

# SHIRE OF KENT

## LOCAL PLANNING SCHEME NO. 3

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Department of Planning,  
Lands and Heritage

Prepared by the  
Department of Planning, Lands and Heritage

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## **PART 1 - PRELIMINARY**

### **1 CITATION**

This Local Planning Scheme is the Shire of Kent Local Planning Scheme No 3.

### **2 COMMENCEMENT**

Under section 87(4) of the Act, this local planning scheme comes into operation on the day it is published in the *Gazette*.

### **3 SCHEME REVOKED**

The following town planning scheme is revoked –

Shire of Kent Town Planning Scheme No.2 gazetted on 5 November 1993.

### **4 NOTES DO NOT FORM PART OF SCHEME**

Notes and instructions printed in italics, do not form part of this Scheme.

*Note: The Interpretation Act 1984 section 32 makes provision in relation to whether headings form part of the written law.*

### **5 RESPONSIBILITY FOR SCHEME**

The Shire of Kent is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

### **6 SCHEME AREA**

The Scheme applies to the area shown on the Scheme Map.

### **7 CONTENTS OF SCHEME**

- (1) In addition to the provisions set out in this document (the ***scheme text***), this Scheme includes the following –
  - (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2);
  - (b) the Scheme Map;
  - (c) the supplemental provisions to the deemed provisions contained in Schedule A of the scheme (if any).
- (2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

### **8 PURPOSES OF SCHEME**

The purposes of this Scheme are to –

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans and local development plans; and

- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

## **9 AIMS OF SCHEME**

The aims of this Scheme are to:

- (a) protect and enhance the amenity and health of the community;
- (b) to guide and control the use and development of land within the Scheme area in such a way as shall promote the general amenity, health, safety, economic and general welfare of its inhabitants;
- (c) encourage and control land use proposals within the Rural Zone which are consistent with the continued viability of agricultural production, as well as the retention of rural character and local amenity;
- (d) facilitate sustainable development that integrates economic, social and environmental goals for the district;
- (e) encourage and control the orderly development of the Nyabing and Pingrup Townsites and surrounds; and
- (f) ensure there is a sufficient supply of serviced and suitable land for housing, rural living, commercial and industrial activities, community facilities, recreation and open space.

## **10 RELATIONSHIP WITH LOCAL LAWS**

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

## **11 RELATIONSHIP WITH OTHER LOCAL PLANNING SCHEMES**

There are no other local planning schemes of the Shire of Kent which apply to the Scheme area.

## **12 RELATIONSHIP WITH REGION PLANNING SCHEME**

There are no region planning schemes which apply to the Scheme area.



## PART 2 - RESERVES

### 13 REGIONAL RESERVES

There are no regional reserves in the Scheme area.

### 14 LOCAL RESERVES

(1) In this clause

**Department of Main Roads** means the department principally assisting in the administration of the *Main Roads Act 1930*;

**Western Australian Road Hierarchy** means the document of that name available on the website maintained by the Department of Main Roads.

(2) Local Reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(3) The objectives of each local reserve are as follows –

**TABLE 1 – RESERVE OBJECTIVES**

Reserve Name	Objectives
Public Open Space	<ul style="list-style-type: none"> <li>To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152.</li> <li>To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.</li> </ul>
Environmental Conservation	<ul style="list-style-type: none"> <li>To identify areas with biodiversity and conservation value and to protect those areas from development and subdivision.</li> <li>To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.</li> </ul>
Public Purposes	<ul style="list-style-type: none"> <li>To provide for a range of essential physical and community infrastructure.</li> </ul>
Civic and Community	<ul style="list-style-type: none"> <li>To provide for a range of community facilities which are compatible with surrounding development.</li> <li>To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.</li> </ul>
Railways	<ul style="list-style-type: none"> <li>To set aside land required for passenger rail and freight rail services.</li> </ul>
Primary Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.</li> </ul>
Local Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.</li> </ul>
Local Road	<ul style="list-style-type: none"> <li>To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.</li> </ul>

## 15 ADDITIONAL USES FOR LOCAL RESERVES

- (1) This table sets out –
- (a) Classes of use for specified land located in local reserves that are additional to classes of use determined in accordance with the objectives of that reserve; and
  - (b) The conditions that apply to that additional use.

**TABLE 2 - SPECIFIED ADDITIONAL USES FOR LAND IN LOCAL RESERVES IN SCHEME AREA**

No.	Description of land	Additional Use	Conditions
1.	Reserve 20893, Nyabing Town Lot 57, Nyabing  Reserve 17930, Nyabing Town Lot 51, Nyabing  Reserve 20892, Nyabing Town Lot 56 and 98, Nyabing	Caravan Park Workforce Accommodation Holiday Accommodation	1. Workforce Accommodation shall only be permitted where it is ancillary to short term accommodation on the site and provides a benefit to the community.
2.	Reserve 40279, Lot 105 on Plan 190738, 9 Sanderson Street, Pingrup	Caravan Park, Workforce Accommodation, Museum, Reception Centre and associated tourist uses.	1. Workforce Accommodation shall only be permitted where it is ancillary to short term accommodation on the site and provides a benefit to the community. 2. All development shall be designed and landscaped to the local government's specification and satisfaction.
3	Reserve 18748, Lot 500 on Plan 76853, 50 Gaby Street, Pingrup	Caravan Park, Workforce Accommodation	1. Workforce Accommodation shall only be permitted where it is ancillary to short term accommodation on the site and provides a benefit to the community.

