

[GO TO CONTENTS PAGE](#)

# **SHIRE OF IRWIN**

## **LOCAL PLANNING SCHEME NO 5**

---

Updated to include AMD 22 GG 23/01/2026

---



**Department of Planning,  
Lands and Heritage**



## **Original Town Planning Scheme Gazettal 7 May 2008**

### **Disclaimer**

This is a copy of the Local Planning Scheme produced from an electronic version of the Scheme held and maintained by the Department of Planning, Lands and Heritage. Whilst all care has been taken to accurately portray the current Scheme provisions, no responsibility shall be taken for any omissions or errors in this documentation.

Consultation with the respective local government authority should be made to view a legal version of the Scheme. Please advise the Department of Planning, Lands and Heritage of any errors or omissions in this document.

Department of Planning,  
Lands and Heritage

Gordon Stephenson House  
140 William Street  
Perth WA 6000

Locked Bag 2506  
Perth WA 6001

website: [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)

email: [info@dplh.wa.gov.au](mailto:info@dplh.wa.gov.au)

tel: 08 6551 9000

fax: 08 6552 4417

National Relay Service: 13 36 77

Infoline: 1800 626 477

## SHIRE OF IRWIN LPS 5 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
2	13/4/10	22/4/10	NM	Modified clause 5.23.2.2. Removed the word "and" after respose in existing provisions xii). Inserted "Outline Development Plan" and corresponding paragraph after clause 5.27.2.
8	13/08/10	25/08/10	NM	Inserted AU1 into Schedule 2 – Additional Uses. Modified Clause 4.5.
3	09/11/10	16/11/10	NM	Inserted new content into Schedule 11 – Zone/Use Development Table, Town Centre and Service Commercial Zone (other requirements).
9	05/04/11	11/05/11	NM	Inserted AU2 into Schedule 2 – Additional Uses.
4	13/01/12	17/01/12	NM	Replaced the permitted uses with Schedule 4 – No. 5. Inserted a new condition into Schedule 4 – No. 5.
7	02/03/12	20/03/12	NM	Inserted Special Use No. 28 into Schedule 4 – Special Use Zones.
13	12/3/13	26/3/13	NM	Inserted Special Use No. 10 'Henry Road, Port Denison' into Schedule 4 – Special Use Zones.
14	6/8/13	12/8/13	NM	Inserted 'Development zone' into Table 1 – Zoning Table. Inserted clause 4.2.13 – Development Zone. Inserted a new clause 4.8 and renumbered subsequent clauses. Replaced Clause 5.23.2. Inserted a new clause 5.35 and renumbered subsequent clauses.
17	29/09/15	12/10/15	HB	Rezone Lots 15. 16 and 17 Francisco Road, Bonniefield, Dongara from 'General Farming' to 'Development'.
16	30/10/15	18/11/15	RO	Modified clause 4.3.3 Inserted clauses 4.3.4 and 4.3.5 to clause 4.3 Modified clause 4.5 Modified Table 1 ZONING TABLE Deleted clauses ii) and iii) in clause 5.3.1 Modified clause 5.3.3 Deleted clauses 5.3.5, 5.3.6 and 5.3.7 and renumbered 5.3.8 Modified clauses 5.8.1 and 5.8.2 Replaced clauses 5.10 and 5.11 Renumbered clauses 5.12, 5.13, 5.14 and 5.15 Modified clause 5.16 Renumbered clause 5.17 Modified clause 5.18 Renumbered clause 5.19 Modified clause 5.20 Renumbered clause 5.21, 5.22 and 5.23 Deleted clause 5.24 and replaced with Schedule 11 ZONE/USE DEVELOPMENT TABLE Renumbered clauses 5.25, 5.26, 5.27 and 5.28 Modified clauses 5.29 and 5.30 Modified and renumbered clause 5.31 Deleted clause 5.33 and replaced with 5.34 Modified clause 5.34 Renumbered clauses 5.35 and 5.36 Modified clause 5.37 Inserted clause 5.38 Modified clause 8.2 Modified Schedule 1 Modified Schedule 4 Deleted Schedule 11 and renumbered Schedules 12 and 13
18	9/10/18	9/10/18	HB	Rezone portion of Lot 55 Indian Ocean Drive, Arrowsmith from 'General Farming' to 'Special Use': Tourist Site, comprising: Caravan Park; Chalet Park; Camping Area; Single House; Workforce Accommodation; Convenience Store; Restaurant and Incidental uses to permitted uses'. Include the following permitted land uses at 'Schedule 4 - Special Use Zones' of the Scheme text. Reclassify Lot 302 Indian Ocean Drive, Arrowsmith from 'General Farming' to Local Scheme Reserve 'Major Road or Highway'. Add the definitions of 'Workforce Accommodation' and 'Convenience Store' to Schedule 1 - Dictionary of Defined Words

				and Expressions', in accordance with cl. 38 Part 6, Schedule 1 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> . Amend the Scheme Map accordingly.
20	19/05/2023	25/05/2023	GL	Rezone Lot 127 Point Leander Drive, Port Denison, from Special Use zone to Residential R30 zone; Delete entry number 9 from Schedule 4 – Special Use Zones; and Modify the Scheme Map accordingly.
21	18/6/2024	4/07/2024	GL	Amend the Residential R-Coding of Lot 18 (no. 9) Francis Rd Port Denison from "R12.5" to "R30"; Modify the Scheme Map accordingly.
22	23/01/2026	27/01/2026		Rezone Lot 9000 Hidden Valley Close & Brennan Road, Dongara from 'Residential R12.5' to 'Rural Residential'. Modify the Scheme Map accordingly.

**Shire of Irwin**  
**Local Planning Scheme No. 5**  
**District Zoning Scheme**

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

**SCHEME TEXT**

**CONTENTS**

<b>PART 1 – PRELIMINARY</b> .....	<b>7</b>
1.1 Citation .....	7
1.2 Responsible Authority .....	7
1.3 Scheme Area .....	7
1.4 Contents of Scheme.....	7
1.5 Purposes of Scheme.....	7
1.6 The Aims of the Scheme.....	7
1.7 Definitions .....	8
1.8 Relationship with Local Laws.....	8
<b>PART 2 – LOCAL PLANNING POLICY FRAMEWORK</b> .....	<b>9</b>
2.1 Scheme Determinations to Conform with Local Planning Strategy .....	9
2.2 Local Planning Policies .....	9
2.3 Relationship of Local Planning Policies to Scheme .....	9
2.4 Procedure for Making or Amending a Local Planning Policy.....	9
2.5 Revocation of a Local Planning Policy.....	10
<b>PART 3 – RESERVES</b> .....	<b>11</b>
3.1 Reserves .....	11
3.2 Regional Reserves.....	11
3.3 Local Reserves .....	11
3.4 Use and Development of Local Reserves.....	11
<b>PART 4 – ZONES AND THE USE OF LAND</b> .....	<b>12</b>
4.1 Zones .....	12
4.2 Objectives of the Zones .....	12
4.3 Zoning Table .....	14
4.4 Interpretation of the Zoning Table.....	16
4.5 Additional Uses .....	16
4.6 Restricted Uses .....	16
Table 1 – Zoning Table .....	17
4.7 Special Use Zones .....	20
4.8 Development Zone .....	20
4.9 Non-Conforming Uses.....	20
4.10 Extensions and Changes to a Non-Conforming Use .....	21
4.11 Discontinuance of Non-Conforming Use.....	21
4.12 Termination of a Non-Conforming Use .....	21
4.13 Destruction of Non-Conforming Use Buildings .....	21
<b>PART 5 – GENERAL DEVELOPMENT REQUIREMENTS</b> .....	<b>22</b>
5.1 Compliance with Development Standards and Requirements .....	22
5.2 Residential Design Codes .....	22
5.3 Special Application of Residential Design Codes .....	22
5.4 Restrictive Covenants .....	22
5.5 Variations to Site and Development Standards and Requirements .....	23
5.6 Environmental Conditions .....	23

5.7	Home Businesses, Home Occupations and Cottage Industries .....	23
5.8	Car Parking Standards .....	23
5.9	Car Parking – Cash in Lieu or Staging .....	24
5.10	Secondhand Dwellings .....	24
5.11	Ancillary Dwelling .....	25
5.12	Waste Disposal .....	25
5.13	General Landscaping Requirements .....	25
5.14	Screening of Development Storage Areas .....	26
5.15	Development of Land Without Constructed Road Frontage .....	26
5.16	Land Liable to Flooding and the Irwin River FloodPlain .....	26
5.17	Development of Lots with More Than One Street Frontage .....	27
5.18	Outbuildings .....	27
5.19	Swimming Pools .....	27
5.20	Building Height .....	27
5.21	Retaining Walls, Fence or Screen Wall Construction .....	27
5.22	Traffic Entrances .....	28
5.23	Flora Preservation and Planting .....	28
5.25	Residential Zone .....	33
5.26	Special Residential Zone .....	34
5.27	Town Centre Zone .....	35
5.28	Neighbourhood Commercial Zone .....	35
5.29	General Industry Zone, Light Industry Zone and Marine – Based Industry Zone .....	36
5.30	Rural Residential Zone and the Rural Smallholdings Zone .....	37
5.31	General Farming Zone .....	39
5.32	Special Use Zone .....	39
5.33	Service Commercial Zone .....	39
5.34	Structure Planning Areas .....	40
5.35	Urban Expansion Investigation Areas .....	48
5.36	Caretaker's Dwellings .....	49
5.37	Bushfire-Prone Areas and Bushfire Management .....	49
5.38	Indian Ocean Drive .....	49
<b>PART 6 – SPECIAL CONTROL AREAS .....</b>		<b>50</b>
6.1	Operation Of Special Control Areas .....	50
6.2	Water Supply Protection Area .....	50
<b>PART 7 – HERITAGE PROTECTION .....</b>		<b>51</b>
7.1	Heritage List .....	51
7.2	Designation of a Heritage Area .....	51
7.3	Heritage Agreements .....	53
7.4	Heritage Assessment .....	53
7.5	Variations to Scheme Provisions for a Heritage Place or Heritage Area .....	53
<b>PART 8 – DEVELOPMENT OF LAND .....</b>		<b>54</b>
8.1	Requirement for Approval to Commence Development .....	54
8.2	Permitted Development .....	54
8.3	Amending or Revoking a Planning Approval .....	55
8.4	Unauthorised Existing Developments .....	55
<b>PART 9 – APPLICATION FOR PLANNING APPROVAL .....</b>		<b>56</b>
9.1	Form of Application .....	56
9.2	Accompanying Material .....	56
9.3	Additional Material for Heritage Matters .....	57
9.4	Advertising of Applications .....	57
<b>PART 10 – PROCEDURE FOR DEALING WITH APPLICATIONS .....</b>		<b>59</b>
10.1	Consultations with Other Authorities .....	59
10.2	Matters to be Considered by the Local Government .....	59
10.3	Determination of Applications .....	60
10.4	Form and Date of Determination .....	60

