



# SHIRE OF MENZIES

## LOCAL PLANNING SCHEME NO. 2

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

**SHIRE OF MENZIES LOCAL PLANNING SCHEME No. 2  
AMENDMENTS**

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	

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## Part 1 - Preliminary

### 1. Citation

This local planning scheme is the Shire of Menzies Local Planning Scheme No.2.

### 2. Commencement

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

### 3. Scheme revoked

The following local planning scheme is revoked -

Name	Gazettal Date
Shire of Menzies Town Planning Scheme No.1	13 June 2003

### 4. Notes do not form part of Scheme

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

### 5. Responsibility for Scheme

The Shire of Menzies 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

This 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 supplemental provisions to the deemed provisions contained in Schedule A; and
  - (c) the Scheme Map (sheets 1 - 16).
- (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, layout 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 –

- (a) to preserve, protect and enhance the amenity and character of Menzies Townsite, Kookynie Townsite and areas of cultural and natural significance across the local government area; and
- (b) to preserve, protect and enhance the amenity and character of Marmion Village and the Tjuntjuntjara community; and
- (c) to ensure there is sufficient supply of serviced and suitable land within the local government area for existing and future housing, industry, employment, commercial activities, community facilities, recreation and open space; and
- (d) to protect and enhance the environmental values and natural resources of the local government area and to promote ecologically sustainable land use and development; and
- (e) to avoid, mitigate and/or manage land use and development impacts on the environment, public health, safety and amenity; and
- (f) to provide opportunities for the ongoing use and potential expansion of commercial areas, and tourist facilities to serve the needs of the residents and visitors; and

- (g) to promote the sustainable use of rural land including for agricultural purposes, discouraging land uses and developments that may detract from the principle rural or agricultural function of the land and providing for opportunities to innovate in rural or agriculture activity; and
- (h) to encourage processing and value adding industries including mining and any associated developments to establish within the local government area, while ensuring development provides for the protection and or management of the environment and the amenity of the locality.

**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 Menzies, 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 -

(a) Public Open Space

(i) To set aside areas for public open space, particularly those established under the *Planning and Development Act 2005* s. 152.

(ii) To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.

(b) Government Services

(i) Public Purposes which specifically provide for a range of government services.

(c) Public Purposes

(i) To provide for a range of essential physical and community infrastructure.

(d) Medical Services

(i) Public Purposes which specifically provide for a range of essential medical services.

(e) Infrastructure Services

(i) Public Purposes which specifically provide for a range of essential infrastructure services.



- (f) Education
  - (i) Public Purposes which specifically provide for a range of essential education facilities.
- (g) Special Purpose Reserve
  - (i) To set aside land for a special purpose.
  - (ii) Purposes that do not comfortably fit in any other reserve classification.
- (h) Railways
  - (i) To set aside land required for passenger rail and rail freight services.
- (i) Primary Distributor Road
  - (i) 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.
- (j) Cemetery
  - (i) To set aside land required for a cemetery.
- (k) Environmental Conservation
  - (i) To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision.
  - (ii) To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.
- (l) Strategic Infrastructure
  - (i) To set aside land required for airport facilities.
- (m) Local Road
  - (i) To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.
- (n) Cultural Facilities
  - (i) Civic and Community which provide for a range of essential cultural facilities.

**15. Additional uses for local reserves**

(1) Table 1 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 the reserve; and
- (b) the conditions that apply to that additional use.

**TABLE 1. SPECIFIED ADDITIONAL USES FOR LAND  
IN LOCAL RESERVES IN SCHEME AREA**

No.	Description of land	Additional use	Conditions
A 1	Portion of Railway Reserve being R50507 on Lot 301 P049818 in Walsh Street, Menzies being the old Menzies railway station site	Office and associated uses	Property to be maintained to the satisfaction of the local government.
A 2	Lot 1066 on Reserve 17455 (25 Walsh Street, Menzies)	Tourist Development and Workforce Accommodation associated with overflow from the Tourism zoned land at Lot 555 P063650 (15 Brown Street, Menzies) being the Menzies Caravan Park	<ol style="list-style-type: none"> <li>1. Tourist Development and Workforce Accommodation uses on these sites shall be limited to those times when the Tourism site (Menzies Caravan Park) is at capacity.</li> <li>2. Tourist Development and Workforce Accommodation uses shall be undertaken for a maximum period nominated by the local government in any 12-month period.</li> </ol>
A 3	Lot 178 on Reserve 4531 and DP 222802 (29 Wilson Street, Menzies)	Caravan Park Tourist Development Workforce Accommodation	
A4	Reserve 49153 (Lake Ballard Sculpture Park), Menzies-Sandstone Road	Uses incidental to a remote cultural facility, including car parking, camping ground, ablution facilities	
A5	Reserve 5062 Niagara Dam Recreation reserve	Camping ground and other incidental uses	

- (2) Despite anything contained in clause 15, land that is specified in Table 1 to sub clause (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 -

#### (a) Settlement

To identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places by –

- requiring preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2 Aboriginal Settlements; and
- ensuring that development accords with a layout plan.

#### (b) Rural

- To provide for the maintenance or enhancement of specific local rural character.
- To protect broad acre agricultural activities such as cropping and grazing and intensive 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.
- 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.
- 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.
- To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

#### (c) Rural Townsite

Overall Objectives

- To provide for a range of land uses that would typically be found in a small country town.
- To facilitate the variety of predominantly commercial, service, social, light industrial and administrative uses required to service the needs of local residents and visitors alike.
- To ensure the protection of amenity and character in the Shire's towns and to avoid, minimise or manage land use conflict.
- To allow the Shire to flexibly control land use and development.

- To encourage and facilitate self-sufficient land use and development that is not dependent on the provision of public infrastructure or that will not unduly impact available public infrastructure.

#### Menzies townsite

- To ensure the Menzies townsite is the focus of land use and development as the primary settlement in the Shire facilitated by flexible planning controls.

