provide for service industries and light industries that will not have a detrimental affect on nearby residential or other sensitive uses.
- To provide for home business type uses where caretakers dwellings may be permitted.
- To provide for a range of employment opportunities.
- To preclude the storage of bulky and unsightly goods where they may be in public view.
- To ensure the appropriate use of setback areas and the provision of landscaping to the local government's satisfaction.

General Industry zone

The objectives are;

- To provide for general industry, the storage and distribution of goods and associated uses, which by the nature of their operations may need to be separated from residential and other sensitive areas.
- To provide a location for diverse industries that would otherwise have a detrimental impact on the other uses in close vicinity.
- To encourage the provision of landscaping to ensure the industrial development is appropriately screened from the main road.
- To provide a location where separate heavy vehicular access is provided.
- To provide a location for depots, warehouses, and large vehicle parking and servicing areas.
- To provide for a range of employment opportunities.

Special Use zone

The objectives are;

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

Rural Residential zone

The Objectives are;

- To encourage development for the purpose of closer settlement on land that is suitable for such a purpose, without impacting on the continued rural operation of adjoining land.
- To ensure that development maintains the rural character of the locality, maintains a high level of amenity and minimises disturbance to the landscape through construction of buildings and structures, clearing, earthworks and access roads.
- To discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone.
- To encourage rural residential subdivision where it is reasonable and economic to provide, or extend, services and facilities.
- To promote and encourage cluster subdivision and other innovative rural residential designs, having consideration for conservation values.
- To ensure the provision of community facilities and emergency services in the vicinity of rural residential developments.
- To encourage the provision of vegetation and fauna corridors and the revegetation of the land to adequately protect any areas or sites of conservation value within the design.
- To encourage rural residential subdivision by permitting a range of lot sizes in conventional subdivision subject to a general minimum lot size of 1 hectare with an average minimum lot size of approximately 4 hectares and providing greater flexibility for lots created within appropriate cluster subdivisions or by strata title subdivision, dependent upon the special demonstrated physical characteristics of the land.
- To ensure the land is appropriately serviced.

Rural zone

The objectives are;

- To provide for a range of rural pursuits that are compatible with the capability of the land and retain the rural character and amenity of the locality.
- To protect land from urban uses that may jeopardise the future use of that land for other planned purposes that are compatible with the zoning.
- To protect the land from closer development that would detract from the rural character and amenity of the area.
- To prevent any development that may affect the viability of a holding.
- To encourage small scale, low impact tourist accommodation in rural locations.
- To encourage a diversification of rural activities that will reduce the dependency of the rural sector on traditional crops.
- To support mining activities where an environmental management plan has been prepared and is acceptable to the local government and Environmental Protection Authority.
- To preclude the disposal of used tyres or any other material that may be detrimental to the quality of the land.

3.3 Table 1 - Zoning Table

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

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 by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;

'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;
AMD 2 GG 21/07/17

'X' means a use that is not permitted by the Scheme.

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

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

- Note:
- 1. The development approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.
 - 2. The local government will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.
 - 3. In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 67 of the deemed provisions. *AMD 2 GG 21/07/17*
 - 4. The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.

3.4 Interpretation of the Zoning Table

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

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

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or *AMD 2 GG 21/07/17*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

3.5 Additional uses

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

3.6 Restricted uses

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

3.7 Special use zones

3.7.1 Special use zones are set out in Schedule 4.

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

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

TABLE 1 – ZONING TABLE

AMD 2 GG 21/07/17; AMD 1 GG 29/12/17

Use Class	Residential	Commercial	Light Industry	General Industry	Rural Residential	Rural
RESIDENTIAL						
Aged or dependent persons dwelling	P	X	X	X	X	X
Caretaker's dwelling	X	D	D	X	X	X
Grouped dwelling <i>AMD 1 GG 29/12/17</i>	P	D	X	X	X	D
Home business	D	D	X	X	D	D
Home occupation	D	D	X	X	D	D
Home office	D	D	X	X	D	D
Home store	A	D	X	X	D	A
Park home park	X	A	X	X	X	X
Residential building	A	X	X	X	X	X
Single House	P	A	X	X	P	P
TOURIST AND ENTERTAINMENT						
Amusement parlour	X	D	X	A	X	X
Bed and breakfast	A	D	X	X	D	D
Hotel	X	P	X	X	X	X
Motel	X	D	X	X	X	X
Tourist development <i>AMD 2 GG 21/07/17</i>	X	D	X	X	X	A
Tavern	X	P	X	X	X	X
COMMERCE						
Betting Agency	X	P	X	X	X	X
Cinema/theatre	X	P	X	X	X	X
Consulting rooms	X	D	X	X	X	X
Convenience store	A	P	X	X	X	X
Fast food outlet	X	D	X	X	X	X
Lunch bar	X	P	X	D	X	X