10.5	Term of Planning Approval .....	61
10.6	Temporary Planning Approval .....	61
10.7	Scope of Planning Approval.....	61
10.8	Approval Subject to Later Approval of Details .....	61
10.9	Deemed Refusal .....	61
10.10	Right of Review .....	62
<b>PART 11 – ENFORCEMENT AND ADMINISTRATION .....</b>		<b>63</b>
11.1	Powers of the Local Government.....	63
11.2	Removal and Repair of Existing Advertisements.....	63
11.3	Delegation of Functions .....	64
11.4	Person must Comply with Provisions of Scheme .....	64
11.5	Compensation .....	64
11.6	Purchase or Taking of Land .....	65
11.7	Notice for Removal of Certain Buildings .....	65
<b>SCHEDULES .....</b>		<b>66</b>
SCHEDULE 1- DICTIONARY OF DEFINED WORDS AND EXPRESSIONS.....		66
SCHEDULE 2 – ADDITIONAL USES .....		76
SCHEDULE 3 – RESTRICTED USES.....		77
SCHEDULE 4 – SPECIAL USE ZONES .....		78
SCHEDULE 5 – EXEMPTED ADVERTISEMENTS.....		85
SCHEDULE 6 – FORM OF APPLICATION FOR PLANNING APPROVAL .....		89
SCHEDULE 7 – ADDITIONAL INFORMATION FOR ADVERTISEMENTS .....		91
SCHEDULE 8 – NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL .....		92
SCHEDULE 9 – NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL .....		93
SCHEDULE 10 – ENVIRONMENTAL CONDITIONS.....		94
SCHEDULE 11 - INDICATIVE USE OF SETBACK AREAS IN NON-RESIDENTIAL ZONES .....		95
SCHEDULE 12 – RURAL RESIDENTIAL ZONES – SPECIFIED AREAS .....		96
<b>ADOPTION .....</b>		<b>100</b>

# **PART 1 – PRELIMINARY**

## **1.1 CITATION**

- 1.1.1 The Shire of Irwin Scheme No. 5 (“**the scheme**”) comes into operation on its Gazettal date.
- 1.1.2 The following Scheme is revoked:-

**Shire of Irwin Town Planning Scheme No. 4 gazetted 4<sup>th</sup> February 1992**

## **1.2 RESPONSIBLE AUTHORITY**

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

## **1.3 SCHEME AREA**

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

## **1.4 CONTENTS OF SCHEME**

The Scheme comprises –

- a) the Scheme Text;
- b) the Scheme Map (sheets 1 to 8)

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

## **1.5 PURPOSES OF SCHEME**

The purposes of the Scheme are to:-

- a) set out the local government’s planning aims and intentions for the Scheme area
- b) set aside land as reserves for public purposes;
- c) zone land within the Scheme area for the purposes defined in the Scheme;
- d) control and guide land use and development;
- e) set out procedures for the assessment and determination of planning applications;
- f) make provision for the administration and enforcement of the Scheme; and
- g) address other matters set out in Schedule 7 to the Planning and Development Act.

## **1.6 THE AIMS OF THE SCHEME**

The aims of the Scheme are:-

- a) to assist the effective implementation of regional plans and policies including the State Planning Strategy;
- b) to ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space;
- c) to provide for housing choice and variety with a community identity and high levels of amenity;
- d) to assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments as well as providing opportunities for home based employment;

- e) to facilitate a diverse and integrated network of open space catering for both active and passive recreation, consistent with the needs of the community;
- f) to promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities;
- g) to protect and enhance the environmental values and natural inland and coastal resources of the Scheme area and to promote ecologically sustainable land use and development; and
- h) to safeguard and enhance the character and amenity of the built and natural environment of the Scheme area.

## **1.7 DEFINITIONS**

- 1.7.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have -
  - a) in the Planning and Development Act; or
  - b) if they are not defined in that Act –
    - i) in the Dictionary of defined words and expressions in Schedule 1; or
    - ii) in the Residential Design Codes.
- 1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes –
  - a) in the case of a residential development, the definition in the Residential Design Codes prevails; and
  - b) in any other case the definition in the Dictionary prevails.
- 1.7.3 Notes, and instructions printed in italics, are not part of the Scheme.

## **1.8 RELATIONSHIP WITH LOCAL LAWS**

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

## PART 2 – LOCAL PLANNING POLICY FRAMEWORK

### 2.1 SCHEME DETERMINATIONS TO CONFORM WITH LOCAL PLANNING STRATEGY

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the local government under the Scheme are to be consistent with the Local Planning Strategy.

### 2.2 LOCAL PLANNING POLICIES

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

- a) generally or for a particular class or classes of matters; and
  - b) throughout the Scheme area or in one or more parts of the Scheme area,
- and may amend or add to or rescind the Policy.

### 2.3 RELATIONSHIP OF LOCAL PLANNING POLICIES TO SCHEME

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

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

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

- 2.4.1 If a local government resolves to prepare a Local Planning Policy, the local government –
  - a) is to publish a notice of the proposed Policy once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving details of –
    - i) where the draft Policy may be inspected;
    - ii) the subject and nature of the draft Policy; and
    - iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
  - b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate
- 2.4.2 After the expiry of the period within which submissions may be made, the local government is to –
  - a) review the proposed Policy in the light of any submissions made; and
  - b) resolve to adopt the policy with or without modification, or not to proceed with the Policy.
- 2.4.3 If the local government resolves to adopt the Policy, the local government is to –
  - a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and

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

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

A Local Planning Policy may be revoked by –

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

## **PART 3 – RESERVES**

### **3.1 RESERVES**

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

### **3.2 REGIONAL RESERVES**

There are no regional reserves in the Scheme area.

### **3.3 LOCAL RESERVES**

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

### **3.4 USE AND DEVELOPMENT OF LOCAL RESERVES**

3.4.1 A person must not -

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

without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the local government is to have due regard to –

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

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

## PART 4 – ZONES AND THE USE OF LAND

### 4.1 ZONES

- 4.1.1 The Scheme area is classified into the zones shown on the Scheme Map.
- 4.1.2 The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

### 4.2 OBJECTIVES OF THE ZONES

The objectives of the Zones are:-

#### 4.2.1 Residential Zone

- a) To ensure that the Zone be predominantly residential in use.
- b) To ensure that any non-residential uses permitted under the provisions of the Scheme, shall be of service to, compatible in character with and of a scale and operation which is not detrimental to the predominant residential use.
- c) To ensure that any non-residential use which the local government may at its discretion permit in the Residential Zone, shall not detract from the amenity of the area or adversely affect the lifestyle expected in the predominantly residential environment.
- d) To ensure that all residential development within the zone, shall be of a standard that does not adversely affect the overall amenity of other residential development in the zone.

#### 4.2.2 Special Residential Zone

To provide a low density residential living and working environment in which development and land use is of a type and location compatible with the overall amenity of the area.

#### 4.2.3 Town Centre Zone

- a) To encourage development of a high visual, functional and environmental standard, serving both Town and Rural residents and the development of new buildings and or the modification/restoration of existing buildings in a manner which is compatible with the existing streetscape, the local government's Townscape Plan and or any adjoining land use of heritage value, in terms of scale, height, design, building materials, location and visual facade appearance.
- b) To promote convenient and safe shopping facilities and relate these to the wide variety of civic, service, business, entertainment and social functions of the Town Centre.
- c) To encourage the wide range of compatible uses within an accessible Town Centre which are necessary to promote this as a vibrant functional central node for the community it services.
- d) To provide for safe pedestrian movement and the safe efficient flow of traffic and the adequate provision of car parking facilities.

#### 4.2.4 Neighbourhood Commercial Zone

- a) To encourage development of high visual, functional and environmental standard serving residents and tourists.
- b) To promote pleasant, convenient and safe shopping facilities/pedestrian environment for neighbourhood usage.

- c) To support the revitalisation and economic competitiveness of the neighbourhood commercial centre within the zone.

**4.2.5 General Industry Zone**

- a) To encourage the consolidation and improvement of industrial development into an area which has been appropriately located and serviced for that purpose.
- b) To protect the amenity of zones abutting the industrial zone via the establishment of landscaped buffers and the imposition of landscape and setback land use conditions on any planning approval issued for general industrial development.
- c) To ensure that no person erects a building in this zone, unless the facade of the building is constructed of and/or clad in a building material, to a design and specification approved by the local government.
- d) To discourage the establishment of non-industry related land uses in the zone.

**4.2.6 Light Industry Zone**

- a) To protect the amenity of zones abutting the Light Industrial Zone via the establishment of landscaped buffers and the imposition of landscape and setback land use conditions on any planning approval issued for light industrial development.

**4.2.7 General Farming Zone**

- a) To provide for rights of vehicular access, unfettered as to time, location and circumstance, to any land subject of a planning approval.
- b) To ensure the preservation of the rural character and rural appearance of land within the zone.
- c) To protect the economic viability of agricultural production via support only for subdivision or boundary relocation which retains or results in lot or location sizes which facilitate ongoing agricultural activity.
- d) To preserve and protect the natural undeveloped land areas throughout the zone and to provide for the planting of trees and other suitable vegetation via the imposition of conditions on any planning approval issued, in order to assist in balancing the greenhouse effect, provide shade, prevent erosion, reduce salinity and provide habitats for native fauna.
- e) To ensure that natural drainage patterns/catchments throughout the Shire are paid regard to, via the appropriate location of man-made drainage networks.
- f) To limit the number of dwellings to one per lot, unless for specific farm operation purposes, to discourage fragmentation or rural living use of agricultural land.

**4.2.8 Rural Residential Zone**

- a) To provide for the use of land for residential purposes in a rural setting for alternative residential lifestyle.
- b) To preserve the amenity of such areas and control land use impacts.

4.2.9 Rural Smallholdings Zone

- a) To provide for the use of land for minor rural pursuits, hobby farms, conservation lots and alternative residential lifestyle purposes where part-time income from cottage industries, home occupation and the use of land for agriculture may be derived.
- b) To preserve and enhance landscape quality, environmental values and conservation attributes.

4.2.10 Special Use Zone

- a) To provide specifically for a designated use or combination of uses which would not otherwise sit comfortably within any other zone in the Scheme.
- b) To provide for concentrated and integrated development within each Special Use zone.

4.2.11 Marine-Based Industry Zone

To consolidate industrial development associated with the fishing industry in an appropriately located area with close access to the Port Denison Harbour.

4.2.12 Service Commercial Zone

To provide for retailing of bulky goods and for other service commercial and larger scale uses in a location adjacent to the Town Centre Zone.

4.2.13 Development Zone

- (a) to provide for comprehensive planning of large scale / broadacre development including residential, industrial and/or commercial through a structure plan to facilitate subdivision and development. *AMD 14 GG 6/8/13*

**4.3 ZONING TABLE**

*AMD 16 GG 30/10/15*

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

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

'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;

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

'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 9.4;

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

4.3.3 Unless otherwise provided for under clauses 4.3.4 and 4.3.5 below, a change in the use of land from one use to another is permitted if –

- a) the local government has exercised its direction by granting planning approval;
- b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table and the proposed use complies with all relevant development standards and any requirements of the Scheme;
- c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot;
- d) the change is to an incidental use that does not change the predominant use of the land; or
- e) the change, and/or addition, of use of the land is temporary and subject to temporary planning approval, as provided for in clause 10.6, at the discretion of local government.