#### Kookynie townsite

- To provide for and permit limited land use and development commensurate with its tenure, location, character, amenity and availability of services.
- To retain the character of a living ghost town for its historic and tourism value.

Note: The objectives for Menzies and Kookynie townsites prevail over those objectives for All Townsites that may be in conflict.

### **(d) General Industry**

- To provide as needed appropriately located, accessible, serviced and level industrial land to cater for the needs of anticipated industrial development within the townsite area.
- To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.
- To avoid, minimise or manage impacts such as noise, dust and odour within the zone.

### **(e) Commercial**

- To provide for a range of shops, offices, restaurants and other commercial outlets in defined townsites or activity centres.
- To ensure that development is not detrimental to the streetscape and amenity of adjoining owners and residential properties in the locality.
- To provide for residential uses only where the uses are combined with a commercial use and appropriately located on the site.

### **(f) Tourism**

- To promote and provide for tourism opportunities.
- To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.
- To allow limited residential uses where appropriate.
- To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.

**(g) Special Use**

- To facilitate special categories of land uses which do not sit comfortably within any other zone.
- To enable the local government to impose specific conditions associated with the special use.

## 17. Zoning table

The zoning table for this Scheme is as follows –

**TABLE 2. ZONING TABLE**

Use and development class	SETTLEMENT	RURAL	RURAL TOWNSITE	GENERAL INDUSTRY	COMMERCIAL	TOURISM
Abattoir	Generally, in accordance with a layout plan prepared and approved under State Planning Policy 3.2 Aboriginal Settlements (*)	A	X	X	X	X
Agriculture — extensive		A	X	X	X	X
Agriculture — intensive		A	X	D	X	X
Airfield		A	X	X	X	X
Ancillary dwelling		A	P	X	X	X
Animal establishment		D	X	A	X	X
Animal husbandry — intensive		A	X	X	X	X
Bed and breakfast		D	D	X	D	P
Bulky goods showroom		X	A	A	P	X
Car park		D	D	P	P	P
Caravan park		A	A	X	X	A
Caretaker's dwelling		I	I	I	I	X
Child care premises		X	A	X	X	X
Civic use		D	P	D	D	D
Club premises		X	D	X	D	X
Commercial vehicle parking		D	D	P	A	X
Community purpose		A	D	X	D	A
Consulting rooms		X	D	X	P	X
Convenience store		X	D	X	P	A
Educational establishment		A	D	X	D	X
Exhibition centre		A	A	X	A	A
Family day care		X	A	X	A	X

Use and development class	SETTLEMENT	RURAL	RURAL TOWNSITE	GENERAL INDUSTRY	COMMERCIAL	TOURISM
Fuel depot	Generally, in accordance with a layout plan prepared and approved under State Planning Policy 3.2 Aboriginal Settlements (*)	A	A	P	A	X
Garden centre		A	D	A	D	X
Grouped dwelling		X	A	X	A	A
Holiday accommodation		A	A	X	A	A
Holiday house		A	A	X	A	D
Home business		D	D	X	P	D
Home occupation		D	D	X	D	D
Home office		P	P	P	P	P
Home store		D	D	X	D	D
Hotel		X	A	X	D	D
Independent living complex		X	D	X	D	D
Industry		A	X	D	X	X
Industry-cottage		D	A	X	X	X
Industry — extractive		A	X	X	X	X
Industry — light		A	A	P	A	X
Industry — rural		P	I	D	X	X
Liquor store - small		X	A	X	A	I
Market		X	D	X	P	D
Medical centre		X	A	X	D	X
Mining operations		D	X	X	X	X
Motel		X	A	X	D	D
Motor vehicle, boat or caravan sales		X	A	D	P	X
Motor vehicle repair		A	A	P	A	X
Motor vehicle wash		A	A	P	A	X

Multiple dwelling		X	A	X	A	A
Nature based park		A	X	X	X	X

Use and development class	SETTLEMENT	RURAL	RURAL TOWNSITE	GENERAL INDUSTRY	COMMERCIAL	TOURISM
Office	Generally, in accordance with a layout plan prepared and approved under State Planning Policy 3.2 Aboriginal Settlements (*)	I	A	I	P	I
Park home park		X	A	X	X	X
Place of worship		X	D	X	D	X
Reception centre		A	A	X	A	X
Recreation - private		A	A	X	A	X
Renewable energy facility		A	A	A	X	A
Repurposed dwelling		D	A	X	A	A
Residential building		A	A	X	X	A
Residential aged care facility		X	D	X	X	X
Restaurant/cafe		A	A	X	P	D
Roadhouse		A	A	X	D	A
Rural home business		D	A	X	X	X
Rural pursuit/hobby farm		D	A	X	X	X
Second hand dwelling		D	A	X	A	A
Service station		A	A	D	D	X
Shop		I	D	X	P	I
Single house		P	P	X	D	A
Tavern		X	A	X	A	A
Telecommunications infrastructure		D	D	D	D	D
Tourist development		A	A	X	A	P
Trade display		X	A	P	P	X



Trade supplies		X	A	P	P	X
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Use and development class	SETTLEMENT ZONE	RURAL	RURAL TOWNSITE	GENERAL INDUSTRY	COMMERCIAL	TOURISM
Transport depot	Generally, in accordance with a layout plan prepared and approved under State Planning Policy 3.2 Aboriginal Settlements (*)	A	A	P	X	X
Tree farm		D	X	X	X	X
Veterinary centre		D	A	P	D	X
Warehouse/storage		D	D	P	D	X
Waste disposal facility		A	X	D	X	X
Waste storage facility		A	X	D	X	X
Wayside stall		A	A	X	A	A
Workforce accommodation		A	A	X	X	D

Notes: (\*) Where development is proposed for a place that does not have a layout plan prepared and approved under State Planning Policy 3.2 Aboriginal Settlements, the local government is to consider the proposal having regard to the aims of this Scheme and the objectives of the Settlement zone.

