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# SHIRE OF WOODANILLING

## TOWN PLANNING SCHEME NO. 1 DISTRICT ZONING SCHEME

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Updated to include AMD 2 GG 05/12/2014

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Department of Planning,  
Lands and Heritage

Prepared by the  
Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal  
8 July 2005

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## SHIRE OF WOODANILLING TPS 1 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
1	22/6/12	16/7/12	NM	Inserted A2 into Schedule 2 – Additional Uses.
2	5/12/14	16/12/14	MD	Renumber Clause 8.2 (g) as (h) Insert new text for 8.2(g)

## **Preamble**

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

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. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

## **SCHEME DETAILS**

**The Shire of Woodanilling**

**Town Planning Scheme No.1**

**District Zoning Scheme**

The Shire of Woodanilling under the powers conferred by the *Town Planning and Development Act 1928* makes the following Town Planning Scheme.

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Part 2	<a href="#"><u>Local Planning Policy Framework</u></a> – sets out the relationship between the Scheme and the Local Planning Strategy and the procedures for preparing and adopting Local Planning Policies.
Part 3	<a href="#"><u>Reserves</u></a> – sets out the reserves which apply in the Scheme area and related provisions.
Part 4	<a href="#"><u>Zones and the use of land</u></a> – sets out the zones which apply in the Scheme area and the uses which may require approval or may be prohibited.
Part 5	<a href="#"><u>General development requirements</u></a> – sets out the planning requirements which may apply to a particular use or development in a zone.
Part 6	<a href="#"><u>Special control areas</u></a> – sets out particular provisions which may apply in addition to the zone requirements and generally concerns landscape, environmental, built form, and land and site management issues.
Part 7	<a href="#"><u>Heritage protection</u></a> – sets out special provisions which apply to heritage places and areas.
Part 8	<a href="#"><u>Development of land</u></a> – sets out the circumstances under which approval is required for the development of land as distinct from the use of land.
Part 9	<a href="#"><u>Applications for planning approval</u></a> – sets out the procedure for applying for planning approval including both the use and development of land.
Part 10	<a href="#"><u>Procedure for dealing with applications</u></a> – sets out the procedure for dealing with applications for planning approval and the matters to be taken into account.
Part 11	<a href="#"><u>Enforcement and administration</u></a> – sets out the general provisions for the administration and enforcement of the Scheme.

### [Schedules](#)

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<a href="#"><u>Schedule 4</u></a>	Special use zones
<a href="#"><u>Schedule 5</u></a>	Exempted advertisements
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## **PART 1 - PRELIMINARY**

### **1.1. CITATION**

1.1.1. The Shire of Woodanilling Scheme No. 1 (“**the Scheme**”) comes into operation on its Gazettal date.

1.1.2. There were no previous Schemes over this area

### **1.2. RESPONSIBLE AUTHORITY**

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

### **1.3. SCHEME AREA**

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

### **1.4. CONTENTS OF SCHEME**

The Scheme comprises —

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1 – 3).

*Note: The Scheme Map comprises an overall map that covers the entire Shire and two maps which focus on the area of higher intensity.*

### **1.5. PURPOSES OF SCHEME**

The purposes of the Scheme are to —

- (a) set out the local government’s planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in the First Schedule to the Town Planning Act.
- (h) to ensure that urban development can be adequately and efficiently serviced.
- (i) That compatible land uses are achieved adjacent to or where specified, within Special Control Areas.

### **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 sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space.



- To provide for housing choice and variety with a community identity and high levels of amenity.
- 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 an integrated network of open space catering for 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 Scheme 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 Scheme area.
- To promote the compatible use of land surrounding essential infrastructure.
- To promote the use of water sensitive urban design principles.

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

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

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

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

## **1.8. RELATIONSHIP WITH LOCAL LAWS**

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

## **1.9 RELATIONSHIP WITH OTHER SCHEMES**

By the way of information, the following other Schemes of the Shire of Woodanilling are, at the Gazettal date of the Scheme, complementary to the Scheme-

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

## **PART 2 - LOCAL PLANNING POLICY FRAMEWORK**

### **2.1 LOCAL PLANNING STRATEGY**

This Scheme has not been prepared in conjunction with a Local Planning Strategy.

### **2.2. LOCAL PLANNING POLICIES**

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

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

and may amend or add to or rescind the Policy.

### **2.3. RELATIONSHIP OF LOCAL PLANNING POLICIES TO SCHEME**

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

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

*Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Planning Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.*

### **2.4 PROCEDURE FOR MAKING OR AMENDING A LOCAL PLANNING POLICY**

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

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

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

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

- 2.4.3. If the local government resolves to adopt the Policy, the local government is to —
- a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
  - b) if, in the opinion of the local government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.
- 2.4.4. A Policy has effect on publication of a notice under clause 2.4.3 a).
- 2.4.5. A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.
- 2.4.6. Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

## **2.5 REVOCATION OF LOCAL PLANNING POLICY**

A Local Planning Policy may be revoked by —

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

## **PART 3 - RESERVES**

### **3.1. RESERVES**

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

### **3.2. LOCAL RESERVES**

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

### **3.3. USE AND DEVELOPMENT OF LOCAL RESERVES**

3.3.1. Except where provided for in Clause 8.2 (g) a person must not —

- a) use a Local Reserve; or
- b) commence or carry out development on a Local Reserve,  
without first having obtained planning approval under Part 9 of the Scheme.

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

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

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

## PART 4 — ZONES AND THE USE OF LAND

### 4.1. ZONES

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

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

### 4.2. OBJECTIVES OF THE ZONES

The objectives of the zones are —

#### *Residential Zone*

To provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Planning Codes.

#### *Commercial Zone*

To provide for retail shopping, office and commercial development, and social, recreational and community activities servicing the town as a whole.