4.3.4 Subject to compliance with the provisions of Clause 4.3.5, planning approval may not be required for a change of use if the change is between the following interchangeable uses:

- a) the Shop, Office, Fast Food Outlet, Lunch Bar or Restaurant uses in the Town Centre zone, where permissible under the Dongara Town Centre Precinct Plan; or
- b) the Industry-Light and Warehouse uses in the General Industry and Light Industry zones.

4.3.5 The interchangeable uses referred to in clause 4.3.4 a) and b) may not require planning approval where the local government considers:

- a) the use is unlikely to have significant impacts on the amenity of adjoining landowners or the area;
- b) the use is unlikely to have significant impacts on the operational effectiveness of the subject land or adjoining areas; and
- c) the parking requirements for the use can be adequately met.

Note:

1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of the land.
2. The local government will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.
3. In considering a 'D' or 'A' use, the local government will have regard to the matters set out in Clause 10.2
4. The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.

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

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

#### **4.5 ADDITIONAL USES**

*AMD 08 GG 13/08/10*

*AMD 16 GG 30/10/15*

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

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

#### **4.6 RESTRICTED USES**

There are no restricted uses which apply to the Scheme.

**TABLE 1 – ZONING TABLE**

AMD 16 GG 30/10/15

		In accordance with approved structure plan							
		Development AMD 14 GG 6/8/13							
		General Farming	Rural Residential	Rural Smallholdings	Marine-Based Industry	Light Industry	General Industry	Neighbourhood Commercial	Service Commercial
Abattoir	X	X							
Agriculture – Extensive	X	X							
Agriculture – Intensive	X	X							
Agroforestry	X	X							
Amusement Parlour	X	X							
Ancillary Dwelling	D	D							
Animal Establishment	X	X							
Animal Husbandry – Intensive	X	X							
Aquaculture	X	X							
Bed And Breakfast	A	D							
Caravan Park	X	X							
Caretaker's Dwelling	X	X							
Carpark	X	X							
Child Care Premises	A	X							
Club Premises	X	X							
Consulting Room(s)	A	A							
Education Establishment	A	A							
Family Day Care	A	X							
Fast Food Outlet	X	X							
Fuel Depot	X	X							
Grouped Dwelling	P	X							
Hardware Store	X	X							
Holiday Accommodation	A	A							

Town Centre  
AMD 16 GG 30/10/15

In accordance with the Dongara Town Centre Precinct Plan

		Development AMD 14 GG 6/8/13						
		General Farming		Rural Residential		Rural Smallholdings		
		Marine-Based Industry		Neighbourhood Commercial		General Industry		
Residential	Residential							
Home Business	D	A						D
Home Occupation	D	D						D
Hotel	X	X						X
Industry - Cottage	A	A						D
Industry – Extractive	X	X						D
Industry – General	X	X						D
Industry – Light	X	X						X
Industry – Rural	X	X						D
Industry – Service	X	X						X
Intensive Agriculture	X	X						A
Lodging House	A	A						A
Lunch Bar	X	X						X
Market	X	X						X
Medical Centre	X	X						X
Motel	X	X						X
Motor Vehicle, Boat or Caravan Sales	X	X						X
Motor Vehicle Repair	X	X						X
Motor Vehicle Wrecking	X	X						X
Multiple Dwelling	A	X						X
Office	X	X						X
Plantation	X	X						X
Plant Nursery	X	A						D
Public Amusement	X	X						D
Public Utility	D	D						D
Reception Centre	X	X						A

		Development AMD 14 GG 6/8/13						
		General Farming						
		Rural Residential						
		Rural Smallholdings						
Residential Building	D	D						X
Restaurant	X	X						
Restricted Premises	X	X						
Rural Pursuit	X	X						
Rural Workers Accommodation	X	X						
Secondhand Dwelling	A	A						
Service Station	X	X						
Shop	X	X						
Showroom	X	X						
Single House	P	P						
Tavern	X	X						
Telecommunications Infrastructure	D	D						
Transport Depot	X	X						
Veterinary Clinic	X	A						
Veterinary Hospital	X	X						
Warehouse	X	X						
Wayside Stall	X	A						
Winery	X	X						
Worship – Place Of	A	A						
Residential								
Special Residential								
Town Centre								
AMD 16 GG 30/10/15								
General Industry	X	X	X	X	X	X	X	X
Neighbourhood Commercial	X	D	X	X	X	X	A	A
Service Commercial	A	X	X	X	X	X	X	X
	X	X	X	X	X	A	D	P
	X	X	X	X	X	X	D	D
	A	D	D	X	X	X	X	X
	X	P	X	X	X	X	X	X
	P	X	D	D	D	X	X	X
	X	X	X	X	X	P	P	P
	X	A	X	X	X	X	X	X
	D	D	P	D	D	D	D	P
	X	X	P	A	X	X	X	A
	D	D	P	X	X	A	A	D
	A	X	P	X	X	A	A	D
	P	X	P	P	D	X	X	X
	X	X	X	X	X	A	D	D
	X	X	A	A	X	D	D	D
	D	X	X	X	X	X	A	A

## **4.7 SPECIAL USE ZONES**

4.7.1 Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

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

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

## **4.8 DEVELOPMENT ZONE**

*AMD 14 GG 6/8/13*

### **4.8.1 Purpose**

- a) to identify areas requiring comprehensive planning prior to subdivision and development;
- b) to coordinate subdivision, land use and development in areas requiring comprehensive planning.

### **4.8.2 Planning Requirements**

4.8.2.1 The Local Government requires a Structure Plan for a Development Zone, or for any particular part or parts of a Development Zone, before recommending subdivision or approving development of land within the Development Zone. The Structure Plan is to be in accordance with the requirements of clause 5.35 Structure Planning Areas.

4.8.2.2 Where a Structure Plan exists, the subdivision and development of land is to generally be in accordance with the Structure Plan and any associate provisions.

4.8.2.3 The Local Government or the Western Australian Planning Commission may, as a condition of adopting or approving a proposed Structure Plan, require a more detailed Structure Plan in future if the Local Government or the Commission considers that it will be necessary to provide additional detail to the proposals contained in the proposed Structure Plan.

## **4.9 NON-CONFORMING USES**

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

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

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

## **4.10 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE**

4.10.1 A person must not –

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

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

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

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

## **4.11 DISCONTINUANCE OF NON-CONFORMING USE**

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

## **4.12 TERMINATION OF A NON-CONFORMING USE**

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

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

## **4.13 DESTRUCTION OF NON-CONFORMING USE BUILDINGS**

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

## **PART 5 – GENERAL DEVELOPMENT REQUIREMENTS**

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

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

### **5.2 RESIDENTIAL DESIGN CODES**

- 5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the local government.
- 5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.
- 5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Design Code density, as being contained within the area defined by the centre-line of those borders.

### **5.3 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES**

*AMD 16 GG 30/10/15*

- 5.3.1 Where an area is designated with an R Code R12.5, no residential development, other than a single dwelling house is permitted, except that the local government may approve a Grouped Dwelling development containing a maximum of two (2) dwelling units, subject to relevant provisions of R20 and the scheme.
- 5.3.2 Clause 5.22 allows the local government to require preservation of flora. Where the requirements of Clause 5.22 are inconsistent with the Residential Design Codes, Clause 5.22 shall prevail.
- 5.3.3 The local government may approve Ancillary Dwelling as per the provisions of the Zoning Table and the Residential Design Codes.
- 5.3.4 The owner of any premises for which approval has been granted for use as an Ancillary Dwelling shall notify the local government forthwith when the occupant for whom the approval was granted no longer permanently resides therein and the premises shall not then be re-occupied as an Ancillary Dwelling without prior approval of the local government.
- 5.3.5 The general site requirements of Table 1 of the Residential Design Codes for Multiple Dwellings at the R35 code shall apply to any proposal for Multiple Dwellings on land coded R30. Notwithstanding Table 1, Multiple Dwellings are not permitted on land with a density coding below R30.

### **5.4 RESTRICTIVE COVENANTS**

- 5.4.1 Subject to Clause 5.4.2, a restrictive covenant affecting any land the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.
- 5.4.2 Where Clause 5.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of Clause 5.4.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of Clause 9.4.

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

- 5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.
- 5.5.2 In considering an application for planning approval under this Clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to-
  - a) consult the affected parties by the following one or more of the provisions for advertising uses under Clause 9.4, and
  - b) have regard to any expressed views prior to making its determination to grant the variation.
- 5.5.3 The power conferred by this Clause may only be exercised if the local government is satisfied that –
  - a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 10.2; and
  - b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

## **5.6 ENVIRONMENTAL CONDITIONS**

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

## **5.7 HOME BUSINESSES, HOME OCCUPATIONS AND COTTAGE INDUSTRIES**

- 5.7.1 An approval to conduct a home business, home occupation or industry-cottage is issued on an annual basis only to a specific occupier of a particular parcel of land, it shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier on the land in respect of which a planning approval is issued the approval is cancelled.
- 5.7.2 If, in the opinion of the local government, any of the activities subject of Clause 5.7.1 is causing a nuisance or annoyance to owners or occupiers of land in the locality the local government may not re-issue an approval.

## **5.8 CAR PARKING STANDARDS**

AMD 16 GG 30/10/15

- 5.8.1 The number of onsite car parking bays to be provided for specified developments shall be in accordance with clause 5.24. Where a car parking requirement is not specified for a particular development in clause 5.24 the local government shall determine the parking standard. The local government may also determine that a general car parking standard shall apply to a particular site or area irrespective of the development proposed in cases where it considers this to be appropriate.
- 5.8.2 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards Act AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed, marked, drained and thereafter maintained to the satisfaction of the local government.

## **5.9 CAR PARKING – CASH IN LIEU OR STAGING**

- 5.9.1 The local government may permit car parking to be provided in stages subject to the landowner setting aside an area of land sufficient to accommodate the total car parking requirement for the development and entering into a legal agreement to satisfactorily complete all the remaining parking when requested to do so by the local government.
- 5.9.2 The local government may accept a cash payment in lieu of the provision of any required parking area subject to being satisfied that there is adequate provision for car parking or a reasonable expectation that there will be adequate provision for public car parking in the proximity of the proposed development.
- 5.9.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area and is to include the value, as estimated by the local government, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be payable in such manner as the local government shall from time to time determine.
- 5.9.4 Any cash payment received by the local government pursuant to this Clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by the local government.

## **5.10 SECONDHAND DWELLINGS**

*AMD 16 GG 30/10/15*

- 5.10.1 A person shall not transport a Secondhand Dwelling and place it on land in the Scheme Area and use it as a dwelling unless the local government has granted planning approval. The local government shall not grant planning approval if the land is within a Heritage Area designated under Clause 7.2.
- 5.10.2 The local government shall only grant planning approval pursuant to Clause 5.10.1 if the Secondhand Dwelling complies with the provisions of the Scheme, the Residential Design Codes, and any Local Laws applicable both to the Secondhand Dwelling and the land on which it is to be situated; and
- 5.10.3 In the Special Residential, Rural Residential, Rural Smallholdings, and General Farming zones, the location, design, external colour and appearance, scale and bulk of a Secondhand Dwelling shall not have adverse amenity impacts on adjoining properties or the area when viewed from public roads.
- 5.10.4 Secondhand Dwellings must have the space between the floor level and ground level to be suitably enclosed;
- 5.10.5 All stormwater runoff is to be retained and disposed of on-site to the approval of the local government;
- 5.10.6 Secondhand Dwellings containing asbestos are required to have the asbestos removed prior to relocation and replaced with new material;
- 5.10.7 All applications for Secondhand Dwellings are required to include:
  - a) landscaping plan with details of proposed plantings, future maintenance and adequate open space, in order to ensure the development does not have adverse amenity impacts on adjoining properties or the area when viewed from public roads; and
  - b) photos and an engineering certificate shall be provided to ensure that the Secondhand Dwelling is fit for travel and erection on the proposed site.
- 5.10.8 Upon relocation of the building, the reconstruction and improvements as well as any defects caused during transportation shall be completed or rectified within 90 days, to the approval of the Shire's Building Surveyor;

- 5.10.9 As a condition for planning consent for a Secondhand Dwelling a Performance Bond is to be lodged with the Shire. The Performance Bond will be refunded upon satisfactory compliance with all conditions imposed on the planning approval.