## 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 all relevant development standards and requirements of this Scheme as it relates to the use of the land;
  - 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 all 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 that 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.

- Note: 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. For development on land that does not require development approval see clause 61 of the deemed provisions and Schedule A.
2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.
3. If a proposed development is identified as a class P use but the proposed development does not comply with all relevant development standards and requirements of this Scheme, then it is to be treated as a class D use.
4. Under clause 61(2) of the deemed provisions, certain uses are exempt from the requirements for development approval.
- (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 the 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 a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless -

- (a) the development approval application relates to land that is being used for a non-conforming use; and
  - (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.
- (7) If the zoning table does not identify any 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 the objectives of the zone and any of the following plans that apply to the land -
- (a) a structure plan;
  - (b) a layout plan;
  - (c) a local development plan.

## 19. Additional uses

- (1) Table 3 sets out -
- (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
  - (b) the conditions that apply to that additional use.
- (2) Despite anything contained in the zoning table, land that is specified in Table 3 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.

**Table 3 - Specified additional uses for zoned land in Scheme area**

No.	Description of land	Additional use	Conditions
AU1	Portion of Railway Reserve being R50507 on Lot 301 P049818 in Walsh Street, Menzies being the old Menzies railway station site	Office and associated uses	Nil
AU2	Lots 866 and 1066 Walsh Street Menzies	Tourist Development and Workforce Accommodation associated with overflow from the Tourism zoned land at Lot 555 P063650 (15 Brown Street, Menzies) being the Menzies Caravan Park	Nil
AU3	Lot 178 on Reserve 4531 Wilson Street, Menzies	Caravan Park Tourist Development Workforce Accommodation	Nil

## 20. Restricted uses

There are no restricted uses which apply to this Scheme.

**21. Special use zones**

There are no special use zones 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 objectives 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-conforming 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 publishing requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (4) An entry in the register in relation to 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 Standards and Requirements

### 25. Residential Design Codes (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

The following variations to the R-codes are to apply.

- (1) In regard to cl.25(3 and (4), where a lot is dual coded R10/30:
  - (a) R10 is the applicable residential density if connection to a reticulated sewerage service is not possible or too costly to connect; or
  - (b) R30 is applicable if the lot is connected to a reticulated sewerage service or where wastewater disposal arrangements have been demonstrated in accordance with State policy.

### 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 clause 30 are to be read as part of this Scheme.
  - State Planning Policy 2.5 - Rural Planning
  - State Planning Policy 2.7 - Public Drinking Water Source
  - State Planning Policy 3.7 - Planning in Bushfire Prone Areas
- (2) The local government must ensure that each State planning policy referred to in subclause (1) 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.

**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 this 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) Schedules 1, 2 and 3 sets out requirements relating to development that are additional to those set out in the R-Codes, structure plans, 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 structure plan, a precinct structure plan, a 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 structure plan or 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 requirement.
- (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 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. Mining operations**

In considering proposals to commercially extract minerals the local government may exercise its discretion to inform the Minister responsible for the *Mining Act 1978* and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of this Scheme and or the Local Planning Strategy.

### **36. 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 residential dwellings on the land exceeding the number that would have been 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

### 37. 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 4.
- (3) The provisions contained in Table 3 apply in addition to the provisions that apply to the underlying zone and/or local reserve.

**TABLE 4 - SPECIAL CONTROL AREAS IN SCHEME AREA**

Name of area	Purpose	Objectives	Additional provisions
Special Control Area 1	Water Supply Catchment	To ensure that land use and development does not prejudice or adversely impact the extraction of, and the quantity and quality of the groundwater resource for town water supply.	<ol style="list-style-type: none"> <li>(1) Despite any other provision of this Scheme, development approval is required for the use and development of land, including a single house.</li> <li>(2) Prior to determining an application for development approval, the local government shall refer any application that in the opinion of the local government warrants referral to the Water Corporation and any other relevant public authority for advice.</li> <li>(3) In considering the application for development approval the local government is to have due regard to the advice and recommendation provided by the Water Corporation and any other public authority consulted and those matters relevant to the development the subject of the application as prescribed by clause 67 of the deemed provisions.</li> <li>(4) The local government may impose development approval conditions to ensure compliance with the objectives.</li> </ol>

Name of area	Purpose	Objectives	Additional provisions
Special Control Area 2	Power Station	<p>To protect the Menzies power station from sensitive land use and development.</p> <p>To ensure that decision making regarding development applications for land within the special control area provides for outcomes that will:</p> <p>(a) either avoid, minimise or manage any potential land use conflict with and from the power station; and</p> <p>(b) ensure that the use and development of land is compatible with the long - term operating needs of the power station.</p> <p>For the purposes of these objectives 'sensitive land use' has the same meaning as it has in State Planning Policy 2.5 Rural Planning.</p>	<p>(1) Despite any other provision of this Scheme, development approval is required for the use and development of land, including a single house.</p> <p>(2) In considering any application for development approval, the local government shall have due regard to the following matters –</p> <ul style="list-style-type: none"> <li>• the proximity of the proposal to the power station;</li> <li>• the sensitivity of the proposal to the off-site impacts of the power station;</li> <li>• the need to provide for the effective and efficient long - term operating needs of the power station;</li> <li>• the need to retain a minimum 120 metres separation distance (area located between Mahon, Walton and Trafalgar Streets, Menzies) within which sensitive land use is to be controlled, to either avoid, mitigate or manage impacts to human health and amenity;</li> <li>• a general presumption against the construction of dwellings and other sensitive land uses within the separation distance;</li> <li>• any other relevant planning consideration as prescribed by clause 67 of the deemed provisions; and</li> <li>• relevant noise regulations.</li> </ul> <p>The local government may impose development approval conditions to ensure compliance with the objectives.</p>