Use Class	Residential	Commercial	Light Industry	General Industry	Rural Residential	Rural
Market	X	D	X	D	X	X
Medical Centre	X	D	X	X	X	X
Motor vehicle wash	X	D	X	P	X	X
Motor vehicle, boat or caravan sales	X	D	X	D	X	X
Night club	X	D	X	X	X	X
Office	X	P	X	X	X	X
Reception Centre	X	P	X	X	X	X
Restaurant/Café <i>AMD 2 GG 21/07/17</i>	X	P	X	X	X	A
Restricted Premises	X	P	X	X	X	X
Service Station	X	D	X	P	X	X
Shop	X	P	X	X	X	X
Showroom	X	D	P	P	X	X
Trade Display	X	D	P	P	X	X
OTHER						
Funeral parlour	X	A	X	P	X	X
Service utility	D	D	D	D	D	D
Telecommunications infrastructure	D	D	D	P	A	D
Veterinary centre	X	A	D	P	X	A
INDUSTRY						
Fuel depot	X	X	X	A	X	X
Industry – cottage	A	D	X	P	A	A
Industry – extractive	X	X	X	X	X	D
Industry <i>AMD 2 GG 21/07/17</i>	X	X	X	D	X	X
Industry – light	X	X	P	P	X	X
Mining operations <i>AMD 2 GG 21/07/17</i>	X	X	X	P	X	D
Industry – primary production <i>AMD 2 GG 21/07/17</i>	X	X	A	P	X	D
Industry – service	X	D	P	P	X	X
Motor vehicle repair	X	D	P	P	X	X

Use Class	Residential	Commercial	Light Industry	General Industry	Rural Residential	Rural
Storage	DELETED BY AMD 2 GG 21/07/17					
Warehouse/storage <i>AMD 2 GG 21/07/17</i>	X	D	P	P	X	X
Winery	X	X	X	X	X	D
CIVIC AND COMMUNITY						
Child car premises	X	D	X	X	X	X
Civic use	D	D	X	D	X	X
Club premises	D	D	X	D	X	X
Community purpose	A	P	X	A	X	X
Educational establishment	X	P	X	A	X	X
Exhibition centre	X	D	D	X	X	X
Family day care	A	D	X	X	A	A
Recreation - private	D	D	D	D	D	D
RURAL						
Agriculture – extensive	X	X	X	X	X	P
Agriculture – intensive	X	X	X	X	X	D
Tree farm <i>AMD 2 GG 21/07/17</i>	X	X	X	X	X	D
Animal establishment	X	X	X	X	X	A
Animal husbandry – intensive	X	X	X	X	X	A
Plantation	DELETED BY AMD 2 GG 21/07/17					
Rural home business	X	X	X	X	D	D
Rural pursuit/hobby farm <i>AMD 2 GG 21/07/17</i>	X	X	X	X	D	D

3.8 Non-conforming uses

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

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 80 of the deemed provisions, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date. *AMD 2 GG 21/07/17*

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

3.9 Extensions and changes to a non-conforming use

3.9.1 A person must not -

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

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

3.9.2 An application for development approval under this clause is to be advertised in accordance with clause 64 of the deemed provisions.

AMD 2 GG 21/07/17

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

3.10 Discontinuance of non-conforming use

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

3.11 Termination of a non-conforming use

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

Note: Sections 190 and 191 of the *Planning and Development Act* enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

3.12 Destruction of non-conforming use buildings

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

PART 4 - GENERAL DEVELOPMENT REQUIREMENTS

4.1 Compliance with development standards and requirements

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

4.2 Residential Design Codes

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

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

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

4.3 Special application of Residential Design Codes

- (a) The Residential Design Code for land zoned 'Commercial' shall be R10/50 unless otherwise indicated on the Scheme Maps.
- (b) Residential development with the R10/30 code shall be permitted at the R10 density, however the local government may approve developments up to the R30 density as an 'D' use.
- (c) Residential development with the R10/50 code shall be permitted at the R10 density, however the local government may approve developments up to the R50 density as an 'D' use.
- (d) The local government shall not approve a residential development with a density exceeding R10 unless the local government is satisfied that an alternative sewerage disposal system can be installed and managed to its satisfaction, and in accordance with any relevant government sewerage policy..
- (e) 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 local government, however these shall not be lesser than those specified for the Residential Design Code 'R2'.

4.4 Restrictive covenants

- 4.4.1 Subject to clause 4.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.
- 4.4.2 Where clause 4.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant development approval to the development of the land which would, but for the operation of clause 4.4.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause 64 of the deemed provisions.