## **5.11 ANCILLARY DWELLING**

*AMD 16 GG 30/10/15*

The local government may approve Ancillary Dwelling as provided for in the Zoning Table and the following development requirements.

- 5.11.1 A maximum of one (1) ancillary dwelling is permissible on any one lot where permitted in the Zoning Table.
- 5.11.2 The ancillary dwelling is to be sited within 20m from the main dwelling to avoid future subdivision pressure and to minimise constraints on adjoining uses.
- 5.11.3 The lot on which the ancillary dwelling is proposed is to have an area of not less than 800m<sup>2</sup>.
- 5.11.4 In the Special Residential zone the maximum Plot Ratio (floor area) is 80m<sup>2</sup>.
- 5.11.5 In the Rural Residential, Rural Smallholdings and General Farming zones the maximum Plot Ratio (floor area) is 100m<sup>2</sup>.
- 5.11.6 A maximum of two (2) habitable rooms, one (1) kitchen, one (1) laundry and one (1) bathroom shall be provided. A minimum of one (1) car parking space shall be provided.
- 5.11.7 The location, design, external colour and appearance, scale and bulk of the ancillary dwelling shall not have adverse amenity impacts on adjoining properties or the area when viewed from public roads.

## **5.12 WASTE DISPOSAL**

*AMD 16 GG 30/10/15*

Land within the Scheme Area shall not be used for the purpose of storage or disposal of vehicle bodies, rubbish or industrial wastes (whether liquid or solid) without the written approval of the local government.

## **5.13 GENERAL LANDSCAPING REQUIREMENTS**

*AMD 16 GG 30/10/15*

The following provisions apply to all development on zoned land, other than that subject to the Residential Design Codes, or within the General Farming, Rural Residential and Rural Smallholdings zones.

- 5.13.1 Unless otherwise specified in Schedules 2, 3, 4 or 11, a minimum of 8% of any lot or lots the subject of approved development shall be set aside, developed and maintained as landscaping, to a standard satisfactory to the local government. Where development occurs only over part of a lot, the landscaping requirement shall be 8% of the entire lot, unless otherwise approved by the local government. In addition the road verge adjacent to the lot shall be landscaped and maintained to the satisfaction of the local government.
- 5.13.2 When a proposed development includes a car parking area abutting a street, an area no less than 2 metres wide within the lot along all street alignments shall be set aside, developed and maintained as landscaping to a standard satisfactory to the local government. This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous subclause.
- 5.13.3 Where development occurs only over part of a lot, the local government may require that the undeveloped portion be screened from view from streets and other public places, where in the local government's opinion this is desirable to preserve or enhance the visual amenity of the area.

5.13.4 Landscape areas shall be designed and located to improve the visual appeal of the development from the street and other public spaces and the standard of amenity for those using the development. The use of endemic trees and shrubs is encouraged.

5.13.5 Shade trees shall be planted and maintained in car parking areas designed at the rate of one tree for every four (4) car parking bays, to the local government's satisfaction.

**5.14 SCREENING OF DEVELOPMENT STORAGE AREAS**

*AMD 16 GG 30/10/15*

The owner of land on which there is stored, stacked or allowed to remain any materials which in the local government's opinion detract from the amenity of the area shall completely screen the said materials from adjoining properties and from streets in a manner specified by and to the satisfaction of the local government, by means of walls, fences, hedges or shrubs.

**5.15 DEVELOPMENT OF LAND WITHOUT CONSTRUCTED ROAD FRONTAGE**

*AMD 16 GG 30/10/15*

Notwithstanding any other provisions of the Scheme, the local government's Planning Approval is required for the development of land abutting an unconstructed Crown road reserve or a lot which does not have frontage to a Crown road reserve.

In considering such an application, the local government may:-

- a) refuse the application until the road has been constructed or access by means of a constructed road is provided; or
- b) grant approval to the application subject to a condition requiring the applicant to pay a sum of money in or towards the cost of constructing the road or part thereof and any other condition it considers fit to impose; or
- c) require other legal arrangements are made for permanent access, to the satisfaction of the local government.

**5.16 LAND LIABLE TO FLOODING AND THE IRWIN RIVER FLOODPLAIN**

*AMD 16 GG 30/10/15*

5.16.1 In any zone laid down under the Scheme, the local government may refuse an application for planning approval for any building or development located on land which is considered by the local government as being liable to flooding or inundation.

5.16.2 In considering any application for planning approval on land within the Irwin River Floodplain as defined by the Department of Water, the local government will consult with the Department of Water and the Department of Housing and take any advice given by those Departments into account when determining the application. Planning applications for development in the floodplain area must demonstrate that habitable floor levels are at least 0.75m above the 100 year average recurrence (ARI) level, unless the proposal is for additions to an existing habitable building. The finished floor levels for additions to existing habitable buildings shall be determined by the local government.

5.16.3 Any development within the Irwin River floodway, as defined by the Department of Water, shall only be permitted if of a recreational nature and shall be undertaken in a manner which does not adversely affect the flow of the river.

**5.17 DEVELOPMENT OF LOTS WITH MORE THAN ONE STREET FRONTAGE**  
AMD 16 GG 30/10/15

Except where development is subject to the Residential Design Codes, where development is proposed on a lot with frontage to more than one street or road, and that lot is in a zone or zones other than Residential, the local government shall decide which street frontage the street setback shall be applied and allow up to a 50% reduction in the street frontage setback to the other street provided that adequate sight lines for traffic are maintained.

**5.18 OUTBUILDINGS**  
AMD 16 GG 30/10/15

The local government may approve Outbuildings consistent with the following development requirements. Outbuildings that are deemed to conflict or exceed the development requirements require planning approval and may be required to be advertised in accordance with Clause 9.4.

Zone	Development Requirements for Outbuildings
All relevant zones	The location, design, external colour and appearance, scale and bulk of the Outbuilding shall not have adverse amenity impacts on adjoining properties or the area when viewed from public roads.
Residential	As per the Residential Design Codes.
Special Residential	The aggregate maximum Plot Ratio Area (floor area) shall be 80m <sup>2</sup> .
Rural Residential	The aggregate maximum Plot Ratio Area (floor area) shall be 100m <sup>2</sup> .
Rural Smallholdings	The aggregate maximum Plot Ratio Area (floor area) shall be 200m <sup>2</sup> .
General Farming	The aggregate maximum Plot Ratio Area (floor area) shall be 200m <sup>2</sup> .

**5.19 SWIMMING POOLS**  
AMD 16 GG 30/10/15

The required minimum setback for swimming pools shall be either:

- the maximum outbuilding setback applying in the given zone; or
- the depth of the pool,

whichever is the greater.

**5.20 BUILDING HEIGHT**  
AMD 16 GG 30/10/15

Except within the Residential zone, the maximum permissible height of any building shall be 10m, measured from natural (existing) ground level immediately below that point. Within the Residential zone, the provisions of the Residential Design Codes shall apply.

**5.21 RETAINING WALLS, FENCE OR SCREEN WALL CONSTRUCTION**  
AMD 16 GG 30/10/15

- No person shall construct a retaining wall with a height greater than 0.5m without first obtaining the Planning Approval of the local government.
- No person shall construct a boundary fence other than in accordance with the local government's current Fencing By-Laws or any screen wall proposed within the front boundary setback of any lot or within 1.0m of any dividing lot boundary, without first obtaining the Planning Approval of the local government.

## **5.22 TRAFFIC ENTRANCES**

AMD 16 GG 30/10/15

- 5.22.1 The local government may refuse to permit more than one vehicular entrance or exit to or from any lot. The local government may require separate entrances and exits; or may require that entrances and exits be placed in positions nominated by it, if it considers such provision necessary to avoid or to reduce traffic hazards.
- 5.22.2 No new access to a lot for vehicles shall be permitted directly to or from major roads where access is available from side or rear streets. The local government may, as a condition of any approval for new development or change of use, require existing accesses to major roads to be closed where access from a secondary street is or can be made possible.
- 5.22.3 Where access to a lot abutting a major road is available only from that road, parking, servicing and circulation areas within the lot shall be designed and constructed so as to allow unhindered movement within the lot and to enable vehicles to enter and leave the site in forward gear.
- 5.22.4 In case of access to any road which is the responsibility of the Main Roads WA, that body is to be consulted prior to the construction/modification or closure of any vehicular access to such road.

## **5.23 FLORA PRESERVATION AND PLANTING**

AMD 16 GG 30/10/15

Flora preservation and planting will be encouraged for the purpose of conserving and enhancing the natural beauty, convenience and amenity of all road and other reservations within the Shire and also each zone defined under the Scheme, in order to assist local government to realise the following benefits:

- Rehabilitation of rural land
- Reduction of soil salinity
- Reduction of erosion
- Provision of habitats for native fauna
- Reduction of roadside noise
- Visual amenity of the locality

- 5.23.1 No natural vegetation shall be cleared from any crown reservation or removed from any road reservation in the Shire whether or not such reservation has been developed with a constructed roadway, without the written approval of local government and/or any other responsible authority.
- 5.23.2 In considering any rezoning or development proposal in any zone specified on the Scheme Map, local government may at its discretion unless otherwise specified in the provisions of the Scheme, require the preservation and or planting of flora as a condition of rezoning and or planning approval.
- 5.23.3 Areas of flora preservation and planting required by Clauses 5.23.1 and 5.23.2 may constitute all or part of the minimum landscaping requirement where such a requirement applies under the Scheme. Required areas of flora preservation and planting may exceed the minimum landscaping requirement.
- 5.23.4 Within any area approved for flora preservation purposes as a condition of planning approval, no indigenous flora may be felled without the approval of local government, except:
  - a) where the flora is dead, diseased or dangerous; and

- b) for the purpose of a firebreak required by a Regulation or By-Law except that in order to preserve the amenity of the area local government may at its discretion vary the position of any required firebreak to avoid destruction of vegetation or due to the physical features of the subject land.
- 5.23.5 The local government may, by notice served upon individual landowners or developers of land, require the preservation of groups and/or corridors of flora and thereafter no landowner shall cut, remove or otherwise destroy any such flora unless the local government rescinds the notice or orders.
- 5.23.6 Where any particular land is affected by the provisions of this Clause, the local government may impose a condition on a planning approval, or request a condition of subdivision approval, requiring a written undertaking that prospective purchasers will be advised of the provisions of the Scheme relating to flora preservation or planting.