## Part 6 - Terms referred to in Scheme

### Division 1 - General definitions used In Scheme

#### 38. TERMS USED

(1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows -

<b>building envelope</b>	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.
<b>cabin</b>	means a dwelling forming part of a 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.
<b>chalet</b>	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.
<b>commercial vehicle</b>	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).
<b>dam</b>	means any man-made structure or excavation designed and constructed to intercept, accumulate and impound water flowing across, through or under any land and includes an off-stream dam, an on-stream dam, a gully-wall dam, a turkey-nest dam, an excavated soak and any structure, excavation or other device designed to act either solely or partly as a nutrient stripping basin but does not include ornamental ponds or other water feature associated with landscaping and gardens.
<b>floor area</b>	has the meaning given in the Building Code.
<b>minerals</b>	has the meaning given in the <i>Mining Act 1978</i> section 8(1).
<b>plot ratio</b>	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.
<b>precinct</b>	means a definable area where particular planning policies, guidelines or standards apply.
<b>predominant use</b>	means the primary use of premises to which all other uses carried out on the premises are incidental.
<b>retail</b>	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 others.

- (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 as it has in the R-codes.

## Division 2 - Land use terms used In Scheme

### 39. Land Use terms used

- (1) 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.

**airfield** means land and buildings used in connection with the operation of aeroplanes and other aircraft, including airstrips, a public passenger terminal, ancillary offices, car parking, parking, maintenance and servicing of aircraft, but does not include a private airstrip incidental to farming operations.

**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 excludes agriculture-extensive.

**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 persons or one family; and
- (b) containing not more than 2 guest bedrooms.

**bulky goods  
showroom**

mean 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, beddings, 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) (b) used to sell goods and accessories by retail if:
  - (i) a large area is required for the handling, display or storage of the goods; or
  - (ii) vehicular access to the premises is required for the purpose of collection of purchased goods.

**caravan park**

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

**caretaker's 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.

**car park**

means premises used primarily for parking vehicles whether open to the public or not but does not include –

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) any premises in which cars are displayed for sale.

**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.

<b>civic use</b>	means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
<b>club premises</b>	means premises used by a legally constituted club or association or other body of persons united by a common interest.
<b>commercial vehicle parking</b>	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.
<b>community purpose</b>	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.
<b>consulting rooms</b>	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.
<b>convenience store</b>	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.
<b>educational establishment</b>	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.
<b>exhibition centre</b>	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
<b>family day care</b>	means premises where a family day care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> is provided.
<b>fuel depot</b>	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.
<b>garden centre</b>	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.

<b>holiday accommodation</b>	means 2 or more dwellings on one lot used to provide accommodation for holiday or temporary purposes for persons other than the owner of the lot.
<b>holiday house</b>	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.
<b>home business</b>	<p>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 occupation –</p> <ul style="list-style-type: none"> <li>(a) does not involve employing more than 2 people who are not members of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 50m<sup>2</sup> ; and</li> <li>(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</li> <li>(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</li> <li>(f) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and</li> <li>(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.</li> </ul>
<b>home occupation</b>	<p>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 –</p> <ul style="list-style-type: none"> <li>(a) does not involve employing a person who is not a member of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 20m<sup>2</sup> ; and</li> <li>(d) does not involve the display on the premises of a sign with an area exceeding 0.2m<sup>2</sup> ; and</li> <li>(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</li> <li>(f) does not – <ul style="list-style-type: none"> <li>(i) require a greater number of parking spaces than normally required for a single dwelling; or</li> <li>(ii) result in an increase in traffic volume in the neighbourhood;</li> </ul> </li> <li>(g) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and</li> <li>(h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and</li> <li>(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.</li> </ul>
<b>home office</b>	<p>means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation –</p> <ul style="list-style-type: none"> <li>(a) is solely within the dwelling; and</li> </ul>



- (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 100m<sup>2</sup> ; and
- (b) is operated by a person residing in the dwelling.

**hotel**

means premises the 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 a 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 a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which -

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

<b>industry - light</b>	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.
<b>industry - rural</b>	means premises used for industry that - (a) supports and/or is associated with primary production; or (b) services plant or equipment used in primary production.
<b>liquor store - small.</b>	means premises the subject of a liquor store license granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300m <sup>2</sup> .
<b>market</b>	means premises used for the display and sale of goods from stalls by independent vendors.
<b>medical centre</b>	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.
<b>mining operations</b>	means premises where mining operations, as that term is defined in the <i>Mining Act 1978</i> section 8(1) is carried out.
<b>motel</b>	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> – (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.
<b>motor vehicle, boat or caravan sales</b>	means premises used to sell or hire motor vehicles, boats or caravans.
<b>motor vehicle repair</b>	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 retreading of tyres.
<b>motor vehicle wash</b>	means premises primarily used to wash motor vehicles.
<b>nature based park</b>	means premises used for a nature based park as defined in the Caravan Parks and Camping Grounds Regulations 1997.
<b>office</b>	means premises used for administration, clerical, technical, professional or similar business activities.
<b>park home park</b>	means premises used as a park home park as defined in the Caravan Parks and Camping Grounds Regulations 1997.

<b>place of worship</b>	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
<b>reception centre</b>	means premises used for hosted functions on formal or ceremonial occasions.
<b>recreation - private</b>	means premises that are – (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
<b>renewable energy facility</b>	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.
<b>repurposed dwelling</b>	means a building or structure not previously used as a single house which has been repurposed for use as a dwelling.
<b>residential aged care facility</b>	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; (c) furnishings, furniture and equipment.  This may consist of multiple components that include communal amenities and land uses for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short term) care and an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility.
<b>restaurant/cafe</b>	means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> .
<b>road house</b>	means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services – (a) a full range of automotive repair services; (b) wrecking, panel beating and spray painting services; (c) transport depot facilities; (d) short-term accommodation for guests; (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies; and (f) dump points for the disposal of black and/or grey water from recreational vehicles.
<b>rural home business</b>	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 200m<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 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.