#### *Industrial Zone*

To provide for manufacturing industry, the storage and distribution of goods and associated uses, which by the nature of their operations should be separated from residential areas.

#### *Regional Rural Zone*

To provide for a range of rural pursuits such as broadacre and diversified farming which are compatible with the capability of the land and retain the rural character and amenity of the locality. Specific objectives are as follows:

- to ensure the continuation of broad-acre farming as the principle land use in the District and encourage where appropriate the retention and expansion of agricultural activities;
- to protect the potential of agricultural land for primary production and to preserve the landscape and character of the rural areas;
- to consider other non-rural uses where they can be shown to be of benefit to the District and not detrimental to the natural resources or the environment;
- to provide for a range of rural pursuits such as broad-acre and diversified farming which are compatible with the capability of the land and retain the rural amenity and character of the locality;
- to provide for a range of commercial and light industrial land uses that are appropriately located and will not cause land conflicts or adverse impacts on the amenity and character of the zone;
- to prevent the fragmentation of broad-acre farming properties through the process of subdivision;
- to protect broad-acre agricultural land from land degradation and any further loss of biodiversity by:
  - (i) minimising the clearing of remnant vegetation on public and private lands;
  - (ii) encouraging the retention and protection of existing remnant vegetation;
  - (iii) encouraging the development and protection of corridors of native vegetation;

- (iv) encouraging the development of environmentally acceptable surface and sub-surface drainage;
- (v) encouraging the rehabilitation of salt affected land;
- (vi) controlling the introduction and spread of alien species of flora and fauna;
- (vii) encouraging soil conservation through the application of cultural vegetational land management measures.

#### *Local Rural Zone*

To provide for a mix of residential and business related uses in a rural setting which achieves a high standard of visual amenity, facilitates landscape protection and conservation and will not cause land use conflicts or adverse impacts on the amenity and character of the zone.

### **4.3. ZONING TABLE**

4.3.1. The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table (Table 1).

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

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

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

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

- Note:*
- 1. *The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*
  - 2. *The local government will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*
  - 3. *In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 10.2.*

4. *The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.*

#### **4.4. INTERPRETATION OF THE ZONING TABLE**

- 4.4.1. Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.
- 4.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —
  - a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
  - b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
  - c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

#### **4.5. ADDITIONAL USES**

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

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

#### **4.6. RESTRICTED USES**

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

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

#### **4.7. SPECIAL USE ZONES**

- 4.7.1. Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.
- 4.7.2. A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

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

**TABLE 1: ZONING TABLE**

P – Permitted    D – LG Discretion    A – Advertising    X – Not Permitted

Use Class		Zones					
		Residential	Commercial	Industrial	Special Use	Regional Rural	Local Rural
1	Aged & Dependent Persons Dwelling	P	A	X		A	A
2	Agriculture – Extensive	X	X	X		P	P
3	Agriculture - Intensive	X	X	X		D	D
4	Agro Forestry	X	X	X		P	A
5	Ancillary Accommodation	D	D	X		D	D
6	Animal Establishment	X	X	X		P	A
7	Animal Husbandry Intensive	X	X	X		D	X
8	Bed And Breakfast	A	X	X		D	D
9	Betting Agency	X	A	X		X	X
10	Caravan Park	X	A	X		A	D
11	Caretaker's Dwelling	X	X	D		X	X
12	Car Park	X	P	P		D	D
13	Cemeteries/Crematoria	X	X	X		A	X
14	Child Care Premises	A	D	X		X	A
15	Civic Use	A	A	A		A	A
16	Club Premises	X	A	X		A	A
17	Community Purpose	P	P	P		P	P
18	Consulting Room	A	P	X		A	A
19	Corrective Institution	X	X	X		X	X
20	Dog Kennels	X	X	X		A	X
21	Dry Cleaning Premises	X	P	P		X	X
22	Educational Establishment	A	A	A		A	A
23	Exhibition Centre	X	D	X		A	A
24	Family Day Care	A	D	X		D	A
25	Fast Food Outlet	X	D	X		X	X
26	Fuel Depot	X	X	A		X	X
27	Funeral Parlour	X	X	A		X	X
28	Home Business	A	D	X		D	A
29	Home Occupation	P	D	X		P	P
30	Home Office	P	D	X		P	P
31	Hotel	X	D	X		X	X
32	Industry – Mining	X	X	X		A	X
33	Industry Extractive	X	X	X		A	X
34	Industry General	X	X	A		X	X
35	Industry Hazardous	X	X	X		X	X
36	Industry Light	X	A	P		D	X
37	Industry Noxious	X	X	X		A	X
38	Industry Rural	X	X	A		D	A
39	Industry Service	X	D	P		A	X
40	Motel	X	A	X		X	X
41	Motor Vehicle Repair	X	X	A		X	X
42	Motor Vehicle Sales	X	A	X		X	X
43	Motor Vehicle Wrecking	X	X	X		A	X
44	Night Club	X	A	X		X	X
45	Office	A	A	X		A	A
46	Place Of Worship	A	A	X		A	A
47	Plantation	X	X	X		D	X
48	Public Amusement	X	A	X		A	X
49	Public Utility	P	P	P		P	P
50	Reception Centre	X	A	A		A	A
51	Recreation Private	X	D	X		D	A
52	Residential – Group Dwelling	D	D	X		D	D
53	Residential – Multiple Dwelling	X	X	X		X	X
54	Residential – Single House	P	A	X		P	D
55	Residential Building	A	A	X		A	A