5.24 ZONE/USE DEVELOPMENT TABLE  
AMD 16 GG 30/10/15

ZONE	USE	Min Lot Area (m <sup>2</sup> )	Min Effect Frontage (m)	Min Boundary Setbacks (m)			Min Car Parking Spaces	Min Landscaping % of Site	Other Requirements			
				Front	Rear	Side						
Residential	Residential All other Permitted Uses			See Residential Design Codes								
Special Residential	Any Permitted Use	2000m <sup>2</sup>	Single House – 10m Other Buildings – 20m	10m 10m	5m 5m				All development must be located within an approved building envelope. All lots require connection to reticulated sewer.			
Town Centre and Service Commercial AMD 03 GG 09/11/10	Residential	See Residential Design Codes					1 per 3m <sup>2</sup> of Public Area	As determined by local government Clause 5.13 applies				
	Shop	See the Dongara Town Centre Precinct PPlan										
	Office Eating House											
	Hotel											
	Tavern											

ZONE	USE	Min Lot Area (m <sup>2</sup> )	Min Effect Frontage (m)	Min Boundary Setbacks (m)			Min Car Parking Spaces	Min Landscaping % of Site	Other Requirements
	Motel			Front	Rear	Side	1.5 per Accommodation Unit	20	
	Educational Establishment	To be determined by the local government	30m	20	10	5/Storey	As Determined by Local Government	As determined by Local Government	As determined by Local Govt
	Service Station	1500	25	11 or 20	7.5	5	20	As determined by Local Government	Boundary Setbacks apply to Pumps, Canopy, Buildings
	Public Worship Place of	2000	20	11 or 20	7.5	2	1 per 5 seats	8	
	All other permitted uses			Determined by the local government					Any development applications for the land adjacent to the Irwin River in the Town Centre Zone must display appropriate setback distance from the 'top of bank' line, as determined by the local government.
Neighbourhood Commercial zone	All permitted uses.	At the discretion of the Local Government			Nil or 2m if abutting a Residential Zone	1 per 10m <sup>2</sup> of gross leasable area		Clause 5.13 applies	Holiday accommodation can only be approved as part of a mixed-use development
General Industry	Any Permitted Use	2000	25	11	7.5	As per Building code of Australia	As determined by the Local Government	Clause 5.13 applies	

ZONE	USE	Min Lot Area (m <sup>2</sup> )	Min Effect Frontage (m)	Min Boundary Setbacks (m)			Min Car Parking Spaces	Min Landscaping % of Site	Other Requirements
				Front	Rear	Side			
Light Industry and Marine Based Industry	Any Permitted Use	1000	25	11	7.5	As per Building Code of Australia	As determined by the Local Government	Clause 5.13 applies	
Rural Residential	Any Permitted Use (and see Schedule 13)	1ha to 4ha	50	15	7.5	5			
Rural Smallholdings	Any Permitted Use	Area D-15ha Area G-20ha Adjacent Irwin Townsite- 10ha	50	15	7.5	5			
General Farming	Any Permitted Use	Based on Locally Acceptable Farm Units and Local Planning Strategy		15	15	5			
Special Use	Any Permitted Use	As required under this Schedule or by the Local Government based on the Predominant use in the locality in which the use is to be located. Clause 5.32 applies							
		Note: 1. For Special Application of the Residential Design Codes, see Clause 5.3 2. For Home Occupations and Cottage Industries, see Clause 5.7 3. For Car parking criteria, see Clauses 5.8 and 5.9 4. For Outbuildings and Setbacks, Size and Construction Type, see Clause 5.18							

## **5.25 RESIDENTIAL ZONE**

*AMD 16 GG 30/10/15*

### **5.25.1 Site Requirements -**

For residential use, in accordance with the Residential Design Codes. For non-residential use, as determined by the local government, though subdivision will not be permitted contrary to the requirements of the Residential Design Codes.

### **5.25.2 Structure Plans**

*AMD 14 GG 6/8/13*

5.23.2.1 The local government may prepare, or require the preparation of, a structure plan in accordance with Clause 5.35 prior to considering applications for subdivision or planning approval within the Residential Zone.

5.23.2.2 Where the local government has prepared or required the preparation of a structure plan for land with a Residential Zone, the subdivision and development of that land is to generally be in accordance with the Structure Plan and any associate provisions.

### **5.25.3 Parking of Commercial Vehicles in the Residential Zone: -**

Parking of a commercial vehicle on a lot in the Residential Zone, except for the purpose of delivering or loading normally associated with domestic residential use, requires planning approval. Any such planning approval will be valid for a period of twelve (12) months. Renewals for a further twelve (12) month period will be at the local government's discretion, and demonstrated nuisance or annoyance to residents in the locality may result in approval not being reissued.

a) No more than one commercial vehicle shall be parked on a lot in the Residential Zone provided that –

- i) the vehicle does not exceed 3 tonnes gross weight;
- ii) the vehicle is parked on a lot containing only a single house;
- iii) the vehicle forms an essential part of the occupation of an occupant of the dwelling;
- iv) any vehicle is screened from view from outside the lot;
- v) no vehicle is brought to or taken from the lot between the hours of 10.00pm and 6.30 am;
- vi) major repairs to the vehicle is not undertaken on the lot; and
- vii) any minor repairs, servicing or cleaning of the vehicle is carried out in areas which are screened from view from outside the lot.

b) An approval of the local government granted under paragraph a) of this Clause –

- i) is personal to the person to whom it is granted;
- ii) is not capable of being transferred or assigned to any other person; and
- iii) does not run with the land in respect of which it was granted.

- c) A person to whom an approval has been granted under paragraph a) of this Clause shall not park or cause to be parked such vehicle on a lot in the Residential zone other than on the lot in respect of which the approval was granted.

#### Use of front setback area

5.25.4 On Residential zoned land, except as specified elsewhere in the Scheme or in the Residential Design Codes, no person shall use the land between the street alignment and the front setback, otherwise than for:

- gardens, landscaping and building associated with the same;
- access driveways; and
- the parking of any motor vehicle or caravan for periods of not more than eight (8) hours consecutively.

#### 5.25.5 Lodging Houses Within the Residential Zone

Notwithstanding the Zoning Table, the local government shall not approve an application for a Lodging House on land coded R12.5 or below within the Residential Zone.

### **5.26 SPECIAL RESIDENTIAL ZONE**

*AMD 16 GG 30/10/15*

#### 5.26.1 Site Requirements

No lot within the zone shall have a lot size of less than 2000m<sup>2</sup> and all lots with an area of less than 4000m<sup>2</sup> are to be connected to reticulated sewerage.

#### 5.26.2 Development Requirements

The following requirements apply to all land in the Special Residential Zone. The outline development plan provisions of Clause 5.23.2 also apply to the Special Residential Zone. Any such outline development plan shall be consistent with these requirements.

- i) Development shall comply with the standards specified in Clause 5.24 (the Development Provisions by Zone).
- ii) No development, other than a single house, will be approved on a lot within the zone unless a single house exists on the lot, or is to be constructed as the first stage of the development proposal.
- iii) All buildings within the zone shall use materials approved by the local government. All roof and, where approved, wall cladding shall be finished in a non-reflective material.
- iv) All fencing proposed on any lot is to be of material and located in a position approved by the local government.
- v) All development must be located within an approved building envelope.
- vi) Reticulated water must be provided to all lots within the Special Residential Zone.

- vii) At the time of subdivision, the local government may request the Western Australian Planning Commission to impose a condition requiring the identification, to the satisfaction of the local government, of a building envelope for any or all of the proposed lots to ensure development is clustered and the visual amenity of the locality and adjacent properties is protected. The location of the building envelope on any lot shall be consistent with setback requirements of the Scheme and pay regard to the topography and physical features of the lot. Any such building envelope shall not exceed 25% of the area of the lot or 1000m<sup>2</sup>, whichever is the lesser. No clearing of vegetation outside of the envelope shall be permitted, without the approval of the local government, except for:
  - a) the removal of vegetation that is dead, diseased or dangerous;
  - b) the provision of a firebreak or building protection zone, approved by the local government; or
  - c) access to the building envelope, approved by the local government.
- vii) All parking or loading and unloading of vehicles associated with any on-site activity other than those of single residential nature, shall take place in the lot area contained behind the 20 metre building line from the lot frontage.
- ix) The local government shall require, as a condition of planning approval for a single house, the planting of twenty drought-resistant indigenous trees capable of growing to a height of 5m.
- x) Any advertising sign proposed on any lot is to be in compliance with the sign provisions which relate to Home Occupations/Home Business and subject to approval in writing by the local government.

#### 5.26.3 Parking of Commercial Vehicles in the Special Residential Zone

The provisions of Clause 5.23.3, referring to parking of commercial vehicles in the Residential Zone, also apply to the Special Residential Zone.

### 5.27 TOWN CENTRE ZONE

AMD 16 GG 30/10/15

5.27.1 As per the development requirements of Dongara Town Centre Precinct Plan, Clause 5.24, and at the discretion of the local government where not specified.

### 5.28 NEIGHBOURHOOD COMMERCIAL ZONE

AMD 16 GG 30/10/15

#### 5.28.1 Site Requirements –

As per Clause 5.24, and at the discretion of the local government where not specified in that Schedule.

#### 5.28.2 Development Requirements –

- a) In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the local government shall have regard to the following, in addition to those matters in Clause 10.2:-
  - i) the colour and texture of external building materials;
  - ii) building size, height, bulk, roof pitch;
  - iii) setback and location of the building on its lot;

- iv) architectural style and design details of the building;
  - v) function of the building; and
  - vi) relationship to surrounding development.
- b) Landscaping shall be provided to complement the appearance of the proposed development and its setting.
  - c) The local government may require the building facade and side walls to a building depth of 3 metres to be constructed in masonry.
  - d) All new commercial use of land within the Neighbourhood Centre Zone, including a premises licensed under *Liquor Control Act 1988*, shall incorporate a paved access way for vehicles from a street to the rear of the building for the purpose of loading and unloading.
  - e) The local government will encourage the use of reciprocal access right across lots within the zone wherever practical to minimise the number of vehicular access points to roads, and encourage integrated car parking provision across lots.

#### **5.28.3 Holiday Accommodation in the Neighbourhood Commercial Zone**

The local government may only approve an application for Holiday Accommodation in the Neighbourhood Commercial Zone if such use is part of a mixed use development in which it is integrated with other commercial uses, in order to maintain the primary retail/commercial focus of the zone. The local government may impose a condition of such development approval requiring that the Holiday Accommodation component of the development not be used until another commercial use is operating on the site.

### **5.29 GENERAL INDUSTRY ZONE, LIGHT INDUSTRY ZONE AND MARINE – BASED INDUSTRY ZONE**

*AMD 16 GG 30/10/15*

- 5.29.1 Prior to the development and/or subdivision of land in the General Industry Zone, the local government may require a Structure Plan to be prepared in accordance with the provisions of Clause 5.35.
- 5.29.2 Development shall comply with the standards specified in Clause 5.24 (the Development Provisions by Zone), and at the discretion of the local government where not specified.
- 5.29.3 The landscaping required by Clause 5.8 shall include the first 5m of the front setback area and the first 3m of the rear setback area.
- 5.29.4 Building design, façade, wall treatments and materials are to be in accordance with the local government's local planning policy – Industrial Buildings

#### **5.29.5 Caretaker's Dwellings**

The provisions of this Clause apply for all caretaker's dwellings in the General Industry, Light Industry and Marine-Based Industry Zones.