- (2) Despite anything contained in clause 14, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

## PART 3 – ZONES AND USE OF LAND

### 16 ZONES

- (1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) The objectives of each zone are as follows –

**TABLE 3 - ZONE OBJECTIVES**

Zone Name	Objectives
Residential	<ul style="list-style-type: none"> <li>• To provide for a range of housing and a choice of residential densities to meet the needs of the community.</li> <li>• To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li> <li>• To provide for a range of non-residential land uses, which are compatible with and complementary to residential development.</li> </ul>
Rural Residential	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 1 ha to 4 ha.</li> <li>• To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</li> <li>• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</li> </ul>
Rural Smallholding	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 4 ha to 40 ha.</li> <li>• To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</li> <li>• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</li> </ul>
Rural	<ul style="list-style-type: none"> <li>• To provide for the maintenance or enhancement of specific local rural character.</li> <li>• To protect broad acre agricultural activities such as cropping and grazing and intensive land uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.</li> <li>• To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.</li> <li>• To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.</li> <li>• To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.</li> </ul>
Light Industry	<ul style="list-style-type: none"> <li>• To provide for a range of industrial uses and service industries generally compatible within urban areas, that cannot be located in commercial zones.</li> <li>• To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.</li> </ul>
General Industry	<ul style="list-style-type: none"> <li>• To provide for a broad range of industrial, service and storage activities which, by their nature of their operations should be isolated from residential and other sensitive land uses.</li> <li>• To accommodate industry that would not otherwise comply with the performance standards of light industry.</li> </ul>

	<ul style="list-style-type: none"> <li>Seek to manage impacts such as noise, dust and odour within the zone.</li> </ul>
Mixed Use	<ul style="list-style-type: none"> <li>To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.</li> <li>To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.</li> </ul>
Special Use	<ul style="list-style-type: none"> <li>To facilitate special categories of land uses which do not sit comfortably within any other zone.</li> <li>To enable the local government to impose specific conditions associated with the special use.</li> </ul>
Cultural and natural resource use	<ul style="list-style-type: none"> <li>To support the preservation of Aboriginal heritage and culturally significant areas.</li> <li>To provide for the conservation of landscape and environmental areas and values.</li> <li>To provide for economic development that balances cultural and conservation values.</li> <li>Allow for low impact tourism development including limited tourist accommodation and camping areas.</li> <li>Allow land uses associated with Aboriginal heritage, traditional law and culture.</li> </ul>

## 17 ZONING TABLE

The zoning table for this Scheme is as follows –

**TABLE 4 - ZONING TABLE**

	Residential	Rural Residential	Rural Smallholding	Rural	Mixed Use	Light Industrial	General Industry	Cultural and Natural Resource
abattoir	X	X	X	A	X	X	A	X
agriculture - extensive	X	A	D	P	X	X	X	P
agriculture - intensive	X	A	D	P	X	X	X	D
ancillary dwelling	I	I	I	I	I	X	X	D
animal establishment	X	A	A	D	X	X	X	A
animal husbandry - intensive	X	X	A	A	X	X	X	A
art gallery	I	I	I	I	P	X	X	A
bed and breakfast	I	I	I	I	I	X	X	D
bulky goods showroom	X	X	X	X	D	D	A	X
camping ground	X	X	X	A	X	X	X	A
caravan park	X	X	X	A	X	X	X	A
caretakers dwelling	X	X	I	I	X	I	I	I
child care premises	A	A	X	X	D	X	X	A

	Residential	Rural Residential	Rural Smallholding	Rural	Mixed Use	Light Industrial	General Industry	Cultural and Natural Resource
club premises	X	A	A	D	D	X	A	X
commercial vehicle parking	A	D	P	P	D	P	A	X
community purpose	A	A	A	A	A	A	X	X
consulting rooms	A	X	X	X	P	X	X	X
convenience store	X	X	X	X	P	X	X	X
educational establishment	A	X	X	A	D	X	X	D
exhibition centre	A	A	A	A	P	X	X	X
family day care	P	P	P	P	P	X	X	X
farm supply centre	X	A	D	P	D	P	P	X
fast food outlet	X	X	X	X	D	X	X	X
fuel depot	X	X	X	X	X	D	D	X
garden centre	A	D	D	D	D	D	A	D
grouped dwelling	D	X	X	X	D	X	X	D
guest house	A	A	A	A	P	X	X	D
holiday accommodation	A	A	A	A	D	X	X	X
holiday house	D	D	D	D	D	X	X	P
home business	D	D	D	D	D	X	X	D
home occupation	D	D	D	D	D	X	X	P
home office	P	P	P	P	P	X	X	I
home store	D	D	D	D	I	X	X	X
hotel	X	X	X	X	A	X	X	X
independent living complex	A	X	X	X	D	X	X	X
industry	X	X	X	X	X	A	D	X
industry – cottage	A	D	D	D	D	X	X	D
industry – extractive	X	X	A	A	X	X	X	D
industry – light	X	X	X	X	X	P	P	X
industry – primary production	X	X	D	D	X	D	D	X
Industry - service	X	X	X	X	A	D	P	X
liquor store - small	X	X	X	X	P	X	X	X
lunch bar	A	X	X	X	D	D	X	X
market	X	X	X	A	P	X	X	A
medical centre	A	X	X	X	P	X	X	X