AMD 2 GG 21/07/17

4.5 Variations to site and development standards and requirements

- 4.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.
- 4.5.2 In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to -
- a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64 of the deemed provisions; and
 - b) have regard to any expressed views prior to making its determination to grant the variation.
- 4.5.3 The power conferred by this clause may only be exercised if the local government is satisfied that -
- a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the deemed provisions; and
 - b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

AMD 2 GG 21/07/17

AMD 2 GG 21/07/17

4.6 Environmental conditions

- 4.6.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 6 of the Scheme.

AMD 2 GG 21/07/17

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

4.6.3 The local government is to -

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

4.7 Site and Development Requirements

Any development that is permitted under the provisions of Part 2 and Part 3 of this Scheme shall conform to the requirements for that use as specified in Table II - Development Table, or in the Residential Design Codes for residential development.

4.7.1 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 local government. Where such provisions are inappropriate, development shall conform to such requirements as the local government 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.

4.7.2 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 local government shall determine.

4.7.3 Industrial Development

Unsewered industrial development will be restricted to 'dry industry' type (ie. industries predicted to generate wastewater for disposal on-site of a daily rate of less than 540 litres per 1000m²).

4.7.4 Car Parking

Car parking requirements for each use are set out in Table II - Development Table and the relevant Local Planning Policy.

4.7.5 Landscaping

Landscaping requirements for each use are set out in Table II - Development Table and the relevant Local Planning Policy.

TABLE 2 - DEVELOPMENT TABLE

CONTROLS USE CLASS	MINIMUM BOUNDARY SETBACK (metres)			MAXIMUM PLOT RATIO	MINIMUM LANDSCAP ED 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 local government.
Funeral Parlour	*	*	*	*	10	As determined by the local government, (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	11.0	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	11.0	7.5	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 local government' in each particular case.
ii) Landscaping to be generally at the street frontage.

4.8 Caretaker's dwelling

The provisions of this clause apply to caretakers' dwellings in the Light Industry zone.

- 4.8.1 A caravan is not permitted as a caretaker's dwelling for either permanent or temporary occupation.
- 4.8.2 Only a single caretaker's dwelling shall be permitted on each lot and it shall be located at the rear of a lot zoned 'Industrial'.
- 4.8.3 The local government will not support the subdivision or development of land in an industrial zone that will;
- allow the dwelling to be sold separately from the industrial use of the land;
 - restrict the use of the land for industrial purposes.
- 4.8.4 A caretaker's dwelling shall contain only 1 bedroom.
- 4.8.5 A caretaker's dwelling shall have a maximum floor area of 100m² measured from the external face of the walls.
- 4.8.6 Open verandahs may be permitted but are not to be enclosed by any means unless the total floor area remains less than 100m².

4.9 Rural Zone

4.9.1 Subdivision

AMD 1 GG 29/12/17

Large lots may be subdivided to create lots which are:

- a) consistent with the size of rural properties (may comprise multiple lots) used for rural land uses in the locality; and
- b) 200 ha or greater in size; and
- c) allow for continued rural land uses.

4.9.2 Additional dwellings

AMD 1 GG 29/12/17

In the Rural zone, the erection of more than one (1) single house per lot will generally not be supported. The local government may, at its discretion, approve the erection of one (1) additional dwelling on a rural lot provided that:

- a) the total number of dwellings on the lot will not exceed three (3) dwellings;
- b) the additional dwelling(s) complies with the setback requirements for the Residential Design Code R2;
- c) the lot has an area of not less than 40 hectares;

- d) it can be demonstrated that the additional dwelling(s) is for workers or family members employed for primary production activities on that lot;
- e) adequate provision of potable water for and disposal of sewage from the additional dwelling(s) can be demonstrated;
- f) the additional dwelling(s) will not adversely detract from the rural character and amenity of the area or conflict with primary production on the subject lot or adjoining land;
- g) access to the existing road network is to be provided for any additional dwelling(s) and shared with any existing dwelling(s) where practicable;
- h) the existence of more than one dwelling on a lot in the Rural zone shall not be considered by itself to be sufficient grounds for subdivision.

4.10 Requirement for consultation to commence mining

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

PART 6 - SPECIAL CONTROL AREAS

There are no Special Control Areas.

SCHEDULES

Schedule A	Supplemental Provisions
Schedule 1	Dictionary of Defined Words and Expressions
Schedule 2	Additional Uses
Schedule 3	Restricted Uses
Schedule 4	Special Use Zones
Schedule 5	Exempted Advertisements
Schedule 6	Environmental Conditions
Schedule 7	Rural Residential Zones

Schedule A – Supplemental Provisions

AMD 2 GG 21/07/17

Clause 61(1):

- (k) the signage and advertisements contained in Schedule 5 of this Scheme, except in respect of a place included on the Heritage List or which in the opinion of local government will affect such a place.
- (l) the erection or extension of a single house on a lot if a single house is a permitted ("P") use in the zone (where the R codes do not apply) in which that lot is located, where the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australian Act 1990*; or
 - (iii) included on a heritage list prepared in accordance with this Scheme; or
 - (iv) within an area designated under the Scheme as a heritage area; or
 - (v) the subject or a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.
- (m) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house if a single house is a permitted ("P") in the zone (where the R-Codes do not apply) where the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:
 - (i) entered in the *Register of Heritage Places under the Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) included on a heritage list prepared in accordance with this Scheme; or
 - (iv) within an area designated under the Scheme as a heritage area; or
 - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.