Use Class		Zones					
		Residential	Commercial	Industrial	Special Use	Regional Rural	Local Rural
56	Restaurant	A	A	X		A	A
57	Restricted Premises	X	X	X		X	X
58	Rural Home Business	X	X	X		D	A
59	Rural Pursuit	D	A	A		P	D
60	Service Station	X	A	A		X	X
61	Shop	X	P	X		X	X
62	Showroom	X	P	D		X	X
63	Sportsground	X	X	X		A	X
64	Tavern	X	D	X		X	X
65	Telecommunications Infrastructure	D	D	D		D	D
66	Tourist Accommodation	A	A	X		D	A
67	Transient Workforce Accommodation	X	A	X		D	X
68	Transport Depot	X	A	P		D	A
69	Veterinary Centre	X	A	A		D	A
70	Warehouse	X	D	D		A	X
71	Winery	X	A	A		D	A
72	Zoological Gardens	X	X	X		A	A

#### 4.8. NON-CONFORMING USES

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

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

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

#### 4.9. EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

4.9.1. A person must not —

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

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

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

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

#### **4.10. DISCONTINUANCE OF NON-CONFORMING USE**

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

#### **4.11. TERMINATION OF A NON-CONFORMING USE**

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

*Note: Section 13 of the Town Planning 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.*

#### **4.12. DESTRUCTION OF NON-CONFORMING USE BUILDINGS**

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

## **PART 5 - GENERAL DEVELOPMENT REQUIREMENTS**

### **5.1. COMPLIANCE WITH DEVELOPMENT STANDARDS AND REQUIREMENTS**

Any development of land is to comply with the provisions of the Scheme and should be in accordance with planning policy.

### **5.2. RESIDENTIAL PLANNING CODES**

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

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

5.2.3. The Residential Planning Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Planning 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 Planning Code density, as being contained within the area defined by the centre-line of those borders.

### **5.3. SPECIAL APPLICATION OF RESIDENTIAL PLANNING CODES**

There are no exclusions or variations to the Residential Planning Codes which apply to the Scheme.

### **5.4. RESTRICTIVE COVENANTS**

5.4.1. Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Planning Codes which apply under the Scheme.

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

### **5.5. VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS**

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

5.5.2. In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —

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

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

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

## **5.6. ENVIRONMENTAL CONDITIONS**

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

## **5.7 SITE AND DEVELOPMENT REQUIREMENTS**

5.7.1 The Development Table (Table 2) sets out the site and development requirements for various land uses in the Scheme area.

5.7.2 A person shall not develop or use any land or erect, use or adapt any building unless car parking spaces in accordance with the Development Table or as specified by the Council are provided and such spaces are constructed and maintained in accordance with the requirements of the Council.

5.7.3 The Council in determining applications for any development may require such development to comply generally with the standards required for development in that zone as required in the Development Table to ensure that the scale, nature, design, general appearance and impact of such uses is compatible with the intentions for the development in that zone and the objectives of the Scheme.

## **5.8 RELOCATED RESIDENTIAL DWELLINGS**

### **5.8.1 Relocated Residential Buildings**

Within the Scheme area a building may not be placed on a lot and occupied as a dwelling following transportation as a whole or as parts of a building unless in the opinion of the Council, such a building is in a satisfactory condition and will not detrimentally affect the amenity of the area; or the building has been specifically constructed as a transportable dwelling.

## **5.9 GENERAL APPEARANCE OF BUILDINGS**

No person shall without written approval of the council erect a building which by virtue of colour or type of materials, architectural style, height or bulk, ornamental or general appearance, has an exterior design which is out of harmony with existing buildings or the landscape character of the area.

## **5.10 HEIGHT AND APPEARANCE OF BUILDINGS**

Any buildings in excess of two storeys or a height of 8 metres above natural ground level requires the approval of Council.

Council may approve buildings which exceed the height specified after considering information provided and any submissions made by persons owning or having an interest in land affected directly or indirectly by the proposed building:

- Will be in harmony with the general character of buildings in the locality.
- Will not be detrimental to the amenity or character of the locality or the quality of environment or the townscape.

- Will observe the required setbacks from the boundaries of the lot on which it is to be constructed and will not prejudice the siting, design, aspect and privacy of buildings on other nearby lots.
- Will not impair the potential for development of other vacant blocks in the vicinity with particular regard to amenity, aspect and views.
- Has been designed in harmony with the natural land form of the site.

## 5.11 REGIONAL RURAL ZONE

The Regional Rural Zone is intended primarily for the preservation of agriculturally productive land. Land classified as Regional Rural Zone within the Scheme Area is capable of high levels of agricultural production and is therefore a valuable resource worthy of protection. The local government shall therefore seek to ensure that no action is taken to jeopardise this potential.

The local government may *also* permit the development of other non-rural land uses including *limited* commercial and industrial uses in the Regional Rural Zone, *but only* where they can be appropriately located, will not cause land use conflicts, will not have an adverse impact upon the amenity and character of the zone and can be shown to be of benefit to the District.

- 5.11.1 In considering applications in the Regional Rural Zone the local government shall have regard to the objectives for that zone as specified in Clause 4.2.
- 5.11.2 The local government will favourably consider applications for the adjustment of lot boundaries in the Regional Rural Zone where the application, if approved, will not result in the creation of one or more additional lots.
- 5.11.3 The local government does not recognize precedent resulting from subdivision created in the early days of settlement of the District as a reason for it to support further subdivision in the Regional Rural Zone.
- 5.11.4 The existence of more than one dwelling house on a lot classified Regional Rural Zone shall not be constructed as a basis for the local government's support to the subdivision of the lot.
- 5.11.5 The development of more than one single dwelling house within the Regional Rural zone requires the approval of Council.
- 5.11.6 The minimum setback from all lot boundaries for any building on a lot zoned Regional Rural shall be 20 metres except for buildings used for commercial or industrial purposes which *may* be setback *a further distance* in accordance with the specific requirements of the local government as determined on a case-by-case basis.
- 5.11.7 The development of non-rural uses in the Regional Rural Zone is required to be set well back from roads and screened from public view to the satisfaction of the Local Government.
- 5.11.8 In considering an application for planning consent for a non-rural use in the Regional Rural Zone the local government shall have regard for the impact of the proposed development on the surrounding road network, streetscape, local amenities and adjoining residents and may impose conditions relating but not limited to the following matters:
  - a) building appearance, height and scale;
  - b) building materials;
  - c) building location including boundary setbacks;
  - d) landscaping and visual screening;

- e) vehicle access and parking;
- f) location of open storage areas;
- g) control of dust, noise, odour and vibration;
- h) management of wastes and stormwater disposal;
- i) fire management;
- j) advertising signage.