	Residential	Rural Residential	Rural Smallholding	Rural	Mixed Use	Light Industrial	General Industry	Cultural and Natural Resource
mining operations	X	X	X	A	X	X	X	D
motel	X	X	X	X	P	X	X	X
motor vehicle, boat or caravan sales	X	X	X	X	D	P	D	X
motor vehicle repair	X	X	X	X	X	P	D	X
office	X	I	I	I	P	I	I	X
park home park	X	X	X	X	X	X	X	X
place of worship	A	A	A	A	A	X	X	D
renewable energy facility	X	X	X	A	X	X	A	A
repurposed dwelling	D	D	D	P	D	X	X	D
residential aged care facility	A	X	X	X	D	X	X	X
residential building	A	X	X	X	A	X	X	D
restaurant/cafe	X	X	A	A	P	X	X	D
restricted premises	X	X	X	X	A	X	X	X
rural home business	X	A	D	D	X	X	X	X
rural pursuit/hobby farm	X	A	P	P	X	X	X	P
second-hand dwelling	D	D	D	P	D	X	X	D
service station	X	X	X	X	A	A	A	A
shop	X	X	X	X	P	I	X	X
single house	P	P	P	P	P	X	X	D
tavern	X	X	X	X	A	X	X	X
telecommunications infrastructure	A	A	A	A	A	A	A	D
tourist development	X	X	X	A	D	X	X	D
trade display	X	X	X	X	X	P	P	X
trade supplies	X	X	X	X	X	P	P	X
transport depot	X	X	X	A	X	X	D	A
warehouse/storage	X	X	X	X	I	D	D	X
workforce accommodation	X	X	X	A	X	X	X	X

## 18 INTERPRETING ZONING TABLE

- (1) The permissibility of uses of land in the various zones in the Scheme area 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.

- (2) The symbols used in the zoning table have the following meanings –
- P means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;
- I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme;
- D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;
- A means the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions.
- X means that the use is not permitted by this Scheme.

*Notes for this clause:*

1. *The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land.*
  2. *Under clause 61 of the deemed provisions, certain works and uses are exempt from the requirement for development approval.*
  3. *Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the local government. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.*
- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table –
- (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
  - (b) determine that the use may be consistent with objectives of a particular zone and advertise under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or
  - (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If the zoning table does not identify permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land –
- (a) a structure plan;
  - (b) a local development plan.

**19 ADDITIONAL USES**

There are no additional uses which apply to this Scheme.

**20 RESTRICTED USES**

There are no restricted uses which apply to this Scheme.

**21 SPECIAL USE ZONES**

There are no special use zone which apply to this Scheme.

**22 NON-CONFORMING USES**

- (1) Unless specifically provided, this Scheme does not prevent -
  - (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
  - (b) the carrying out of development on land if –
    - (i) before the commencement of this Scheme, the development was lawfully approved; and
    - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if –
  - (a) the non-conforming use of the land is discontinued; and
  - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply, in respect of a non-conforming use of land if, under Part 11 of the Act, the local government –
  - (a) purchases the land; or
  - (b) pays compensation to the owner of the land in relation to the non-conforming use.

**23 CHANGES TO NON-CONFORMING USE**

- (1) A person must not, without development approval –
  - (a) alter or extend a non-conforming use of land; or
  - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
  - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
  - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land



referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use

–

- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) is closer to the intended purpose of the zone in which the land is situated.

## **24 REGISTER OF NON-CONFORMING USES**

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following –
  - (a) a description of each area of land that is being used for a non-conforming use;
  - (b) a description of any building on the land;
  - (c) a description of the non-conforming use;
  - (d) the date on which any discontinuance of the non-conformance use is noted.
- (3) If the local government prepares a register under subclause (1) the local government –
  - (a) must ensure that the register is kept up-to-date; and
  - (b) must ensure that an up-to-date copy of the register is published in accordance with clause 87 of the deemed provisions.
- (3A) Subclause (3)(b) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (4) An entry in the register in relation to the land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

## **PART 4 – GENERAL DEVELOPMENT REQUIREMENTS**

### **25 R-CODES**

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government must ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.  

(2A) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if -
  - (a) the area has a coding number superimposed on it in accordance with subclause (3); or
  - (b) a provision of this Scheme provides that the R-Codes apply to the area.

### **26 MODIFICATION OF R-CODES**

- (1) In the Mixed Use zone, where Residential development is proposed in conjunction with a retail or commercial land use, the local government shall determine the appropriate density code to apply for development purposes, subject to sufficient land for onsite effluent systems being provided.

### **27 STATE PLANNING POLICY 3.6 TO BE READ AS PART OF SCHEME**

- (1) State Planning Policy 3.6 – Development Contributions for Infrastructure, modified as set out in clause 28 is to be read as part of this Scheme.
- (2) The local government must ensure that State Planning Policy 3.6 is published in accordance with clause 87 of the deemed provisions.
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

### **28 MODIFICATION OF STATE PLANNING POLICY 3.6**

There are no modifications to State Planning Policy 3.6.

### **29 OTHER STATE PLANNING POLICIES TO BE READ AS PART OF SCHEME**

- (1) The State planning policies set out in the Table, modified as set out in clause 30, are to be read as part of this Scheme.

<b>State planning policies to be read as part of Scheme</b>
There are no other State planning policies that are to be read as part of the Scheme.

### **30 MODIFICATION OF STATE PLANNING POLICIES**

There are no modifications to a State planning policy, that under clause 29 is to be read as part of the Scheme.

### **31 ENVIRONMENTAL CONDITIONS**

There are no environmental conditions imposed under the Environmental Protection Act 1986 that apply to this Scheme.

### **32 ADDITIONAL SITE AND DEVELOPMENT REQUIREMENTS**

- (1) Schedule 1 sets out requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans or State or local planning policies.
- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, a precinct structure plan, local development plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

### **33 ADDITIONAL SITE AND DEVELOPMENT REQUIREMENTS FOR AREAS COVERED BY A STRUCTURE PLAN OF LOCAL DEVELOPMENT PLAN**

There are no additional requirements that apply to this Scheme.

### **34 VARIATIONS TO SITE AND DEVELOPMENT REQUIREMENTS**

- (1) In this clause –  
  
***additional site and development requirements*** means requirements set out in clauses 32 and 33.
- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must –
  - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64(4) of the deemed provisions; and
  - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that –
  - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67(2) of the deemed provisions; and
  - (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

### **35 RESTRICTIVE COVENANTS**

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the

number that could be constructed on the land under this Scheme.