Schedule 1 — Dictionary of Defined Words and Expressions

AMD 2 GG 21/07/17

Unless listed below the words and expressions used in the Scheme have the same meaning as the general definitions and land use definitions contained in Schedule 1 Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Where a definition is listed below and there is a conflict of interpretation of words the meaning of the word or term, the definition listed below shall prevail, unless the word or expression applies to residential development (Clause 1.7 refers).

"Industry: cottage" - means a trade or light industry producing arts and crafts which does not fall within the definition of a home occupation which:

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

"Industry: service" - means:

- (a) an industry-light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises which have a retail shop front and used as a depot for receiving goods to be serviced;

"Service utility" - means any work or undertaking constructed or maintained by a service authority or the local government as may be required to provide water, sewerage, electricity, gas, drainage, waste, communications or other similar services;

Schedule 2 — Additional Uses

There are no additional uses that apply to the Scheme.

No.	Description of land	Additional use	Conditions

Schedule 3 — Restricted Uses

There are no restricted uses that apply to the Scheme.

No.	Description of land	Restricted use	Reason for Restriction	Map Label

Schedule 4 — Special Use Zones

The following special use zones apply to the Scheme.

No	Description of land	Special use	Conditions	Map Label
1	Lot 41 Rowlands Street, Beacon	Motor Vehicle Repairs	Compliance with local government requirements	MVR
2	Lots 102-103 and Lots 52-56 Lucas Street, Beacon	Garage and Rural Supplies	Compliance with local government requirements	GRS
3	Lot 201 Grant and Powell Street, Bencubbin	Caravan Park	Compliance with local government requirements	CP
4	Lots 60, 61, 62, 63 and 64 Lucas Street, Beacon	Country Club and associated sporting facilities	Compliance with local government requirements	CC

Schedule 5 — Exempted Advertisements

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN ¹	MAXIMUM SIZE
Dwellings	One professional name-plate as appropriate.	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ² .
Shops, Showrooms and other uses appropriate to a Shopping Area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements, shall not exceed 15m. Maximum permissible total area shall not exceed 10m ² and individual advertisement signs shall not exceed 6m ² .
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A
Public Places and Reserves	a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government a public authority or local government of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government of a local government, and 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.	N/A N/A N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m ² in area.
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m ²

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

Schedule 6 — Environmental Conditions

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

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

Schedule 7 — Rural Residential Zones

Land Description	Rural Residential No	Special Conditions
VCL Gluyas Street, Bencubbin	RR 1	<p>Uses shall be permitted in accordance with Table 1 – Zoning Table.</p> <p>Subdivision shall only occur in accordance with the adopted Structure Plan.</p> <p>Residential development shall comply with R2 general site requirements.</p> <p>No more than one residence shall be permitted on each lot.</p>
Lots 106-109 Gluyas Street and Lots 110-113 Nabawa Street, Bencubbin	RR 2	
Lots 114-117 Nabawa Street and Lots 119-123 Canberra Street, Bencubbin	RR 3	
Lots 68, 69 and 71 Cook Street and Lot 70 Blight Street, Beacon	RR 4	
Lot 72 Blight Street and Lots 73-76 Cook Street, Beacon	RR 5	
Lot 189 Kirby Street, Beacon	RR 6	

ADOPTION

Adopted by resolution of the Council of the Shire of Mt Marshall at the Ordinary Meeting of the Council held on the day of20....

.....
SHIRE PRESIDENT

.....
Date

.....
CHIEF EXECUTIVE OFFICER

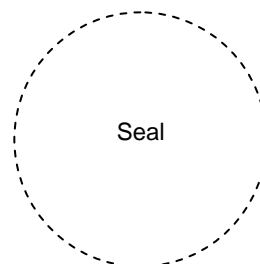
.....
Date

FINAL APPROVAL

Adopted for final approval of the Shire of Mt Marshall at the meeting of Council held on the day of 20....and the seal of the Municipality was pursuant to that resolution affixed in the presence of

.....
SHIRE PRESIDENT

.....
Date



.....
CHIEF EXECUTIVE OFFICER

.....
Date

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

.....
Delegated under S.16 of PD Act 2005, WA PLANNING COMMISSION Date

FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

.....
Date