**second hand dwelling**

means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a modular home or transportable 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.

**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 –

	<ul style="list-style-type: none"> <li>(a) short-term accommodation for guests; and</li> <li>(b) onsite facilities for the use of guests; and</li> <li>(c) facilities for the management of the development.</li> </ul>
<b>trade display</b>	means premises used for the display of trade goods and equipment for the purpose of advertisement.
<b>trade supplies</b>	<p>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 –</p> <ul style="list-style-type: none"> <li>(a) automotive repairs and servicing;</li> <li>(b) building including repair and maintenance;</li> <li>(c) industry;</li> <li>(d) landscape gardening;</li> <li>(e) provision of medical services;</li> <li>(f) primary production;</li> <li>(g) use by government departments or agencies, including local government.</li> </ul>
<b>transport depot</b>	<p>means premises used primarily for the parking or garaging of 3 or more commercial vehicles including –</p> <ul style="list-style-type: none"> <li>(a) any ancillary maintenance or refuelling of those vehicles; and</li> <li>(b) any ancillary storage of goods brought to the premises by those vehicles; and</li> <li>(c) the transfer of goods or persons from one vehicle to another.</li> </ul>
<b>tree farm</b>	means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the <i>Carbon Rights Act 2003</i> section 5.
<b>veterinary centre</b>	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
<b>warehouse/storage</b>	<p>means premises including indoor or outdoor facilities used for –</p> <ul style="list-style-type: none"> <li>(a) the storage of goods, equipment, plant or materials; or</li> <li>(b) the display or sale by wholesale of goods.</li> </ul>
<b>waste disposal facility</b>	<p>means premises used –</p> <ul style="list-style-type: none"> <li>(a) for the disposal of waste by landfill; or</li> <li>(b) the incineration of hazardous, clinical or biomedical waste.</li> </ul>
<b>waste storage facility</b>	means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.
<b>wayside stall</b>	means a stall located adjacent to a street in which only fruit, vegetables and artefacts grown, produced or made on the land are sold or offered for sale.

**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 the Deemed Provisions

These provisions are to be read in conjunction with the deemed provisions (Schedule 2, Part 7) contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### 61. Development for which Development Approval Not Required

	Column 1 Works/Use	Column 2 Conditions
61(1) 22	The erection of, or alterations or additions to, a single house on a lot if a single house is a class P use in the Rural zone in which the lot is located.	(a) The development standards and requirements set out in this Scheme for the Rural zone are satisfied. (b) The works are not located in a heritage-protected place. (c) The works are not located on a lot or in a location on the lot which does not have access to a dedicated and/or constructed Crown road reserve or does not have, in the opinion of the local government, appropriate access to a dedicated and constructed Crown road reserve.
61(1) 23	The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house if a single house is a class P use in the Rural zone in which the lot is located: (a) an outbuilding; (b) an external fixture; (c) a boundary wall or fence; (d) a patio; (e) a pergola; (f) a veranda; (g) a garage; (h) a carport; (i) a swimming pool.	(i) The development standards and requirements set out in this Scheme for the Rural zone are satisfied. (ii) The works are not located in a heritage-protected place.
61(1) 24	The erection of, or alterations or additions to, a single house on a lot if a single house is a class P use in the Rural Townsite zone in which the lot is located.	(a) The development standards and requirements set out in this Scheme for the Rural Townsite zone are satisfied. (b) The works comply with the deemed-to-comply provisions of the R-Codes (R10 density). (c) The works are not located in a heritage-protected place.
61(1) 25	The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house if a single house is a class P use in the Rural Townsite zone in which the lot is located: (a) an outbuilding; (b) an external fixture; (c) a boundary wall or fence; (d) a patio;	(i) The development standards and requirements set out in this Scheme for the Rural Townsite zone are satisfied. (ii) The works comply with the deemed-to-comply provisions of the R-Codes (R10 density). (iii) The works are not located in a heritage-protected place.

	(e) a pergola; (f) a veranda; (g) a garage; (h) a carport; (i) a swimming pool.	
61(1) 26	The erection or installation of a sign or advertisement of a class listed in Schedule 4.	(a) The sign or advertisement complies with any requirements specified in Schedule 4 in relation to the exemption from the requirement for development approval. (b) The sign or advertisement is not erected or installed within 1.5m of any part of a crossover or street truncation. (c) The works are not located in a heritage-protected place.
61(1) 27	The carrying out of any works on, in, over or under a street or road by a local government or public authority.	The local government or public authority is required to be acting in pursuant of its statutory obligations.
61(2) (i)	The use of land in a reserve, where such land is owned or vested in the local government or owned or vested in a public authority, –  (i) for the purpose for which the land is reserved under this Scheme; or (ii) for any purpose for which such land may be lawfully used by the local government or the public authority.	



## Schedule 1 – General Development Standards and Requirements

**TABLE 5. GENERAL DEVELOPMENT STANDARDS AND REQUIREMENTS**

No.	Description of zone/land	Standards and Requirements
Standards and requirements relating to zones		
1.	Rural Townsite and Commercial	<ol style="list-style-type: none"> <li>1. All development shall be designed and constructed using materials that complement the existing or desired future character and amenity of the townsite as determined by the local government or in accordance with the provisions of an adopted local planning policy.</li> <li>2. The R-Code density shall be R10 unless otherwise indicated on the Scheme Map.</li> <li>3. Where there is a dual density code shown on the Scheme Map or in a provision of this Scheme that applies the R-Codes, residential development exceeding the lower density code is subject to the granting of development approval and the local government shall not grant development approval unless the development is connected to an approved sewerage network or an alternative sewerage disposal system in accordance with the requirements of the Government Sewerage Policy.</li> <li>4. Where non-residential development is proposed on or adjacent to land with an existing residential development, the local government shall in considering an application for development approval have due regard to the following: <ol style="list-style-type: none"> <li>(a) any relevant adopted local planning policy;</li> <li>(b) the bulk, scale and height of the proposed building in relation to adjacent buildings;</li> <li>(c) the location of access ways, car parking, storage areas and waste disposal facilities;</li> <li>(d) the availability and location of services including power, water and effluent disposal systems; and</li> <li>(e) the adequacy of the interface and or separation between the proposed non-residential and the existing residential development in accordance with any approved State planning policy, any relevant policy of the Commission and or policy of the State.</li> </ol> </li> <li>5. The open air storage of goods and materials on land is subject to the development approval of the local government, for which the local government may impose conditions, pertaining to the type of goods and</li> </ol>