- (2) If subclause (1) operates to extinguish or vary a restrictive covenant –
- (a) development approval is required to construct a residential dwelling that would result in the number of dwellings on the land exceeding the number that would be allowed under the restrictive covenant; and
  - (b) the local government must not grant development approval for the construction of the residential dwelling unless it advertises the application for development approval in accordance with clause 64 of the deemed provisions.

## **PART 5 – SPECIAL CONTROL AREAS**

### **36 SPECIAL CONTROL AREAS**

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map:
- (2) The purpose, objectives and additional provisions that apply to each special control area is set out in Table 5 and apply in addition to the provisions applying to any underlying zone or reserve and any other provisions of the Scheme.

**TABLE 5 - SPECIAL CONTROL AREA**

<b>Name of Area.</b>	<b>Purpose</b>	<b>Objectives</b>	<b>Additional Provisions</b>
Special Control Area 1 - Wastewater Ponds	To control and manage the type of development within buffer areas of the waste water ponds.	<p>(a) Ensure compatibility of development and land use with wastewater infrastructure.</p> <p>(b) Prevent land use conflict and protect the community's infrastructure investment by ensuring that odour sensitive land uses are not permitted in the wastewater ponds buffer.</p>	<p>(a) Development approval of the local government is required for any development or use of land within Special Control Area No. 1 – Wastewater Ponds.</p> <p>(b) In addition to requirements of clause 67 of the deemed provisions, in considering any planning proposals, including zoning requests and subdivision and/or development applications, the local government shall have due regard to the following:</p> <p>(i) the proximity of development to the emission source and potential risk and impact arising;</p> <p>(ii) the sensitivity of the proposed development and/or land use to off-site emissions and risk;</p> <p>(iii) whether the use or development would have a detrimental impact on the long-term operation of the waste water ponds;</p> <p>(iv) any other relevant planning consideration, including advice from the Department of Water and Environmental Regulation and relevant WAPC policies.</p>

## **PART 6 – TERMS REFERRED TO IN SCHEME**

### **37 DIVISION 1 – GENERAL DEFINITIONS USED IN SCHEME**

- (1) If a word used in this Scheme is listed in this clause the meaning of the word is set out

below -

**building envelope** means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;

**building setback** means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected.

**cabin** means a dwelling forming part of tourist development or caravan park that is –

- (a) an individual unit other than a chalet; and
- (b) designed to provide short-term accommodation for guests;

**chalet** means a dwelling forming part of a tourist development or caravan park that is –

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to provide short-term accommodation for guests;

**commercial vehicle** means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including –

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

**floor area** has meaning given in the Building Code;

**minerals** has the meaning given in the *Mining Act 1978* section 8(1);

**plot ratio** means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;

**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 incidental;

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

**short-term accommodation** means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

**wholesale** means the sale of goods or materials to be sold by other

- (2) A word or expression that is not defined in this Scheme –
  - (a) has the meaning it has in the Planning and Development act 2005; or
  - (b) if it is not defined in that Act – has the same meaning it has in the R-Codes.

## 38 DIVISION 2 – LAND USE TERMS IN SCHEME

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows –

**abattoir** means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

**agriculture — extensive** means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

**agriculture — intensive** means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of 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);
- (d) aquaculture;

**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 alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), sheep or other livestock in feedlots, sheds or rotational pens, but does not include ‘agriculture – extensive’;

**art gallery** means premises –

- (a) that are open to the public; and
- (b) where artworks are displayed for viewing or sale;

**bed and breakfast** means a dwelling –

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult person or one family; and
- (b) containing not more than 2 guest bedrooms;

**bulky goods showroom** means premises —

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes —
  - (i) automotive parts and accessories;
  - (ii) camping, outdoor and recreation goods;
  - (iii) electric light fittings;
  - (iv) animal supplies including equestrian and pet goods;
  - (v) floor and window coverings;
  - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
  - (vii) household appliances, electrical goods and home entertainment goods;
  - (viii) party supplies;
  - (ix) office equipment and supplies;
  - (x) babies’ and children’s goods, including play equipment and accessories;
  - (xi) sporting, cycling, leisure, fitness goods and accessories;
  - (xii) swimming pools;
- or
- (b) used to sell by retail goods and accessories if —
  - (i) a large area is required for the handling, display or storage of the goods; or
  - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods;

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

**caravan park** means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

**caretakers dwelling** means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant;

**child care premises** – means premises where –

- (a) an education and care service as defined in the Education and Care Services National Law (Western Australia) section 5(1), other than a family day care service as defined in that section is provided; or
- (b) a child care service as defined in the Child Care Services Act 2007 section 4 is provided;

**club premises** means premises used by a legally constituted club or association or other body or

persons united by a common interest;

**commercial vehicle parking** means premises used for parking of one or 2 commercial vehicles but does not include –

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) parking of commercial vehicles incidental to the predominant use of the land;

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

**consulting rooms** means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

**convenience store** means premises –

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and
- (b) operated during hours which include, but may extend beyond, normal trading hours; and
- (c) the floor area of which does not exceed 300m<sup>2</sup> net lettable area;

**educational establishment** means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;

**exhibition centre** means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;

**family day care** means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;

**farm supply centre** means the use of land and buildings for the supply of vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment;

**fast food outlet** means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten –

- (a) without further preparation; and
- (b) 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 premises used –

- (a) as a service station; or
- (b) for the sale of fuel by retail into a vehicle for use by the vehicle;

**garden centre** means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

**guest house** means a dwelling or part of a dwelling occupied by a person but containing rooms used to accommodate short-term guests for hire or reward;

**holiday accommodation** means 2 or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot;

**holiday house** means a single dwelling on lot used to provide short-term accommodation but does not include a bed and breakfast;

**home business** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession –

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m<sup>2</sup>;
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is



- done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence of, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

**home occupation** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20 m<sup>2</sup>; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (f) does not —
  - (i) require a greater number of parking spaces than normally required for a single dwelling; or
  - (ii) result in an increase in traffic volume in the neighbourhood; and
- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

**home office** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling;

**home store** means a shop attached to a dwelling that —

- (a) has a net lettable area not exceeding 100 m<sup>2</sup>; and
- (b) is operated by a person residing in the dwelling.