5.11.9 Applications for planning consent for the development of non-rural uses in the Regional Rural Zone that have potential to cause land use conflicts or adverse impacts upon the visual amenity and character of the locality will not be approved by the local government unless it can be demonstrated to the satisfaction of the local government that such usage can be suitably managed so as to minimize any detrimental impacts.

## 5.12 LOCAL RURAL ZONE

5.12.1 In considering applications in the Local Rural Zone the local government shall have regard to the objectives for that zone as specified in Clause 4.2.

5.12.2 All development in the Local Rural Zone shall be conducted in a manner that preserves local amenity and the natural landscape and rural character of the zone by minimising the clearing of remnant vegetation and promoting revegetation measures.

5.12.3 Tree planting or other approved landscaping may be required to be established and maintained within the front building setback area or other areas of a lot where the preservation of privacy or amenity is considered by the local government to be desirable.

5.12.4 The minimum setback from lot boundaries for any building in the Local Rural Zone shall be 10 metres to any front and rear boundary and five metres to any side boundary.

5.12.5 No person shall on land classified as Local Rural Zone -

- a) develop or establish or allow to develop the land for non-residential purposes unless a residence is first erected;
- b) allow a house to be occupied by any person other than the owner or manager or an employee of the commercial or the commercial or industrial use;
- c) establish or permit to establish more than one business or industry to operate from each lot;
- d) develop or allow the development of a residence *that precludes* vehicle access to the rear of the lot with a minimum width of five (5) metres.

5.12.6 In considering any application for planning consent in the Local Rural Zone the local government shall have regard for the impact of the proposed development on the streetscape, local amenities and adjoining residents and may impose conditions relating but not limited to the following matters:

- a) building appearance, height and scale;
- b) building materials;
- c) building location including boundary setbacks;
- d) landscaping and visual screening;

- e) vehicle access and parking;
- f) location of open storage areas;
- g) control of dust, noise, odour and vibration;
- h) management of wastes and stormwater disposal;
- i) fire management;
- j) hours of operation;
- k) advertising signage.

5.12.7 Applications for planning consent for development in the Local Rural Zone that have potential to cause land use conflicts or adverse impacts upon the visual amenity and character of the locality will not be approved by the local government unless it can be demonstrated to the satisfaction of the local government that such usage can be suitably managed so as to minimize any detrimental impacts.

5.12.8 The Council will not generally recommend approval of applications for further subdivision within the Local Rural zone except where such subdivision is:-

- Consistent with the policies of the Western Australian Planning Commission;
- Is a boundary realignment and no additional lots are created;
- An amalgamation; or
- Where development associated with subdivision would not necessitate the clearing of any remnant vegetation.

5.12.9 The development of more than one single dwelling house within the Local Rural zone requires the approval of Council.

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

5.12.11 In order to conserve the rural environment or features of natural beauty within the Local Rural zone all trees shall be retained unless their removal is authorised by the Local Government.

The approval of the Local Government is required for the clearing of indigenous trees or other substantial vegetation except for the clearing of vegetation which is:

- a) dead, diseased or dangerous;
- b) necessary for any firebreak required by law;
- c) for the purpose of access to an approved dwelling or outbuildings;
- d) within a defined building envelope and limited to that;
- e) necessary for the construction of a dwelling, outbuildings and an area of 20m width surrounding the dwelling for the purpose of bush fire protection.

## **5.13 CARETAKER'S DWELLINGS**

The provisions of this clause apply for all caretaker's dwellings in the Industrial Zone:

- (a) a caretaker's dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;

- (b) only one caretaker's dwelling is to be permitted on a lot; for the purposes of this clause "lot" excludes a strata lot or survey-strata lot created under the *Strata Titles Act 1985*;
- (c) a caravan park home is not permitted as a caretaker's dwelling for either permanent or temporary occupation;
- (d) a caretaker's dwelling is to be screened and/or fenced from the street frontage of the lot to the satisfaction of the local government and wherever possible is to be sited at the rear of other buildings on the lot;
- (e) a caretaker's dwelling is to contain one bedroom only within a total floor area that does not exceed 100 square metres measured from the external face of walls; and
- (f) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100 square metres referred to in paragraph (e).

#### **5.14 DEVELOPMENT ON LOTS ABUTTING UNCONSTRUCTED ROADS OR WITH NO GAZETTED ROAD ACCESS**

Notwithstanding anything else appearing in the Scheme, planning approval is required for development of land abutting an unconstructed road or a lot which does not have frontage to a constructed road. In considering such an application the Council shall either:

- (a) refuse the application until the road has been constructed or access by means of a constructed road is provided as the case may be; or
- (b) grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof and any other conditions it thinks fit to impose; or
- (c) require such other arrangements are made for permanent access as shall be to the satisfaction of the Council

#### **5.15 TOURIST DEVELOPMENT**

In considering an application for tourist development (including Caravan Park, Farm Stay, Motel, Tourist Accommodation etc) the Council shall have regard to:-

- (a) the objectives of the zone;
- (b) the likely impact upon surrounding development;
- (c) the scale and intensity of the development;
- (d) appropriate setbacks to existing or proposed agricultural uses;
- (e) the effect that existing or proposed agricultural uses could have on the proposal;
- (f) provision of services for the development including water supply, on site effluent disposal, solid waste disposal and electricity;
- (g) access to and from the site;
- (h) impact of the development upon landscape values;
- (i) protection of remnant vegetation; and
- (j) fire management.