- a) a caretaker's dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;
- b) only one caretaker's dwelling is to be permitted on a lot; for the purposes of this Clause "lot" excludes a strata lot or survey-strata lot created under the Strata Titles Act 1985;

- c) a caretaker's dwelling is to have a total floor area that does not exceed 100m<sup>2</sup> measured from the external face of walls; and
- d) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100m<sup>2</sup> as set out in clause 5.29.5 (c).

#### Marine-Based Industry Zone

- 5.29.6 Where appropriate the local government may impose additional or more stringent setbacks for landscaping requirements to protect the residential amenity of adjacent Residential or Special Residential zoned lots.

### **5.30 RURAL RESIDENTIAL ZONE AND THE RURAL SMALLHOLDINGS ZONE**

*AMD 16 GG 30/10/15*

- 5.30.1 Prior to development and/or subdivision of land in a Rural Residential and/or Rural Smallholding zone, the local government may require a Structure Plan to be prepared in accordance with the provisions of Clause 5.35.
- 5.30.2 Development for the Rural Residential zone and Rural Smallholding zone shall comply with the standards specified in Clause 5.24, and at the discretion of the local government where not specified.

#### 5.30.3 Development Requirements

A Structure Plan prepared in accordance with Clause 5.35 shall make allowance for the requirements listed below.

The following provisions shall apply to all land included in the Rural Residential zone and Rural Smallholding zone in addition to any provisions which are more generally applicable to such land under this scheme.

- a) In addition to other applicable provisions of the Scheme, specific provisions for controlling subdivision and development in each individual Rural Residential zone shall be as specified in Schedule 11 to the Scheme, and Rural Smallholding zone shall be as specified in Schedule 12.
- b) Subdivision shall be generally in accordance with a Structure Plan approved by the local government and the WAPC. Once the land is subdivided in accordance with the approved Structure Plan, the local government will not support further subdivision.
- c) All lots shall provide a building envelope. The Structure Plan shall identify suitable building areas, or a building envelope, for each proposed lot. Any such building envelope shall be sited so as to ensure the visual amenity of the locality and adjacent properties is protected.
- d) Modification of an identified building envelope requires planning approval. Applications for a modified building envelope must be consistent with the objectives of the zone and should meet all relevant planning provisions. Where deemed necessary by the local government, an application for a modified building envelope may be advertised under Clause 9.4.2.
- e) All dwellings, outbuildings and effluent disposal areas shall be constructed within the building envelope identified for the lot.
- f) No clearing of vegetation outside of the envelope is permitted, without the approval of the local government, except for:
  1. the removal of vegetation that is dead, diseased or dangerous;

- 2. the provision of a firebreak or building protection zone, approved by the local government; or
  - 3. access to the building envelope, approved by the local government.
- g) The keeping of animals shall be in accord with maximum stocking rates laid down by the Department of Agriculture.
- h) Prior to any stocking of land, all areas which include remnant native vegetation, including vegetation along any natural feature, shall be fenced with stock proof fencing to the specification and satisfaction of the local government. All fences are to be maintained in a stock proof condition by the landowner to the satisfaction of the local government.
- 5.30.4 Prior to rezoning or an application to subdivide, the land owner is to demonstrate the means by which an adequate water supply is to be provided to the lots in the area proposed to be rezoned, or lots proposed to be created, to the satisfaction of the local government.
- 5.30.5 Reticulated water shall be provided to all lots within the Rural Residential zone. Should an alternative to a reticulated water supply be proposed, it must be demonstrated that a reticulated supply is not available in accordance with WAPC policy.
- 5.30.6 Groundwater extraction must comply with any requirements of the Department of Water. All stormwater runoff from buildings, structures or hard surfaces shall be retained on site.
- 5.30.7 Notwithstanding anything else in the Scheme, the local government shall not approve any application for a use which, in its opinion, having regard to any advice from the Department of Water, is likely to increase export of nutrients to watercourses or groundwater.
- 5.30.8 At the time of subdivision, the local government may request the Western Australian Planning Commission to impose a condition requiring that the subdivider make arrangements to the satisfaction of the Fire and Emergency Service of Western Australia and the local government to ensure that adequate bushfire management measures are taken by the subdivider to protect all proposed lots from the risk of fire.
- 5.30.9 Prior to commencement of any development on any lot, the local government will require the preparation of a tree planting and maintenance program with the intent of rehabilitation and revegetating the land.
- 5.30.10 At the time of subdivision, the local government may request the Western Australian Planning Commission to impose a condition requiring that the subdivider erect uniform fencing to a standard as specified in the Shire of Irwin Fencing Local Laws.
- 5.30.11 At the time of subdivision, the local government may request the Western Australian Planning Commission to impose a condition requiring that the subdivider make satisfactory arrangements to ensure that prospective purchasers are advised of all provisions relating to the Rural Residential Zone or Rural Smallholdings zone as appropriate.
- 5.30.12 Planning approval will not be granted for any outbuildings on any Rural Residential zoned lot which does not contain a residence unless forming Stage 1 of a planning application containing a residence, the local government may require a performance bond for the future construction of the residence.

## 5.31 GENERAL FARMING ZONE

AMD 16 GG 30/10/15

### 5.31.1 Site Requirements

- a) Subdivision of land within the General Farming Zone will not be supported, unless it specifically complies with the relevant provisions of the Western Australian Planning Commission's Development Control Policy 3.4 – Subdivision of Rural Land.
  - b) Subdivision in Policy Area E will only be supported as outlined in section 6.6 of the Local Planning Strategy, and after rezoning of the land to Rural Smallholdings and Special Use.
  - c) The minimum setbacks shall be –
    - Front – 15 metres
    - Rear – 15 metres
    - Side – 5 metres
  - d) In Policy Area E uniform fencing to a standard as specified in the Shire of Irwin Fencing By-Laws is to be erected.
- 5.31.2 No more than one dwelling shall be permitted on any lot within the General Farming Zone unless the additional dwelling(s) provides rural workers accommodation, as defined in the Scheme. All such dwellings, including the single house, should be clustered in one location, to avoid future subdivision pressure and minimise constraints on adjoining uses. All services to the dwellings from the lot boundary, including vehicular access, shall be shared as far as practicable.

## 5.32 SPECIAL USE ZONE

- 5.32.1 Where Schedule 4 does not specify development requirements for a particular Special Use Zone relating to architectural style, plot ratio, car parking, setbacks, landscaping or other matters addressed by development requirements elsewhere in the Scheme, these requirements may be applied by the local government at its discretion.
- 5.32.3 All new commercial use of land within a Special Use Zone, including a premises licensed under the *Liquor Control Act 1988*, shall incorporate a paved access way for vehicles from a street to the rear of the building for the purpose of loading and unloading.

## 5.33 SERVICE COMMERCIAL ZONE

AMD 16 GG 30/10/15

### 5.33.1 Site Requirements

Site requirements shall be as specified in a precinct plan as outlined in Clause 5.33.2.

#### Precinct Plan

- 5.33.2 The local government shall prepare, or require to be prepared, a precinct plan over the Service Commercial Zone. The precinct plan shall specify, to the satisfaction of the local government:
  - i) required building setbacks and locations;
  - ii) the layout of vehicular and pedestrian movement systems, including any additional required roads;

- iii) car parking and landscaping requirements, including, if required by the local government, location of these;
- iv) acceptable or required architectural style(s), building materials and colours;
- v) controls relating to height, scale and bulk of development, including maximum plot ratio and/or site coverage requirements;
- vi) if appropriate, specific land uses that are acceptable or not acceptable in particular locations, and
- vii) any other development requirements considered appropriate by the local government.

The precinct plan shall address the above points in a manner consistent with the objectives of the Service Commercial Zone and the Shire of Irwin Dongara Denison Townscape Plan.

- 5.33.3 The precinct plan, in specifying acceptable and unacceptable land uses as provided for in sub-clause 5.33.2 (vii) may prohibit uses classified as permissible (P) or discretionary (D or A) within the Service Commercial Zone on Table 1 within some but not all of the Zone, but shall not permit a use that is prohibited (X) within the Service Commercial Zone on Table 1.
- 5.33.4 A precinct plan shall be advertised for public comment, including referral in writing to affected landowners, for a period not less than 21 days. Comments on the precinct plan shall be taken into account by the local government when considering the precinct plan for adoption.
- 5.33.5 When a precinct plan is adopted by the local government, it is to forward the precinct plan to the Commission for its endorsement. As soon as practicable after receiving the proposed precinct plan, the Commission is to determine whether to endorse the proposed precinct plan.
- 5.33.6 No development shall be permitted within the Service Commercial Zone unless in accordance with the requirements of a precinct plan adopted by the local government and endorsed by the Commission. The Commission will have regard to the precinct plan in considering any application to subdivide.
- 5.33.7 The local government will encourage the use of reciprocal access right across lots within the zone wherever practical to minimise the number of vehicular access points to roads, and encourage integrated car parking provision across lots.

## **5.34 STRUCTURE PLANNING AREAS**

*AMD 14 GG 6/8/13  
AMD 16 GG 30/10/15*

### 5.34.1 Interpretation

In this part, unless the context otherwise requires—

- ‘Detailed Area Plan’ means a plan prepared and adopted pursuant to clause 5.34.15 of this Part;
- ‘owner’ means an owner or owner of land in the Structure Planning Area;
- ‘structure plan’ means a structure plan that has come into effect in accordance with clause 5.34.10 and includes any Outline Development Plan or Subdivision Guide Plan approved under the previous local planning Scheme of the area or previous local planning Scheme requirements, where applicable to a structure planning area; and

- ‘structure planning area’ is an area that requires structure planning and may be required in any zone.

#### 5.34.2 Purposes of Structure Planning Areas

##### 5.34.2.1 The purpose of Structure Planning Areas are to—

- identify areas requiring comprehensive planning;
- coordinate subdivision and development in areas requiring comprehensive planning.

#### 5.34.3 Subdivision and Development in Structure Planning Areas

##### 5.34.3.1 The subdivision and development of land within a Structure Planning Area is generally to be in accordance with any structure plan that applies to that land.

#### 5.34.4 Structure Plan Required

##### 5.34.4.1 The local government is not to—

- consider recommending subdivision; or
- approve development of land within a Structure Planning Area unless there is a structure plan for the area or for the relevant part of that area that adequately defines the comprehensive planning detail required to guide orderly subdivision and development for urban land use.

##### 5.34.4.2 Notwithstanding clause 5.34.4.1 the local government may recommend subdivision or approve the development of land within a Structure Planning Area prior to a structure plan coming into effect in relation to that land, if the local government is satisfied that this will not prejudice the specific purposes and requirements for the Structure Planning Area.

##### 5.34.4.3 Where a proposed Structure Plan imposes a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and such Proposed Structure Plan requires the preparation of a Development Contribution Plan, the proposed Structure Plan may only be adopted if the subject area is identified in the Scheme as a Development Contribution Area.

##### 5.34.4.4 Where building envelopes are depicted on a Structure Plan, all buildings and effluent disposal facilities shall be located within the building envelopes shown on those plans.