**hospital** means premises that are a hospital within the meaning given in the *Health Services Act 2016* section 8(4);

**hotel** means premises subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

**independent living complex** means development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility

**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 facilities on the premises for any of the following purposes —

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

**industry-Cottage** means an industry which produces arts and craft goods which cannot be carried out under the provisions relating to a "Home Occupation" and that:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission

- of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;
- (b) where operated in a Residential zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;
- (c) is conducted in an outbuilding which is compatible to the zone and its amenity and does not occupy an area in excess of 50m<sup>2</sup>;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located; and
- (e) does not display a sign exceeding 0.2m<sup>2</sup> in area.

**industry — extractive** means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

**industry — light** means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;

**industry — primary production** means premises used —

- (a) to carry out a primary production business as that term is defined in the Income Tax Assessment Act 1997 (Commonwealth) section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses;

**liquor store – small** means premises the subject of a liquor store granted under the Liquor Control Act 1988 with a net lettable area of not more than 300 m<sup>2</sup>;

**lunch bar** means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas but does not include 'fast food outlet'

**market** means premises used for the display and sale of goods from stalls by independent vendors;

**medical centre** means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

**mining operations** means premises where mining operations, as that term is defined in the Mining Act 1978 section 8(1) is carried out;

**motel** means premises, which may be licensed under the Liquor Control Act 1988 —

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

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

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

- (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or
- (b) repairs to tyres other than recapping or re-treading of tyres; motor vehicle wash means premises primarily used to wash motor vehicles;

**office** means premises used for administration, clerical, technical, professional or similar business activities;

**park home park** means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997*;

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

**reception centre** means premises used for hosted functions on formal or ceremonial occasions;

**recreation — private** means premises that are —

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge;

**renewable energy facility** means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary;

**repurposed dwelling** means a building or structure not previously used as a single house, which has been repurposed for use as a dwelling;

**residential building** has the same meaning as the Residential Design Codes;

**residential aged care facility** means a residential facility providing personal and/or nursing care primarily to people who are frail and aged or dependent persons which, as well as accommodation, includes:

- (a) appropriate staffing to meet the nursing and personal care needs of residents;
- (b) meals and cleaning services; and
- (c) furnishings, furniture and equipment.

This may consist of multiple components that include communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short-term) care, and/or an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility.

**restaurant/cafe** means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises

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

- (a) publications that are classified as restricted under the Classification (Publications, Films and Computer Games) Act 1995 (Commonwealth); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or
- (c) smoking-related implements;

**rural home business** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m<sup>2</sup>; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;

**rural pursuit/hobby farm** means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household —

- (a) the rearing, agistment, stabling or training of animals;
- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises;

**salvage yard** means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but

without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

**second-hand dwelling** means a dwelling that has been used in a different location, and has been dismantled and transported to another location, or is about to be dismantled and transported to another location, but does not include a new modular or transported dwelling;

**service station** means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —

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

**shop** means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

**small bar** means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;

**tavern** means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;

**telecommunications infrastructure** means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.

**tourist development** means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

**trade display** means premises used for the display of trade goods and equipment for the purpose of advertisement;

**trade supplies** means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises —

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government;

**transport depot** means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles; and
- (c) the transfer of goods or persons from one vehicle to another;

**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/storage** means premises including indoor or outdoor facilities used for —

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

**workforce accommodation** means premises, which may include modular or relocatable buildings, used —

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or

- other industries on a temporary basis; and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

## **SCHEDULE A – SUPPLEMENTAL PROVISIONS TO DEEMED PROVISIONS**

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### **61. DEVELOPMENT FOR WHICH DEVELOPMENT APPROVAL NOT REQUIRED**

- (1) Development approval of the local government is not required for the following works:
  - (a) The construction of a second dwelling on a lot in the Rural Zone, where the second dwelling is a 'permitted use'.

- (b) The construction of outbuildings, water tanks, dams and soaks in the Rural and Rural Smallholdings zones where incidental to a permitted or approved agricultural use and in compliance with the development provisions of the Scheme and any local planning policy.
- (c) The erection of a single house in the Rural, Rural Smallholdings and Rural Residential zones where it complies with the development provisions of the Scheme and any local planning policy.
- (d) The erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house in the Rural, Rural Smallholdings and Rural Residential zone where it complies with the development provisions of the Scheme and any local planning policy.
- (e) The keeping of animals in the Rural Residential zone where in accordance with the requirements of Schedule 1.
- (f) Street trading and outdoor eating facilities on public places in accordance with a local law.
- (g) The erection or installation of any of the exempted advertisements listed in Schedule 4 of this Scheme, except in respect of an advertisement that is to be erected or installed in a place included on a heritage list prepared in accordance with this Scheme.

# SCHEDULE 1 – ADDITIONAL REQUIREMENTS THAT APPLY TO LAND IN SCHEME AREA

[cl. 32]

## 1 DEVELOPMENT REQUIREMENTS

- (a) Unless otherwise provided by the Scheme, all development is required to comply with the requirements of Schedule 2 – Development Standards.