**TABLE 2: SITE AND DEVELOPMENT REQUIREMENTS TABLE \*\***

Control Use	Minimum Boundary Setback (metres)			Maximum Plot Ratio	Minimum landscape Area %	Minimum Number of Car Parking Bays
	Front	Rear Average	Sides			
Club	*	*	*	0.5	**	1 for every 45 sqm of gross floor area
Consulting Room	*	*	*	0.4 in Res Zone 0.5 elsewhere	30 in Res Zone	1 for every 30 sqm of gross floor area plus 1 for each person employed
Day Care Centre	7.5	7.5	*	*	*	1 for every employee.
Educational Establishment	9.0	7.5	5.0	*	30	1 per full time employee, plus bays for students as determined by the Council.
Fast Food Outlet	*	*	*	*	*	*
Funeral Parlour	*	*	*	*	10	As determined by the Council (minimum 6).
Hall	*	*	*	*	10	1 to every 4 persons whom the building is designed to accommodate.
Hospital	9.0	7.5	5.0	0.5	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 4 sqm bar and lounge area
Industry Service	7.5	7.5	*	*	10	1 per 2 employees
Industry Light	7.5	7.5	*	*	10	1 per 2 employees.
Industry General	7.5	7.5	*	*	15	1 per 2 employees.
Motel	9.0	7.5	3 per storey	1.0	30	1 per unit, plus 3 spaces per 25sqm of service
Office	*	*	*	*	*	1 for every 30sqm plot ratio area
Professional Office	*	*	*	*	*	1 for every 30sqm plot ratio area.
Reception Centre	*	*	*	0.5	30	1 for every 4 persons whom the building is designed to accommodate.
Restaurant	*	*	*	*	*	1 for every 10sqm 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 15sqm of gross floor area.
Showroom	*	*	*	*	10	1 for every 100sqm of gross floor area.
Vehicle Sales	*	*	*	*	5	1 for every 250sqm of sales area, plus 1 for every person employed on site.
Veterinary Centre	*	*	*	*	30	1 for every 10msq gross floor area, plus 1 for each person employed.

## NOTES

- (i) \* means 'to be determined by the Council' in each particular case
- (ii) Landscaping to be generally at the street frontage

\*\* This table is intended as a guideline and may be varied at the discretion of the Shire Council

## **PART 6 - SPECIAL CONTROL AREAS**

### **6.1. OPERATION OF SPECIAL CONTROL AREAS**

There are no special control areas which apply to the Scheme.

## PART 7 - HERITAGE PROTECTION

### 7.1. HERITAGE LIST

- 7.1.1. The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.
- 7.1.2. In the preparation of the Heritage List the local government is to —
- a) have regard to the municipal inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
  - b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.
- 7.1.3. In considering a proposal to include a place on the Heritage List the local government is to —
- a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
  - b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
  - c) carry out such other consultations as it thinks fit; and
  - d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.
- 7.1.4. Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.
- 7.1.5. The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.
- 7.1.6. The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

- Note:*
- 1. *The purpose and intent of the heritage provisions are —*
    - (a) *to facilitate the conservation of places of heritage value; and*
    - (b) *to ensure as far as possible that development occurs with due regard to heritage values.*
  - 2. *A “place” is defined in Schedule 1 and may include works, buildings and contents of buildings.*

### 7.2. DESIGNATION OF A HERITAGE AREA

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

7.2.2. The local government is to —

- a) adopt for each heritage area a Local Planning Policy which is to comprise —
  - (i) a map showing the boundaries of the heritage area;
  - (ii) a record of places of heritage significance; and
  - (iii) objectives and guidelines for the conservation of the heritage area;and
- b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.

7.2.3. If a local government proposes to designate an area as a heritage area, the local government is to —

- a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- b) advertise the proposal by —
  - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
  - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
  - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;and
- c) carry out such other consultation as the local government considers appropriate.

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

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

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

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

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

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

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

### **7.3. HERITAGE AGREEMENTS**

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

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

### **7.4. HERITAGE ASSESSMENT**

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

### **7.5. VARIATIONS TO SCHEME PROVISIONS FOR A HERITAGE PLACE OR HERITAGE AREA**

Where desirable to —

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

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

## PART 8 - DEVELOPMENT OF LAND

### 8.1. REQUIREMENT FOR APPROVAL TO COMMENCE DEVELOPMENT

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

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

### 8.2. PERMITTED DEVELOPMENT

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

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —
  - a) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - b) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - c) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where —
  - a) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Planning Codes; or
  - b) the development will be located in a heritage area designated under the Scheme;
  - c) is a dwelling which exceeds 8 metres in height;
  - d) is an ancillary out building which exceeds an area of 72sqm and/or exceeds 4 metres in height.
  - e) is a single house on a lot with unconstructed road access or no gazetted road access.
- (c) the demolition of any building or structure except where the building or structure is —
  - a) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
  - b) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - c) included on the Heritage List under clause 7.1 of the Scheme; or

- d) located within a heritage area designated under the Scheme;
- (d) a home office;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.
- (g) minor works on land and the use of land as set out in a Local Planning Policy adopted in accordance with Part II of the Scheme. *AMD 2 GG 5/12/14*
- (h) Development on Reserved land owned or vested in a public authority if the land is used:- *AMD 2 GG 5/12/14*
  - a) For the purpose for which is reserved under the Scheme;
  - b) For any purpose for which it was lawfully used before the coming into force of the Scheme;
  - c) For any purpose for which the land may be lawfully used by the public authority including:
    - works for the purpose of or in connection with the supply of water, electricity, gas, or the drainage treatment of waste, water or sewerage; and
    - works on land reserved for Railway Purposes or in connection with a railway.