No.	Description of zone/land	Standards and Requirements
		materials to be stored, storage location and size, screening and or landscaping.
2.	Rural	<p>1. In considering an application for development approval the local government shall have due regard for the following:</p> <ul style="list-style-type: none"> <li>(a) any sensitive or incompatible development that may require buffer separation from the proposed development, as a result of emission impacts from noise, dust, odour, vibration, light spill, spray drift, vibration, gas or any other emissions that is associated with or caused by the proposed development and the need to contain any such emissions within the land the subject of the application;</li> <li>(b) any wetland or remnant vegetation or other sensitive feature, and how the application has addressed the protection of the feature;</li> <li>(c) evidence of a sustainable water supply that does not rely on catchment outside the lot, or damming of a stream that will impact on the water availability for another lot or lots;</li> <li>(d) the suitability of the land for the development, taking into account soil and vegetation types and conditions, topography, and the possible risk of soil erosion, flooding, subsidence, landslip, bush fire, land degradation and any other risk and the manner the application has addressed the site characteristics and risks; and</li> <li>(e) proposals for the storage, management, collection and disposal of waste.</li> </ul> <p>2. In addition to 1, in considering an application for development approval for an extractive industry, the local government shall have due regard to the following:</p> <ul style="list-style-type: none"> <li>(a) the environmental and landscaping qualities of the site and locality;</li> <li>(b) the availability and adequacy for the development of the following: <ul style="list-style-type: none"> <li>(i) the road system in the locality to accommodate safely the amount of traffic likely to be generated;</li> <li>(ii) utility services, facilities and infrastructure; and</li> <li>(iii) a management plan that details the manner the development will avoid, minimise or manage any impacts on the site and in the locality, including screening and or landscaping to address any adverse visual impacts.</li> </ul> </li> </ul>

No.	Description of zone/land	Standards and Requirements
		<p>3. Development for tourist development may be permitted on the basis that it is incidental to the rural use of the land.</p> <p>4. All residential development shall comply with the relevant provisions of the R-Codes to a maximum R-Code density of R2.</p>
3.	General Industry	<p>1. The local government shall not grant development approval in circumstances where the local government is not satisfied that the emission impacts of noise, dust, odour, vibration, light, gas or any other emission impacts and risks that is associated with or caused by the proposed development can be either avoided, minimised or managed and by way of conditions imposed on the development approval.</p> <p>2. In determining an application for development approval, the local government will have due regard to the Environmental Protection Authority's Separation Distances between Industrial and Sensitive Land Uses.</p> <p>3. Unsewered industrial development is restricted to 'dry industry' type being industries predicted to generate waste water for disposal on-site of a daily rate of less than 540 litres per 1000m<sup>2</sup>, and have due regard to other requirements of the Government Sewerage Policy</p> <p>4. Land uses that are not required to be undertaken within buildings shall be designed and laid out on the land so as not to detract from the visual amenity of the locality and where open storage of goods and materials is proposed on the land the open storage shall, at the discretion of the local government, be screened and or landscaped from view from the street and or other public viewpoints.</p> <p>5. All buildings shall be located, designed and constructed so that the external appearance arising from building height, bulk, colour, texture, materials used and method of construction, is in the opinion of the local government appropriate for the streetscape and the locality.</p> <p>6. Lot boundaries fronting a street or road reserve shall be landscaped with trees and vegetation to a depth of 1.5 metres from the lot boundary and thereafter maintained, to the satisfaction of the local government. Any site fence shall be constructed behind the landscaped area.</p>
4.	Site development requirements	<p>1. Development shall comply with the site development requirements of Schedules 2 and 3.</p> <p>2. Where development is proposed on a lot having more than one street frontage, the local government shall determine for the purposes of Schedule 2, the</p>

No.	Description of zone/land	Standards and Requirements
		<p>application of the lot boundary setbacks, other than where the R-Codes apply.</p> <p>3. The land between the street or road alignment and the front lot boundary setback as prescribed by Schedule 2 shall not be used except for one or more of the following purposes:</p> <ul style="list-style-type: none"> <li>(a) landscaping with trees, vegetation and gardens;</li> <li>(b) swimming pools, patios and pergolas;</li> <li>(c) access driveways and pathways;</li> <li>(d) parking of motor cars, caravans and commercial vehicles provided the parking of commercial vehicles does not exceed periods of not more than eight hours consecutively; and</li> <li>(e) other purposes as prescribed by an adopted local planning policy or at the discretion of the local government.</li> </ul>
5.	Caretaker's dwellings	<ul style="list-style-type: none"> <li>1. A caretaker's dwelling is to be incidental to the predominant industrial use of the lot.</li> <li>2. Only one caretaker's dwelling is permitted on a lot.</li> <li>3. A caretaker's dwelling shall not exceed a total floor area of 100m<sup>2</sup> measured from the external face of walls.</li> <li>4. Open verandas may be permitted but must not be enclosed by any means unless the floor area remains within the 100m<sup>2</sup> total floor area.</li> <li>5. A caravan is not permitted as a caretaker's dwelling for either permanent or temporary occupation.</li> <li>6. A caretaker's dwelling shall contain only 1 bedroom.</li> <li>7. A caretaker's dwelling may constitute a building or structure not previously used as a dwelling which has been repurposed for use as a caretaker's dwelling, or as a dwelling that has been in a different location and has been dismantled and transported to the lot for use as a caretaker's dwelling.</li> </ul>
6.	Workforce accommodation	<ul style="list-style-type: none"> <li>1. In considering an application for development approval for workforce accommodation the local government shall have due regard to the following: <ul style="list-style-type: none"> <li>(a) the need for the workforce accommodation to support an existing or proposed construction, resource, agricultural or other industries use;</li> <li>(b) the services such as water, power and effluent disposal are sufficient and adequate for worker's needs and the associated existing or proposed use;</li> <li>(c) the submission of a management plan that details: <ul style="list-style-type: none"> <li>• the period(s) of use;</li> <li>• the conduct of the use to avoid or manage any impacts on site and in the locality;</li> </ul> </li> </ul> </li> </ul>