## 2 CAR PARKING

- (a) Unless otherwise provided by the Scheme, all development is required to comply with the requirements of Schedule 3 – Car Parking.

## 3 RURAL RESIDENTIAL ZONE PROVISIONS

The following provisions shall apply to Rural Residential zone:

- (a) The local government may require as a condition of development approval that the landowner plant and maintain endemic native trees or species and in locations approved by the local government.
- (b) No fencing constructed of sheet metal, brick, stone, reinforced fibre cement or any other form of screen fencing is permitted in the rural residential zone.

## 4 RURAL SMALLHOLDING ZONE PROVISIONS

- (a) Building envelopes
  - (i) A building envelope of not more than 3,000m<sup>2</sup> is to be nominated by the applicant and approved by the local government in the first application for development approval for a lot.
  - (ii) All buildings are to be located within an approved building envelope

## 5 RURAL ZONE PROVISIONS

- (a) Protection of rural character

Having regard to the scenic values of the district and the views from roads, the local government may refuse an application for development approval if, in the opinion of the local government, the development if approved will have a detrimental effect on the rural character and amenities.
- (b) Exceptions to the zoning table
  - (i) Notwithstanding the provisions of clause 17 and clause 18, a second dwelling shall be a 'P' use on properties in the Rural Zone that are greater than 40ha in area.

## 6 MIXED USE ZONE PROVISIONS

The following provisions shall apply to the mixed use zone:

- (a) All new development in the Mixed Use zone shall have regard to the existing character of the general streetscape in terms of scale, height, materials, setbacks, street alignment and design of facades.
- (b) Service industry, storage yards and similar uses shall be restricted to low impact uses

and shall only be permitted where they are considered compatible with adjoining uses and the character of the existing Mixed Use zone.

- (c) The storage of bulky and unsightly goods and bin storage areas shall be screened to the local government's specification and satisfaction.
- (d) Where appropriate the local government may require rear access to be provided for service deliveries.
- (e) Building Materials
  - (i) The whole of any wall or building facing any street shall be constructed in brick, concrete, or masonry.
  - (ii) Notwithstanding subclause (i), the local government may approve the use of other materials where it is satisfied that the materials will not detract from local amenity.

## **7 LIGHT INDUSTRY AND GENERAL INDUSTRY ZONE PROVISIONS**

The following provisions shall apply to the Light Industry and General Industry zones:

- (a) All sites shall be screened and landscaped to the satisfaction of the local government.
- (b) Car parking, loading bays and accessways shall be designed to enable all vehicles to enter and leave the site in a forward gear.
- (c) Building Materials
  - (i) The whole of any wall or building facing any street shall be constructed in brick, concrete, or masonry.
  - (ii) Notwithstanding subclause (i), the local government may approve the use of other materials where it is satisfied that the materials will not detract from local amenity.
- (d) All effluent and waste products shall be retained within the site and disposed of to the satisfaction of the local government.
- (e) Lots abutting the residential zone  
No building or other structure shall be erected closer than a distance of 15.0 metres from any part of the Residential Zone. The setback area shall be landscaped and maintained as may be required by the local government as a condition of development approval.
- (f) Land between the building setback line and the street alignment in the Industrial zone must not be used for any purpose other than:
  - (a) A means of access;
  - (b) The daily parking of vehicles by employees and customers;
  - (c) The loading and unloading of vehicles;
  - (d) Trade display;
  - (e) Landscaping.
- (g) Setback areas visible to the street shall not be used for the parking of vehicles which are being wrecked or repaired, the storage of materials, products, by-products or wastes or the storage of fuel, except in underground tanks.
- (h) A trade display may be conducted within the area between the building setback line and the street alignment, provided that
  - (i) the trade display does not occupy more than one-fifth of the area of the street



setback within which it is proposed to be located; and

- (ii) the trade display is not located closer than 1.5 metres to a road reserve

## **8 CULTURAL AND NATURAL RESOURCE ZONE REQUIREMENTS**

- (a) Development requirements shall be determined by the local government upon application.

## **9 REQUIREMENT FOR A STRUCTURE PLAN**

The local government may require preparation of a structure plan prepared in accordance with clause 16 of Schedule 2 – Deemed provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015 prior to granting and/or recommending approval for development or subdivision in any area identified as suitable for urban or industrial development, where considered necessary to provide for the orderly planning of:

- (a) Drainage and water management
- (b) Bushfire hazard;
- (c) Access;
- (d) Flooding management.

## **10 KEEPING OF ANIMALS IN THE RURAL RESIDENTIAL AND RURAL SMALLHOLDINGS ZONES**

- (a) Stocking rates shall not exceed those recommended by the Department of Agriculture of the applicable pasture types.
- (b) The keeping of any grazing animals shall be setback a minimum 100m from any watercourse and this area shall be fenced to the satisfaction of the local government.
- (c) Appropriate measures to be taken to prevent noise, odour or dust pollution or soil erosion to the satisfaction of the local government.
- (d) The local government may take any action which, in the opinion of the local government, is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals.
- (e) Any costs incurred by the local government in taking action under (d) above shall be recoverable by the local government from the landowner.