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

### **8.3. AMENDING OR REVOKING A PLANNING APPROVAL**

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

### **8.4. UNAUTHORIZED EXISTING DEVELOPMENTS**

- 8.4.1. The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.
- 8.4.2. Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

*Note:*

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

## **PART 9 — APPLICATIONS FOR PLANNING APPROVAL**

### **9.1. FORM OF APPLICATION**

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

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

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

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

### **9.2. ACCOMPANYING MATERIAL**

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

- (a) a plan or plans to a scale of not less than 1:500 showing —
  - a) the location of the site including street names, lot numbers, north point and the dimensions of the site;
  - b) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - c) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;



- d) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - e) the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - f) 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;
  - g) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
  - h) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
  - (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
  - (d) any other plan or information that the local government may require to enable the application to be determined.

### **9.3. ADDITIONAL MATERIAL FOR HERITAGE MATTERS**

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

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

### **9.4. ADVERTISING OF APPLICATIONS**

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

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

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

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

- 9.4.3. The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways —
- a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
  - b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;
  - c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.
- 9.4.4. The notice referred to in clause 9.4.3 a) and b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.
- 9.4.5. Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.
- 9.4.6. After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

## PART 10 - PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1. CONSULTATION WITH OTHER AUTHORITIES

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

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

### 10.2. MATTERS TO BE CONSIDERED BY LOCAL GOVERNMENT

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

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;

- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any other planning consideration the local government considers relevant.

### **10.3. DETERMINATION OF APPLICATIONS**

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

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

### **10.4. FORM AND DATE OF DETERMINATION**

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

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

### **10.5. TERM OF PLANNING APPROVAL**

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

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

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

## **10.6. TEMPORARY PLANNING APPROVAL**

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

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

## **10.7. SCOPE OF PLANNING APPROVAL**

Planning approval may be granted —

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

## **10.8. APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS**

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

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

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

## **10.9. DEEMED REFUSAL**

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

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

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

#### **10.10. APPEALS**

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may appeal under Part V of the Town Planning Act.

## **PART 11 - ENFORCEMENT AND ADMINISTRATION**

### **11.1. POWERS OF THE LOCAL GOVERNMENT**

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

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

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

### **11.2. REMOVAL AND REPAIR OF EXISTING ADVERTISEMENTS**

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

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

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

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

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

11.2.4. A person on whom notice is served under this clause may appeal under Part V of the Town Planning Act against the determination of the local government.

### **11.3. DELEGATION OF FUNCTIONS**

- 11.3.1. The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
- 11.3.2. The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.
- 11.3.3. The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.
- 11.3.4. Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.

### **11.4. PERSON MUST COMPLY WITH PROVISIONS OF SCHEME**

A person must not —

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

*Note: Section 10(4) of the Town Planning Act provides that a person who —*

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

*is guilty of an offence.*

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

### **11.5. COMPENSATION**

- 11.5.1. A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under section 11(1) of the Town Planning Act —
- a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or



- b) where the land has been reserved for a public purpose and —
  - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
  - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

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

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

- 1. A claim for compensation under section 11(1) of the Town Planning Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

## **11.6. PURCHASE OR TAKING OF LAND**

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

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

*Note: Section 13 of the Town Planning Act empowers the local government to purchase or compulsorily acquire land comprised in a scheme.*

## **11.7. NOTICE FOR REMOVAL OF CERTAIN BUILDINGS**

11.7.1. Under section 10(1) of the Town Planning Act, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2. The local government may recover expenses under section 10(2) of the Town Planning Act in a court of competent jurisdiction.

## **SCHEDULES**

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

## SCHEDULE 1 - DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

[cl. 1.7]

### 1. GENERAL DEFINITIONS

In the Scheme —

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

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

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

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

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

**“floor area”** has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;

**“frontage”**, when used in relation to a building that is used for —

- (a) residential purposes, has the same meaning as in the Residential Planning Codes; and
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;

**“Gazettal date”**, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 7(3) of the Town Planning Act;

**“height”** when used in relation to a building that is used for —

- (a) residential purposes, has the same meaning as in the Residential Planning Codes; or
- (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;

**“incidental use”** means a use of premises which is ancillary and subordinate to the predominant use;

**“local government”** means the Shire of Woodanilling;

**“Local Planning Strategy”** means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;

**“lot”** has the same meaning as in the Town Planning Act but does not include a strata or survey strata lot;

**“minerals”** has the same meaning as in the *Mining Act 1978*;

**“net lettable area (nla)”** means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas —

- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;

**“non-conforming use”** has the same meaning as it has in section 12(2)(a) of the Town Planning Act;

**“owner”**, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity —

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

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

**“plot ratio”**, in the case of residential dwellings has the same meaning as in the Residential Planning Codes;

**“precinct”** means a definable area where particular planning policies, guidelines or standards apply;

**“predominant use”** means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;

**“premises”** means land or buildings;

**“Residential Planning Codes”** means the Residential Planning Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1, as amended from time to time;

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

**“substantially commenced”** means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;

**“Town Planning Act”** means the *Town Planning and Development Act 1928*;

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

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

## 2. LAND USE DEFINITIONS

In the Scheme —

**“aged & dependent persons dwelling”** means a dwelling specifically designed and/or intended for an Aged or Dependent Person as defined within the Residential Planning Codes;

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

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

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

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

**“ancillary tourist use”** means land or buildings used for -

- (a) recreation or entertainment;
- (b) consumption of food and/or beverages;
- (c) sale of produce;
- (d) sale of arts and crafts and souvenirs; and/or
- (e) conducting excursions for tourists, such development and/or activity being restricted in size and prominence as determined by Council, incidental to, and directly related to the predominant use of the land.