##### 5.34.4.5 Notwithstanding the provisions of sub-clause 5.34.4.4, the local government may approve the construction of the following structures outside of the building envelopes—

- Water tanks;
- Windmills;
- Stock watering and feed troughs; and
- Roofed structure open on all sides for the purposes of providing shelter to animals.

#### 5.34.5 Preparation of proposed structure plans

##### 5.34.5.1 A proposed structure plan may be required by the—

- Local government; or

- (b) Western Australian Planning Commission.

A proposed structure plan may be required and prepared for all, or part of, any zone or development area.

#### 5.34.6 Details of proposed structure plan

- 5.34.6.1 A proposed structure plan should include the following details were deemed relevant:

- (a) a map showing the area to which the proposed structure plan is to apply;
- (b) a site analysis map showing the characteristics of the site including—
  - i. landform;
  - ii. conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserves and any environmental policy areas;
  - iii. hydrogeological conditions, including approximate depth to water table; and
  - iv. sites and features of Aboriginal and European heritage value.
- (c) a context analysis map of the immediate surrounds to the site including—
  - i. the pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres;
  - ii. transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, strategic cycle routes, bus stops and rail stations; and
  - iii. existing and future land use.
- (d) for district structure plans a map showing proposals for—
  - i. the pattern of neighbourhoods around town and neighbourhood centres;
  - ii. arterial routes and neighbourhood connector streets;
  - iii. the protection of natural features such as water courses and vegetation;
  - iv. major open spaces and parklands;
  - v. major public transport routes and facilities;
  - vi. the pattern and disposition of land uses; and
  - vii. schools and community facilities.
- (e) for local structure plans a map showing proposals for—
  - i. neighbourhoods around proposed neighbourhoods and town centres;
  - ii. existing and proposed commercial centres;
  - iii. natural features to be retained;
  - iv. street block layouts;
  - v. the street network including street types;
  - vi. land uses including residential densities and estimates of population;
  - vii. schools and community facilities;
  - viii. public parklands; and
  - ix. urban water management areas.

(f) a written report to explain the mapping and to address the following—

- i. the planning framework for the structure plan including any applicable regional or district structure plans, and any policy strategies and Scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;
- ii. the site analysis including reference to the matters listed in clause 5.34.6.1 (b) above, and, in particular, the significance of the conservation, environmental and heritage values of the site;
- iii. the context analysis including reference to the matters listed in clause 5.34.6.1 (c) above;
- iv. how planning for the structure plan area is to be integrated with the surrounding land;
- v. the design rationale for the proposed pattern of subdivision, land use and development;
- vi. traffic management and safety;
- vii. parkland provision and management;
- viii. urban water management;
- ix. proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services; and
- x. the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.

(g) any other matter that is required for orderly and proper planning.

5.34.6.2 The maps referred to in clause 5.34.6.1 are to—

- (a) be drawn to scale that clearly illustrates the details referred to in clause 5.34.6.1; and
- (b) include a north point, visual bar scale, key street names and a drawing title and number.

5.34.6.3 A proposed structure plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the Residential Planning Codes, and where the proposed structure plan becomes a structure plan, the local government is to have due regard to such reserves, zones or Residential Planning Codes when recommending subdivision or approving development of land within a Development Area.

5.34.6.4 A proposed structure plan must, in the opinion of the local government, be consistent with orderly and proper planning.

5.34.7 Submission to local government and Commission

5.34.7.1 A proposed structure plan prepared by an owner is to be submitted to the local government.

5.34.7.2 Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, the local government is to forward a copy of the proposed structure plan to the Commission.

5.34.7.3 The Commission may provide comments as to the suitability of the proposed structure plan.

5.34.8 Advertising of structure plan

5.34.8.1 Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 5.34.6 and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government), the local government is to—

- (a) advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection by one or more of the following ways—
  - i. notice of the proposed structure plan published in a newspaper circulating in the Scheme area;
  - ii. a sign or signs displaying notice of the proposed structure plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed structure plan applies.
- (b) give notice or require the owner who submitted the proposed structure plan to give notice, in writing to—
  - i. all owners whose land is included in the proposed structure plan;
  - ii. all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed structure plan; and
  - iii. such public authorities and other person as the local government nominates.

5.34.8.2 The advertisement and notice are to—

- (a) explain the scope and purpose of the proposed structure plan;
- (b) specify when and where the proposed structure plan may be inspected; and
- (c) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

5.34.9 Adoption of proposed structure plan

5.34.9.1 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to—

- (a) adopt the proposed structure plan, with or without modifications; or
- (b) refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.

5.34.9.2 (a) In making a determination under clause 5.34.9.1, the local government is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan.

- (b) If the Commission requires modifications to the proposed structure plan, the local government is to consult with the Commission prior to making a determination under clause 5.34.9.1.

5.34.9.3 If the local government, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, the local government may—

- (a) readvertise the proposed structure plan; or
- (b) require the owner who submitted the proposed structure plan to readvertise the proposed structure plan.

5.34.9.4 If within the period referred to in clause 5.34.9.1, or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government, the local government has not made a determination under clause 5.34.9.1, the local government is deemed to have refused to adopt the proposed structure plan.

#### 5.34.10 Endorsement by Commission

5.34.10.1 If the proposed structure plan proposes the subdivision of land, then within 7 days of making its determination under clause 5.34.9.1, the local government is to forward the proposed structure plan to the Commission for its endorsement.

5.34.10.2 As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.

5.34.10.3 The Commission is to notify the local government of its determination under clause 5.34.10.2.

#### 5.34.11 Notification of structure plan

5.34.11.1 As soon as practicable after adopting a proposed structure plan under clause 5.34.9.1 and if clause 5.34.10 applies, as soon as practicable after being notified of the Commission's decision under clause 5.34.10.3, the local government is to forward a copy of the structure plan to—

- (a) any public authority or person that the local government thinks fit;
- (b) where the structure plan was submitted by an owner, to the owner.

#### 5.34.12 Operation of structure plan

5.34.12.1 A structure plan comes into effect—

- (a) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 5.34.10.2; or
- (b) on the day on which it is adopted by the local government under clause 5.34.9.1 in all other cases.

5.34.12.2 If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.

5.34.12.3 The provisions of the structure plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme.

#### 5.34.13 Inspection of structure plan

5.34.13.1 The structure plan and the Commission's notification under clause 5.34.10.3 is to be kept at the local government's administrative offices, and is to be made available for inspection by any member of the public during office hours.

#### 5.34.14 Variation to structure plan

- 5.34.14.1 The local government may vary a structure plan—
- (a) by resolution if, in the opinion of the local government, the variation does not materially alter the intent of the structure plan;
  - (b) otherwise, in accordance with the procedures set out in clause 5.34.6 onwards.
- 5.34.14.2 If the local government varies a structure plan by resolution, and the variation does not propose the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution.
- 5.34.14.3 If the local government varies a structure plan by resolution, and the variation proposes the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.
- 5.34.14.4 As soon as practicable after receiving the copy of the variation referred to in clause 5.34.14.3, the Commission is to determine whether to endorse the proposed variation.
- 5.34.14.5 The Commission is to notify the local government of its determination under clause 5.34.14.4.
- 5.34.14.6 A variation to a structure plan by resolution comes into effect—
- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 5.34.14.4; or
  - (b) on the day on which the local government resolves to make the variation under clause 5.34.14.1 (a).

#### 5.34.15 Detailed Area Plan

- 5.34.15.1 A detailed area plan only applied to the determination of development applications and is required where—
- (a) it has been identified on a structure plan;
  - (b) the local government considers that it is desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots; or
  - (c) the local government is of the opinion that any particular lot or lots within the Scheme area requires coordinated planning.
- 5.34.15.2 A detailed area plan may include details as to—
- (a) building envelopes;
  - (b) distribution of land uses within a lot;
  - (c) private open space;
  - (d) services;
  - (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;

- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, finished site levels and drainage;
- (i) protection of sites of heritage, conservation or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the local government.

5.34.15.3 When a proposed detailed area plan is prepared under clause 5.34.15.1, the local government is to—

- (a) advertise, or require the owner who submitted the proposed detailed area plan to advertise, the proposed detailed area plan for public inspection by one or more of the following ways—
  - i. notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;
  - ii. a sign or signs displaying notice of the proposed detailed area plan to be erected in a conspicuous place or places in the Development Area, to which the proposed detailed area plan applies.
- (b) give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to—
  - i. all owners whose land is included in the proposed detailed area plan;
  - ii. all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed detailed area plan; and
  - iii. such public authorities and other persons as the local government nominates.

5.34.15.4 The advertisement and notice are to—

- (a) explain the scope and purpose of the proposed detailed area plan;
- (b) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

5.34.15.5 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to—

- (a) approve the detailed area plan with or without conditions; or
- (b) refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.

5.34.15.6 If within 60 days of receiving a detailed area plan prepared under clause 5.34.15.1(b), or such longer period as may be agreed in writing between the owner and the local government, the local government has not made one of the determinations referred to in clause 5.34.15.5, the local government is deemed to have refused to approve the detailed area plan.

5.34.15.7 Where a structure plan is in place, an approved detailed area plan constitutes a variation of the structure plan in regard to determining development matters under this Scheme.

5.34.15.8 The local government may vary a detailed area plan in accordance with the procedures set out in clause 5.34.15 onwards provided such variations do not prejudice the intention of any related structure plan.

#### 5.34.16 Appeal

5.34.16.1 An owner who has submitted a proposed structure plan under clause 5.34.6 may appeal, in accordance with the Planning and Development Act 2006—

- (a) any failure of the local government to advertise, or require the owner to advertise, a proposed structure plan within the required time period under clause 5.34.8;
- (b) any determination of the local government—
  - i. to refuse to adopt a proposed structure plan (including a deemed refusal); or
  - ii. to require modifications to a proposed structure plan that are unacceptable to that owner.

5.34.16.2 An owner who has submitted a detailed area plan in accordance with clause 5.34.15 may appeal, in accordance with the Planning and Development Act, any discretionary decision made by the local government under clause 5.34.15.5.

#### 5.34.17 Structure plans and other Instruments Adopted or Initiated Under Previous Scheme

5.34.17.1 Where pursuant to the requirements of the former Shire of Irwin Town Planning Scheme No 4 (the previous Scheme) or previous Shire of Irwin Town Planning Scheme No 5 requirements (previous Scheme requirements), a Structure Plan, Outline Development Plan, Subdivision Guide Plan, Detailed Area Plan or any similar instrument (a “planning instrument”) had been adopted and was operative at the date of gazettal of this Scheme, the planning instrument shall continue to have effect and may be amended or revoked as if it were a Structure Plan under this Scheme.

5.34.17.2 Where under the previous Scheme or previous Scheme requirements the process of adopting a planning instrument had been commenced but was not complete at the date of gazettal of the Scheme, the steps in the process undertaken pursuant to the previous Scheme shall be effective as if those steps were undertaken pursuant to this Scheme, and the remaining steps or steps in the process necessary for the adoption of the planning instrument may be completed pursuant to this Scheme, as if the planning instrument were a Structure Plan under this Scheme.