## **11 NATIVE VEGETATION PROTECTION AND ENHANCEMENT IN THE RURAL RESIDENTIAL AND RURAL SMALLHOLDINGS ZONES**

- (1) In order to conserve the rural environment or features of natural beauty, on indigenous vegetation shall not be felled or removed unless their removal is authorised by the local government, except where:
  - (a) it is associated with the construction of a building that is identified as development for which development approval is not required in clause 61(1);
  - (b) such vegetation is dead, diseased or dangerous;
  - (c) the establishment of a firebreak is required under a regulation or by-law, or a requirement of an approved fire management plan, including an asset protection zone;

- (d) access to and including a building site is required and approved; and
  - (e) an area up to one metre in width for the purpose of erecting and maintaining a fence line is required and approved by the local government. In these areas the land shall be slashed with a view to preventing soil erosion.
- (2) The local government may refuse an application for development approval for clearing of vegetation if, in the opinion of the local government, the clearing will have a detrimental effect on the amenity, rural character and landscape qualities of the locality.
  - (3) In order to enhance the rural character and amenity of the locality, the local government may require as a condition of any development approval the planning of native vegetation in areas considered deficient in tree cover.

## **12 EFFLUENT AND LIQUID WASTE DISPOSAL**

Notwithstanding any other provision of the Scheme, the local government may refuse to issue development approval for any development, if in the opinion of the local government adequate provisions has not been made or cannot reasonably be made for the disposal of effluent and/or other liquid wastes from that development.

## **13 POTABLE WATER SUPPLY**

No dwelling shall be constructed or approved for construction unless a minimum 120,000L water storage tank or a reticulated water supply or an alternative supply of potable water and an approved method of effluent disposal has been incorporated into the approved plans, and no dwelling shall be considered fit for human habitation unless such supply of water and method of effluent disposal has been installed and is operated.

## **14 HOME BUSINESS OR HOME OCCUPATION**

- (a) An approval to carry out a home business or home occupation:
  - (i) relates only to the premises for which, and the person for whom, the application was made and the approval subsequently issued.
  - (ii) is not capable of being transferred or assigned to any other person and does not run with the land in respect of which it was granted.

## **15 VEHICLES, CARAVANS, TRAILERS IN RESIDENTIAL AREAS**

Except as hereinafter provided, a person must not –

- (a) allow any commercial vehicle or truck to remain or park for a period of more than 4 hours consecutively;
- (b) repair, maintain, service or clean a commercial vehicle or truck; or
- (c) keep, park, repair or store any boat, trailer, caravan or any material not specifically for the immediate use by the occupant forward of the front setback line;

on any lot within a Residential zone without first having applied for and obtained planning approval.

## **16 SECOND-HAND AND RE-PURPOSED DWELLINGS**

- (a) Where a second-hand dwelling or repurposed dwelling use is proposed it shall comply with the following in addition to any other relevant provision of the Scheme:
  - (i) a building that has a roof or wall sheeting or any other material such as sound proofing or insulation, that contains asbestos, is not permitted to be relocated

until those materials containing asbestos are removed and disposed of in the appropriate manner prior to transportation;

- (ii) the void area between the floor and natural ground levels is to be enclosed with brickwork, battens of other suitable materials as approved by the local government.
- (b) When considering an application for planning approval for a second-hand dwelling, the local government shall not grant planning approval, unless it is satisfied that the development will be consistent with the character of the locality in which the development is proposed, the amenity of the locality will be maintained and may impose conditions concerning:
- (i) the external appearance and material finishes, the screening of sub-floor spaces, the addition to or modification to the existing dwelling and the time frame imposed to complete specified work and connect the dwelling or building to lot services;
  - (ii) the provision of landscaping and/or screening of the building and/or site;
  - (iii) the provision of a bond or bank guarantee in favour of the Local Government in favour of the Local Government as surety for the completion of the building to a standard of presentation acceptable to the Local Government within a specified timeframe.
- (c) Where the provision of a bond or bank guarantee is required, the local government shall refund the payment upon satisfactory completion of the necessary works.
- (d) The local government may, if it considers it appropriate to do so, advertise an application for a re-purposed dwelling or second-hand dwelling pursuant to clause 64 Schedule 2 Planning and Development (Local Planning Schemes) Regulations 2015.

## **17 ADVERTISEMENTS**

Existing advertising signs which:

- (a) were lawfully erected, placed or displayed prior to the approval of the Scheme; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the local government prior to the approval of this Scheme may continue to be displayed or be erected and displayed unless the condition of the advertisement warrants removal or repair in accordance with clause 80 of the deemed provisions.

## **18 PUBLIC PURPOSE RESERVES**

In considering the development of land identified as a public purpose reserve which involves the clearing of native vegetation or modification of waterway(s), the local government shall have due regard to the suitability of the land for the development taking into account potential impacts to environmental values (including the clearing of native vegetation, threatened ecological communities, threatened fauna habitat and modification to waterway(s)).

In considering the suitability of land, the local government shall consult with the appropriate stage government water, environment and conservation agency(s).

## SCHEDULE 2 – DEVELOPMENT STANDARDS

[Schedule 1, cl 1]

Site element		Residential	Rural Residential	Rural Smallholdings	Rural	Mixed Use	Light Industry & General Industry
Lot size and frontage		As per R-codes.	No less than 2.0 hectares.	To be determined in accordance with a structure plan.	As per State Planning Policy No. 2.5 Rural Planning.	At the discretion of the local government - to be generally consistent with existing lots and development in the vicinity.	At the discretion of the local government.
Minimum Setbacks	Front	As per R-Codes	15m	15m	15m	At the discretion of the local government	7.5m
	Rear	As per R-Codes	15m	15m	15m		7.5m
	Side	As per R-Codes	10m	15m	15m		At the discretion of the local government
Maximum height		As per R-codes	Top of external wall - 6 metres above natural ground level  Top of pitched roof – 9 metres above natural ground level	Top of external wall - 6 metres above natural ground level  Top of pitched roof – 9 metres above natural ground level	n/a	At the discretion of the local government	At the discretion of the local government.
Maximum plot ratio		As per R-codes	n/a	n/a	n/a	1.0	n/a

## SCHEDULE 3 – CAR PARKING

[Schedule 1 cl. 2]

### (1) Car Parking Standards

- (a) A person shall not develop or use land, change the use of land or erect, use or adapt any building unless car parking spaces in the Table are provided.