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

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

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

**“betting agency”** means an office or totalisator agency established under the *Totalisator Agency Board Betting Act 1960*;

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

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

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

**“cemeteries/crematoria”** means a building, place or premises as defined under either the *Cemeteries Act 1986* or the *Cremation Act 1929*.

**“child care premises”** has the same meaning as in the *Community Services (Child Care) Regulations 1988*;

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

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

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

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

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

**“dog kennels”** means any land or buildings used for the boarding and breeding of dogs where such premises are registered or required to be registered by the council, and may include the sale of dogs.

**“dry cleaning premises”** means any land or buildings used for the cleaning of garments and other fabrics by chemical processes.

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

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

**“family day care”** means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*;

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

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

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

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

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

**“home occupation”** means an occupation (not including a Rural Home Business) carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

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

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

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

**“hotel”** means premises providing accommodation the subject of a hotel licence under the *Liquor Licensing Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;

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

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

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

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

**“industry hazardous”** means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries.

**“industry - light”** means an industry —

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

**“industry - mining”** means land used commercially to extract minerals from the land;

**“industry – noxious”** means an industry in which the process involved constitutes an offence trade within the meaning of the *Health Act 1911* (as amended), but does not include fish shops or dry cleaning establishments.

**“industry - rural”** means —

- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes;

**“industry - service”** means —

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

**“motel”** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Licensing Act 1988*;

**“motor vehicle repair”** means premises used for or in connection with —

- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
- (b) repairs to tyres,

but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;

**“motor vehicle sales”** means premises used to sell or hire motor vehicles, boats or caravans;

**“motor vehicle wrecking”** means any land or buildings used for storage, breaking up or dismantling of motor vehicles and includes the sale of secondhand motor vehicle accessories and spare parts.

**“night club”** means premises —

- (a) used for entertainment with or without eating facilities; and
- (b) licensed under the *Liquor Licensing Act 1988*;

**“office”** means premises used for administration, clerical, technical, professional or other like business activities;

**“place of worship”** means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;

**“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;

**“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.

**“public amusement”** means the use of land as a theatre, a cinema, a dance hall, a skating rink, swimming pool, or a gymnasium or for games.

**“reception centre”** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;



**“recreation - private”** means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;

**“residential building”** has the same meaning as in the Residential Planning Codes;

**“restaurant”** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Licensing Act 1988*;

**“restricted premises”** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of —

- (a) publications that are classified as restricted under the *Censorship Act 1996*;
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;

**“rural home business”** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -

- (a) does not employ more than 5 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 200 square metres;
- (d) in relation to vehicles and parking does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of more than 3 vehicles or more than 3.5 tonnes tare weight; and does not involve the use of an essential service of greater capacity than normally required in the zone.

**“rural pursuit”** means any premises used for —

- (a) the rearing or agistment of animals;
- (b) the stabling, agistment or training of horses;
- (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (d) the sale of produce grown solely on the lot,

but does not include agriculture – extensive or agriculture – intensive;

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

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

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

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

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

**“sportsground”** means land used for any sport, but does not include land within the curtilage of a dwelling, if not used commercially.

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

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

**“tourist accommodation”** means development and associated tourism uses such as retailing and services, where such uses are an integral part of the development and are of a scale appropriate to the needs of the development.

**“transient workforce accommodation”** means a dwelling for the temporary accommodation of transient workers and may be designed to allow transition to another use or may be designed as a permanent facility for transient workers and includes a contractor's camp and dongas.

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

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

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

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

**“zoological gardens”** means any land or buildings used for the keeping, breeding or display of animals and the term includes zoo but does not include a dog kennels or a cattery, animal husbandry or animal keeping.

## SCHEDULE 2 - ADDITIONAL USES

[cl. 4.5]

No.	Description of land	Additional Use	Conditions
A 1.	Lots 55 and 56 Robinson Road, Woodanilling	Service Station Restaurant Shop	The development of any of the uses listed requires the prior approval of Council and will be subject to such conditions as Council stipulates. The development of a shop shall be ancillary to the existing use of the site as a caravan park or as a Service Station, unless Council is satisfied that it is for tourist purpose ie a gallery.
A 2.	That portion of the Residential Zone situated south of Robinson Road as shown on the Scheme Map.  <i>AMD 1 GG 22/06/12</i>	Rural Home Business	<ol style="list-style-type: none"> <li>1. No Rural Home Business may occur without the prior approval of Council.</li> <li>2. All applications for a Rural Home Business shall be advertised in accordance with Clause 9.4.3.</li> <li>3. In considering an application for Rural Home Business the Council shall, in addition to the matters contained in Clause 10.2, have specific regard to: <ol style="list-style-type: none"> <li>a. the retention of any remnant vegetation on the site and the likely impact of the use and development upon this;</li> <li>b. the location of any adjoining development and the likely impacts upon this;</li> <li>c. the need for additional fire management measures.</li> </ol> </li> <li>4. Council may impose conditions as it deems appropriate to protect the residential character of the area including conditions relating but not limited to: <ol style="list-style-type: none"> <li>a. Landscaping and screen plantings;</li> <li>b. Screen fencing;</li> <li>c. Painting of buildings and/or the use of non reflective material;</li> <li>d. Lighting.</li> </ol> </li> <li>5. Notwithstanding anything else in the Scheme, any Rural Home Business must comply with the following conditions: <ol style="list-style-type: none"> <li>a. May only be developed on land where there is an existing dwelling.</li> </ol> </li> </ol>