No.	Description of zone/land	Standards and Requirements
		<ul style="list-style-type: none"> <li>• the construction materials and finishes of the buildings;</li> <li>• intentions for screening and or landscaping to address any visual amenity considerations;</li> <li>• the manner the workforce accommodation buildings will be decommissioned when no longer required and the site made good;</li> <li>• any other reasonable information required by the local government; and</li> </ul> <p>(d) the design, style, size, scale, height, materials, colours and appearance of the buildings to accommodate the workers, to be complementary and sympathetic with the existing or proposed and surrounding land use(s).</p> <p>2. The local government may impose conditions of development approval to respond to, but not limited to:</p> <ul style="list-style-type: none"> <li>(a) amenity;</li> <li>(b) requirement for a bond or bank guarantee;</li> <li>(c) limiting the period of time for which development approval is granted; and</li> <li>(d) the timing of construction to ensure that the workforce accommodation is undertaken in associated with the proposed construction, resource, agricultural or other industries use and not before.</li> </ul>
7.	Telecommunications infrastructure	<p>In considering an application for development approval for telecommunications infrastructure, excluding those listed in the Telecommunications Low Impact Facilities Determination 1997 and subsequent amendments to that determination, the local government shall have due regard to the following:</p> <ul style="list-style-type: none"> <li>(a) consistency with the aims of this Scheme and the objectives of the applicable zone and or reserve;</li> <li>(b) social and economic benefits of the development proposal;</li> <li>(c) the impact of the development proposal on the landscape, heritage, environmental and rural values and amenity of the land the subject of the development proposal and of the locality;</li> <li>(d) coordination with other infrastructure and community services;</li> <li>(e) any relevant local planning policy adopted by the local government; and</li> <li>(f) State Planning Policy 5.2 – Telecommunications Infrastructure and associated guidelines and position statements.</li> </ul>

## Schedule 2 – Site Development Requirements

TABLE 6. SITE DEVELOPMENT REQUIREMENTS

Zone	Site Coverage (max. %)	Lot Boundary Setbacks (min. m)			Landscaped Area (min. %)	Additional Requirements
		Front	Rear	Side		
Rural Townsite – Residential uses	As per the R-Codes					
Rural Townsite – Non-Residential uses	75	5	10	Nil*	10	*Where non-residential development abuts or is adjacent to residential development the building setback shall be determined at the discretion of the local government.
Commercial Residential uses	As per the R-Codes					
Commercial Non-Residential uses	75	Nil	10	Nil	10	
Rural Residential uses	As per the R-Codes					
Rural Non-Residential uses		30	20	20		
Tourism	At the discretion of local government				10	
General Industry		10	3	Nil or 3*	10	*Unless the development is to be located on the lot boundary, the minimum building setback shall be 3 metres.
Special Use	At the discretion of local government				10	

## Schedule 3 – Car Parking Requirements

**TABLE 7. CAR PARKING RATES**

<b>Land Use</b>	<b>Car parking rate</b>	<b>Additional Requirements (inclusive of 1 and 2 which shall apply to all land uses)</b>
All Residential uses	As per R-Codes	
Bed and breakfast	1 space per lettable room	
Bulky goods showroom	1 space per 50sq.m nla up to 200sq.m plus 1 space per 100sq.m above 200sq.m.	
Child care premises	1 space for every 5 children accommodated	
Civic use	1 space for every 5 persons accommodated	
Club premises	1 space for every 5 persons accommodated	
Community purpose	1 space for every 5 persons accommodated	
Consulting rooms	1 space per 30sq.m nla and an additional 1 space per employee	
Convenience store	1 space per 30sq.m nla	
Educational establishment	1 space for every 5 persons accommodated	
Exhibition centre	1 space for every 5 persons accommodated	
Family day care	1 space for every 5 children accommodated	
Garden centre	1 space per 50sq.m nla	
Hotel	1 space per room and an additional 1 space for 4sq.m bar/lounge area	
Industry	1 space per 50sq.m nla	
Liquor store - small	1 space per 30sq.m nla	
Medical centre	1 space per 30sq.m nla and an additional 1 space per employee	
Motel	1 space per unit plus and an additional 1 space for every 4 units	
Motor vehicle repair	4 spaces per working bay and an additional 1 space per employee	

Land Use	Car parking rate	Additional Requirements (inclusive of 1 and 2 which shall apply to all land uses)
Motor vehicle wash	2 spaces per wash bay	
Office	1 space per 50sq.m nla	
Place of worship	1 space for every 5 persons accommodated	
Reception centre	1 space for every 5 persons accommodated	
Restaurant/cafe	1 space for every 4 seats	
Roadhouse	2 spaces per pump and an additional 1 space per 20sq.m nla	
Service station	2 spaces per pump and an additional 1 space per 20sq.m nla	
Shop	1 space per 30sq.m nla	
Tavern	1 space per 6sq.m public area	
Tourist development	At the discretion of local government	
Trade display	1 space per 50sq.m nla up to 200sq.m plus 1 space per 100sq.m above 200sq.m.	
Trade supplies	1 space per 50sq.m nla up to 200sq.m plus 1 space per 100sq.m above 200sq.m.	
Veterinary centre	1 space per 30sq.m nla and an additional 1 space per employee	
Warehouse/storage	1 space per 50sq.m nla up to 200sq.m plus 1 space per 100sq.m above 200sq.m.	
Workforce accommodation	At the discretion of local government	
1. Paving	All parking spaces shall be paved, and line marked to the satisfaction of the local government (unless otherwise agreed with the local government)	
2. Landscaping	Landscaping shall be undertaken at a rate of 1 space equivalent area being landscaped per every 10 spaces or as determined by and to the satisfaction of the local government	