#### Car Parking Standards

Land Use	Minimum Number of carparking spaces required
Art Gallery	5 for every 100m <sup>2</sup> net lettable area
Bed and Breakfast	As per R-Codes, plus 1 per each bedroom to be used for bed and breakfast
Child Care Premises	1 per staff member plus 1 per 8 children
Consulting Rooms	5 per consulting room plus 1 per staff member
Convenience Store	5 for every 100m <sup>2</sup> net lettable area
Hotel / Tavern	1 per every bedroom plus 3 per 25m <sup>2</sup> bar area and lounge area plus 1 space per 2 employees
Industrial Light	1 per 100m <sup>2</sup> gross lettable area
Industry Service	1 per 100m <sup>2</sup> gross lettable area
Office	5 for every 100m <sup>2</sup> net lettable area
Restaurant/Café	5 for every 100m <sup>2</sup> net lettable area
Shop	5 for every 100m <sup>2</sup> net lettable area
Showroom	2 for every 100m <sup>2</sup> gross lettable area
Warehouse	1 per 100m <sup>2</sup> gross lettable area

- (b) Where land is to be developed or used for a purpose not mentioned in (a) above, the local government shall determine in each case the required number of parking bays to be provided on the land having regard to the:
- i) nature of the proposed development;
  - ii) number of employees or others likely to be employed or engaged in the use of

- land;
- iii) anticipated demand for visitor parking;
- iv) orderly, property and sustainable planning of the area;
- v) heritage values of the subject land;
- vi) parking requirements under the Scheme for uses of a similar nature (if any).

**(2) Design and Construction of car parking**

- (a) Car Parking spaces provided in accordance with 1 (a) and (b) above are to be constructed in accordance with Australian Standard 2890.4-2004 as amended.
- (b) Layout of carparking areas shall have regard for traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining carpark.

**(3) Cash-in-lieu of car parking**

- (a) Where the local government so decides, cash payment in lieu of the provision of parking spaces on the site of any proposed development may be accepted but the cash in lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking spaces required by the scheme plus the value, as estimated by the local government, of that area of the land which would have been occupied by the parking spaces.

## SCHEDULE 4 – EXEMPTED ADVERTISEMENTS

[Schedule A cl. 61 (g)]

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (all non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	One professional nameplate as appropriate.	0.2m <sup>2</sup>
Home Business or Home Occupation	One advertisement describing the nature of the home business or home occupation.	0.2m <sup>2</sup>
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	Not applicable
All classes of buildings other than single family dwelling	One advertisement sign containing the name, number and address of the building, the purpose of which the building is used or the name and address of the managing agent thereof.	0.2m <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 any adopted local planning policies.	Combined area of advertisements not to exceed 5m <sup>2</sup>
Industrial and Warehouse premises (excluding rural and cottage industry)	A maximum of four advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building and excluding signs which are connected to a pole, wall or other building.  A maximum of two freestanding advertisements not exceeding 5 metres in height above ground level.	Total area of such advertisements are not to exceed 10m <sup>2</sup>  Individual advertisement signs are not to exceed 5m <sup>2</sup>
Public Places and Reserves	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of Government, a public authority or local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body; and (b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government; and (c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to any powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	Not Applicable
Building Construction sites (advertisement signs displayed only for the duration of the construction) as follows: (1) Dwellings (2) Multiple dwellings, shops, commercial and industrial projects. (3) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One advertisement per street frontage containing details of the project and professional consultants and the contractors undertaking the construction work. One sign as for (1) above  One sign as for (1) above  One additional sign showing the name of the project builder.	2m <sup>2</sup>  5m <sup>2</sup>  10m <sup>2</sup>  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>
<p><b>Property Transactions</b> Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large properties comprised of shopping centres, buildings in excess of 4 storeys and rural properties in excess of 5ha</p>	<p>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed. One sign as for (a) above</p> <p>One sign as for (a) above</p>	<p>Each sign shall not exceed an area of 2m<sup>2</sup>.</p> <p>Each sign shall not exceed an area of 5m<sup>2</sup>.</p> <p>Each sign shall not exceed an area of 10m<sup>2</sup></p>
<p><b>Display Homes</b> Advertising signs displayed for the period over which the homes are on display for public inspection</p>	<p>(1) One sign for each dwelling on display.</p> <p>(2) In addition to (1) above, one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.</p>	<p>2m<sup>2</sup></p> <p>5m<sup>2</sup></p>



**COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME**

Adopted by Resolution of the Council of the Shire of Kent at the Ordinary meeting of the Council held on the Wednesday 18<sup>th</sup> December 2019

RICK MILLER  
**CHIEF EXECUTIVE OFFICER**

SCOTT CROSBY  
**SHIRE PRESIDENT**

**FINAL APPROVAL**

Council resolved to support approval of the draft Scheme of the Shire of Kent at the Ordinary Council Meeting of Council held on 18 August 2021

The Common Seal of the Shire of Kent was hereunto affixed by authority of a resolution of the Council in the presence of:

PETER CLARKE  
**A/CHIEF EXECUTIVE OFFICER**

SCOTT CROSBY  
**SHIRE PRESIDENT**

**Recommended/Submitted for Final Approval**

D BRASH  
DELEGATED UNDER S.16 OF THE *PLANNING  
AND DEVELOPMENT ACT 2005*  
Date 25 November 2022

**Final Approval Granted**

R SAFFIOTI  
MINISTER FOR PLANNING

Date 1 February 2023