			<ul style="list-style-type: none"> <li>b. Shall have a maximum total activity area (including building, storage and vehicle parking) of 200m<sup>2</sup>.</li> <li>c. Does not employ more than 2 people not members of the occupier's household.</li> <li>d. Shall only operate between the hours of 0700 to 1900 Monday to Friday, not including any public holidays.</li> <li>e. Shall maintain the site in a tidy condition so as not to prejudicially affect the amenity of the area.</li> <li>f. The subject land shall have a minimum lot area of 4000m<sup>2</sup>.</li> </ul>
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**SCHEDULE 3 - RESTRICTED USES**

[cl. 4.6]

No.	Description of land	Restricted use	Conditions

SCHEDULE 4 - SPECIAL USE ZONES

[cl. 4.7.1]

No.	Description of land	Special use	Conditions

## SCHEDULE 5 - EXEMPTED ADVERTISEMENTS

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN <sup>1</sup>	MAXIMUM SIZE
Dwellings	One professional name-plate as appropriate.	0.2m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
Places of Worship, Meeting Halls and Places of Public Assembly.	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m <sup>2</sup> .
Shops, Showrooms and other uses appropriate to a Shopping Area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting 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.	Total area of any such advertisements, shall not exceed 15m.
	A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup> .
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 council of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	N/A
	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 local government, and	N/A
	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
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 <sup>2</sup> in area.
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	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.  <b>1</b> Includes the change of posters on poster signs to non-illuminated signs unless otherwise stated.	0.2m <sup>2</sup>
<b>TEMPORARY SIGNS</b>	<b>EXEMPTED SIGN - TYPE AND NUMBER (All non-illuminated unless otherwise stated)</b>	<b>MAXIMUM AREA</b>
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows:		
a) Dwellings.	One Advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m <sup>2</sup>
b) Multiple Dwellings, Shops, Commercial and Industrial projects.	One sign as for (i) above One sign as for (i) above	5m <sup>2</sup> 10m <sup>2</sup>
c) Large Development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One additional sign showing the name of the project builder.	5m <sup>2</sup>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
	Property Transactions.  Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows:	
	a) Dwellings	Each sign shall not exceed an area of 2m <sup>2</sup> .
	b) Multiple Dwellings, Shops, Commercial and Industrial Properties.	Each sign shall not exceed an area of 5m <sup>2</sup> .
	c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha.	Each sign shall not exceed an area of 10m <sup>2</sup> .
	i) One sign for each dwelling on display	2m <sup>2</sup>
	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.	5m <sup>2</sup>
	<b>2</b> Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated.	



## SCHEDULE 6 - FORM OF APPLICATION FOR PLANNING APPROVAL

[cl. 9.1.1]

### Application for planning approval

Owner details		
Name:		
Address:		
		Postcode:
Phone: (work): (home): (mobile):	Fax:	E-mail:
Contact person:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		

Applicant details		
Name:		
Address:		
		Postcode:
Phone: (work): (home): (mobile):	Fax:	E-mail:
Contact person for correspondence:		
Signature:		Date:

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection:		

Existing building/land use:	
Description of proposed development and/or use:	
Nature of any existing buildings and/or use:	
Approximate cost of proposed development:	
Estimated time of completion:	

<b>OFFICE USE ONLY</b>	
Acceptance Officer's initials:	Date received:
Local government reference no:	

## SCHEDULE 7 - ADDITIONAL INFORMATION FOR ADVERTISEMENTS

[cl. 9.1.2]

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

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

## SCHEDULE 8 - NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

[cl. 9.4.4]

*Town Planning Act 1928*

Shire of Woodanilling

### Notice of public advertisement of planning proposal

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

Lot No.:                      Street:                      Suburb:

Proposal: .....  
.....  
.....

Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the ..... day of .....

Signed:                                      Dated:  
.....

for and on behalf of the Shire of Woodanilling

## SCHEDULE 9 - NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

[cl. 10.4.1]

*Town Planning Act 1928*

Shire of Woodanilling

### Determination on application for planning approval

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for planning approval is:	
<input type="checkbox"/> granted subject to the following conditions:	
<input type="checkbox"/> refused for the following reasons(s):	
Conditions/reasons for refusal:	
.....	
.....	
.....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant is aggrieved by this determination there is a right of appeal under Part V of the <i>Town Planning Act 1928</i> . An appeal must be lodged within 60 days of the determination.
Signed:	Dated:
.....	.....
for and on behalf of the Shire of Woodanilling	

## SCHEDULE 10 - ENVIRONMENTAL CONDITIONS

[cl. 5.6]

Scheme or Amendment No	Gazettal Date	Environmental Conditions

## ADOPTION

Adopted by resolution of the Council of the Shire of Woodanilling at the meeting of the Council held on the sixteenth day of July 2002

Shire President HR Thomson 16 July 2002  
 Date

.....16 July 2002  
Chief Executive Officer                      BK Knight                      Date

## FINAL APPROVAL

1. Adopted by resolution of the Council of the Shire of Woodanilling at the meeting of the Council held on the twentieth day of May 2003 and the seal of the Municipality was pursuant to that resolution affixed in the presence of

..... 20 May 2003  
Shire President HR Thomson Date

..... 20 May 2003  
Chief Executive Officer BK Knight Date

- 2 Recommended/Submitted for Final Approval by the Western Australian Planning Commission

Delegated under S.20 of WAPC Act 1985 Date

- 3 Final Approval Granted

Minister for Planning and Infrastructure 20...  
Date