**TABLE 8. CAR PARKING SPACE DIMENSIONS**

<b>Parking angle</b>	<b>Width (m)</b>	<b>Length (m)</b>	<b>Separation / Aisle (m)</b>
<b>45 degrees</b>	3.5	5.2	3.7
<b>60 degrees</b>	2.8	5.6	5
<b>90 degrees</b>	2.5	5.5	6.5

## Schedule 4 – Exempted Signs/Advertisements for which Development Approval is not required

**TABLE 9. SIGNS/ADVERTISEMENTS**

<b>LAND USE AND/OR DEVELOPMENT</b>	<b>EXEMPTED SIGNS/ADVERTISEMENTS</b> [subject to Schedule A] Includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated	<b>MAXIMUM SIZE/AREA</b>
dwelling	One professional name-plate as appropriate.	0.2m <sup>2</sup>
home occupation	One advertisement sign describing the nature of the home occupation.	0.2m <sup>2</sup>
place of worship, club premises, community purpose, civic use	One advertisement sign detailing the function, and/or the activities of the institution concerned.	0.2m <sup>2</sup>
cinema, theatre	A maximum of two advertisement signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the advertisement signs are displayed.	Each advertisement sign shall not exceed 5m <sup>2</sup>
shops, bulky goods showroom and other uses appropriate to a shopping area	All advertisement signs 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.	No maximum size/area
industrial, warehouse/storage	A maximum of four advertisement signs applied to or affixed to the walls of the building but not projecting above the eaves or the ridge of the roof of the building.  A maximum of two free-standing advertisement signs not exceeding 5 metres in height above ground floor level.	Total area of any such advertisement signs, shall not exceed 15m <sup>2</sup>  Total area of the advertisement signs shall not exceed 10m <sup>2</sup> and individual advertisement sign shall not exceed 6m <sup>2</sup>
recreation-private	All advertisement signs provided that, in each case, the advertisement sign is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	No maximum size/area
public places and reserves	a) Advertisement signs (illuminated and non-illuminated) relating to the functions of a Government department, a public authority or the local government,	No maximum size/area

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGNS/ADVERTISEMENTS [subject to Schedule A] Includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated	MAXIMUM SIZE/AREA
	<p>excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body.</p> <p>b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, public walkway or thoroughfare, railway or waterway or other public infrastructure where such advertisement sign has been constructed or exhibited by or at the direction of a Government department, a public authority or the local government.</p> <p>c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any act, statute, regulation or similar instrument, provided that any such advertisement sign is constructed and/or exhibited strictly in accordance with the requirements, if any, specified in the applicable act, statute, regulation or instrument.</p>	<p>No maximum size/area</p> <p>No maximum size/area</p>
railway property and reserves	Advertisement signs exhibited on such land provided that the advertisement sign relates to the railway functions of the property or reserve.	No advertisement sign shall exceed 2m <sup>2</sup> in area
advertisements within buildings	All advertisement signs placed or displayed within a building and not visible to a person outside of the building.	No maximum size/area
all classes of buildings other than dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>
<u>building construction sites</u> advertisement signs displayed only for the duration of construction as follows –		
a) dwellings	One advertisement sign per street frontage containing details of the project and the contractors undertaking the construction work.	2m <sup>2</sup>
b) shops, commercial and industrial properties	One advertisement sign as for a) above.	5m <sup>2</sup>

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGNS/ADVERTISEMENTS [subject to Schedule A] Includes the change of posters or poster signs and applies to non-illuminated signs unless otherwise stated	MAXIMUM SIZE/AREA
c) large development or redevelopment projects involving shopping centres, offices or other buildings exceeding 3 storey's in height	One advertisement sign as for a) above.  One additional advertisement sign showing the name of the project builder.	10m <sup>2</sup>  5m <sup>2</sup>
<u>property transactions</u> advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows -  a) dwellings  b) shops, commercial and industrial properties  c) large development or redevelopment projects involving shopping centres, offices or other buildings exceeding 3 storeys in height and rural properties in excess of 5 hectares	One advertisement sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the advertisement sign is, or the advertisement signs are displayed.  One advertisement sign as for a) above.  One advertisement sign as for a) above.	Each advertisement sign shall not exceed an area of 2m <sup>2</sup>  Each advertisement sign shall not exceed an area of 5m <sup>2</sup>  Each advertisement sign shall not exceed an area of 10m <sup>2</sup>
<u>display homes</u> advertisement signs displayed for the period over which homes are on display for public inspection	a) one advertisement sign for each dwelling on display.  b) In addition to a) above one advertisement 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.	2m <sup>2</sup>  5m <sup>2</sup>
sale of goods or livestock	One advertisement 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 advertisement sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>

## COUNCIL RESOLUTION TO SUPPORT SCHEME FOR APPROVAL

Council resolved to **support** approval of the draft Scheme of the **Shire of Menzies** at the **Ordinary Meeting of Council** held on the **26 August 2021**

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

R STEWART  
CHIEF EXECUTIVE OFFICER

G DWYER  
PRESIDENT

WAPC Recommended for Approval

C MEAGHAN  
23 February 2023

Delegated under S.16 of the Planning and  
Development Act, 2005

Approval Granted

R SAFFIOTI  
MINISTER FOR PLANNING

26 April 2023