### 5.35 URBAN EXPANSION INVESTIGATION AREAS

AMD 16 GG 30/10/15

Urban expansion investigation areas are shown on the Strategic Plan Map in the Local Planning Strategy. In considering applications for development or use within these areas, the local government will have regard for the potential future use of the land for expansion of the Dongara-Port Denison urban area to ensure that development or use does not adversely affect potential future urban expansion.

**5.36 CARETAKER'S DWELLINGS**

AMD 16 GG 30/10/15

The provisions of this Clause apply for all caretaker's dwellings in the General Industry, Light Industry and Marine-Based Industry Zones.

- a) a caretaker's dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;
- b) only one caretaker's dwelling is to be permitted on a lot; for the purposes of this Clause "lot" excludes a strata lot or survey-strata lot created under the *Strata Titles Act 1985*;
- c) a caretaker's dwelling is to have a total floor area that does not exceed 100 square metres measured from the external face of walls; and
- d) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100 square metres referred to in paragraph c).

**5.37 BUSHFIRE-PRONE AREAS AND BUSHFIRE MANAGEMENT**

AMD 16 GG 30/10/15

5.37.1 Determining whether a development site is within a bushfire-prone area.

A development site referred to as being in a bushfire-prone area, as shown on the Bushfire-Prone Area Map endorsed by the FES Commissioner or as outlined in WAPC policy.

5.37.2 Before commencing or carrying out any development on that land that is designated as bushfire-prone, a person must comply with the requirements of WAPC policy.

5.37.3 The requirement for an application for planning approval is determined by WAPC policy.

**5.38 INDIAN OCEAN DRIVE**

AMD 16 GG 30/10/15

Any planning proposal or development application within 200m of Indian Ocean Drive needs to consider the guidance provided in the Indian Ocean Drive Planning Guidelines (WAPC, 2014).

## PART 6 – SPECIAL CONTROL AREAS

### 6.1 OPERATION OF SPECIAL CONTROL AREAS

6.1.1 The following Special Control Areas are shown on the Scheme Maps:

1. Water Supply Protection Area

6.1.2 In respect of a Special Control Area shown on a Scheme Map, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

### 6.2 WATER SUPPLY PROTECTION AREA

6.2.1 The purpose of the Water Supply Protection Area is to protect groundwater resources which provide a potable water supply to residents of the Shire and the region.

6.2.2 Planning approval is required for any proposed use or development within the Water Supply Protection Area, except for a Single House.

6.2.3 Applications for planning approval for a use or development involving the following within the Water Supply Protection Area shall be referred to the Department of Environment for comment:

- i) the potential for increased nutrient loading, particularly having a point source for nutrients, such as a poultry farm or piggery;
- ii) intensification of the application of fertilisers and pesticides;
- iii) storage of chemicals, fuels and other potentially polluting substances;
- iv) a substantial increase in runoff; and
- v) any other impact which the local government considers could have an impact on the quality of public drinking water.

6.2.4 In determining any application for planning approval within the Water Supply Protection Area, the local government shall:

- i) have regard to the Water and Rivers Commission Water Quality Protection Note: *Land Use Compatibility in Public Drinking Water Source Areas*;
- ii) have regard to State Planning Policy No. 2.7 (*Public Drinking Water Source Policy*);
- iii) have regard to any advice from the Department of Environment; and
- iv) endeavour to ensure that the proposed use or development will not have a detrimental impact on the water resource.

6.2.5 Notwithstanding that a use or development may be classified as 'P' on the Zoning Table, where the Department of Environment advises that a use or development should be refused on the basis of potential impact on surface and/or groundwater resources, the local government may refuse that use or development.

## PART 7 – HERITAGE PROTECTION

### 7.1 HERITAGE LIST

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

Note:

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

### 7.2 DESIGNATION OF A HERITAGE AREA

- 7.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, designate that area as a heritage area.
- 7.2.2 The local government is to:-
  - a) adopt for each heritage area a Local Planning Policy which is to comprise -
    - i) a map showing the boundaries of the heritage area;

- ii) a record of places of heritage significance; and
  - iii) objectives and guidelines for the conservation of the heritage area;
- and
- b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.
- 7.2.3 If a local government proposes to designate an area as a heritage area, the local government is to:-
- a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
  - b) advertise the proposal by -
    - i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
    - ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
    - iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;
- and
- c) carry out such other consultation as the local government considers appropriate.
- 7.2.4 Notice of a proposal under Clause 7.2.3b) is to specify –
- a) the area subject to the proposed designation;
  - b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
  - c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.
- 7.2.5 After the expiry of the period within which submissions may be made, the local government is to:-
- a) review the proposed designation in the light of any submissions made; and
  - b) resolve to adopt the designation with or without modification, or not to proceed with the designation.
- 7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.
- 7.2.7 The local government may modify or revoke a designation of a heritage area.
- 7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

### **7.3 HERITAGE AGREEMENTS**

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

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

### **7.4 HERITAGE ASSESSMENT**

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

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

Where desirable to:-

- a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under Clause 7.1.1; or
  - b) enhance or preserve heritage values in a heritage area designated under Clause 7.2.1,
- the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes, by following the procedures set out in Clause 5.5.2.

## PART 8 – DEVELOPMENT OF LAND

### 8.1 REQUIREMENT FOR APPROVAL TO COMMENCE DEVELOPMENT

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

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

### 8.2 PERMITTED DEVELOPMENT

AMD 16 GG 30/10/15

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

- a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is –
  - i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - ii) the subject of an Order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - iii) included on the Heritage List under Clause 7.1 of the Scheme;
- b) the erection on a lot of a single house including any extension, outbuildings and swimming pools, except where the proposal:-
  - i) necessitates the exercise of a discretion by the local government to vary the Scheme provisions for the Residential Design Codes;
  - ii) is located in a Heritage Area designated under the Scheme;
  - iii) is on land abutting a Major Highway or Important Local Road Reserve or in the Town Centre, Special Residential, Rural Residential or Special Use zones;
  - iv) the development is located within a designated bush-fire prone area as provided for in Part 5.37 of the Scheme;
  - v) necessitates the exercise of discretion by the local government to vary the Scheme provisions in the Rural Smallholdings, General Farming, Marine-Based Industry, Light Industry, General Industry and Service Commercial zones;
  - vi) is for development of a lot abutting an unconstructed road or a lot which does not have frontage to a constructed road;
- c) the demolition of any building or structure except where the building or structure is:-
  - i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - iii) included on the Heritage List under the Scheme;
  - iv) located within a Heritage Area designated under the Scheme;
- d) a home office;
- e) Outbuildings with an aggregate floor area of 10m<sup>2</sup>;
- f) Pergolas no more than 2.4m in height from natural ground level, with a maximum aggregate area cover of 20m<sup>2</sup>;

- g) Shade sails made from pervious cloth, with the pole height being no more than 3.5m in height from natural ground level, and the aggregate sail area not exceeding 20m<sup>2</sup>.
- h) roof mounted solar panels, except in respect of a place included on the Heritage List or in a Heritage Area;
- i) ground based solar arrays being no more than 3m in height from natural ground level, and the aggregate array area not exceeding 30m<sup>2</sup> in the Special Residential, Rural Residential, Rural Smallholdings and General Farming zones and where the relevant Development Requirements are met;
- j) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- k) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included on the Heritage List or in a Heritage Area.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under Section 157 of the Planning and Development Act.

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

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

### **8.4 UNAUTHORISED EXISTING DEVELOPMENTS**

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

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

## PART 9 – APPLICATION FOR PLANNING APPROVAL

### 9.1 FORM OF APPLICATION

9.1.1 An application for approval for one or more of the following –

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

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

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

### 9.2 ACCOMPANYING MATERIAL

Unless the local government waives any particular requirement every application for planning approval shall be accompanied by –

- a) a plan or plans to a scale of not less than 1:500 showing –
  - i) the location of the site including street names, lot number(s), north point and the dimensions of the site;
  - ii) the existing and proposed ground levels over the whole of the land subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - v) the location, number, dimensions and layout of all car parking spaces intended to be provided;

- vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
- vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
- viii) the nature and extent of any open space and landscaping proposed for the site;
- b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- c) any specialist studies that the local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- d) any other plan or information that the local government may require to enable the application to be determined.

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

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

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

### **9.4 ADVERTISING OF APPLICATIONS**

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

- a) an 'A' use under Clause 4.3.2; or
- b) a use not listed in the Zoning Table;

the local government shall not grant approval to that application unless notice is given in accordance with provisions of Clause 9.4.3.

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

9.4.3 The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways –

- a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
- b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;

- c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.
- 9.4.4 The notice referred to in Clause 9.4.3 a) and b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.
- 9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.
- 9.4.6 After the expiration of the specified period from the servicing of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

## PART 10 – PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1 CONSULTATIONS WITH OTHER AUTHORITIES

- 10.1.1 In considering any application for planning approval the local government may consult with any other statutory, public, or planning authority it considers appropriate.
- 10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the local government shall consult that authority before making its determination.

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

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

- a) the aims and provisions of the Scheme and any other relevant town or local planning scheme operating within the Scheme Area;
- b) the requirements of orderly and proper planning including any relevant proposed new town or local planning scheme or amendment which has been granted consent for public submissions to be sought;
- c) any approved State Planning Policy of the Commission;
- d) any approved Environmental Protection Policy under the *Environmental Protection Act 1986*;
- e) any relevant policy or strategy of the Commission and any relevant planning policy adopted by the Government of the State of Western Australia;
- f) any Local Planning Policy adopted by the local government under Clause 2.4, any heritage policy statement for a designated heritage area adopted under Clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under Clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
  - i) the compatibility of a use or development within its setting;
  - j) any social issues that have an effect on the amenity of the locality;
  - k) the cultural significance of any place or area affected by the development;
  - l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- m) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- n) the preservation of the amenity of the locality;

- o) the relationship of the proposal to development on adjoining land, including but not limited to, the likely visual impact of the height, bulk, scale, orientation, architectural style, colour and appearance of materials used, and the degree of consistency or sympathy with the design and appearance of existing adjacent buildings;
- p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- s) whether public utility services are available and adequate for the proposal;
- t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- u) whether adequate provision has been made for access by disabled persons;
- v) whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- w) whether the proposal is likely to cause soil erosion or land degradation;
- x) the potential loss of any community service or benefit resulting from the planning approval;
- y) any relevant submissions received on the application;
- z) the comments or submissions received from any authority consulted under Clause 10.1.1;
- za) any other planning or townscape consideration the local government considers relevant;
- zb) the Irwin Coastal Plan, Central Coast Regional Strategy, Batavia Coast Strategy and Shire of Irwin Coastal Development Strategy.

### **10.3 DETERMINATION OF APPLICATIONS**

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

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

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

- 10.4.1 As soon as practicable after making a determination in relation to the application, the local government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the local government's determination.
- 10.4.2 Where the local government refuses an application for planning approval the local government shall give reasons for its refusal.

## **10.5 TERM OF PLANNING APPROVAL**

- 10.5.1 Where the local government grants planning approval for the development of land –
- a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination ; and
  - b) the approval lapses if the development has not substantially commenced before the expiration of that period.
- 10.5.2 A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in Clause 10.5.1.

## **10.6 TEMPORARY PLANNING APPROVAL**

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

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

## **10.7 SCOPE OF PLANNING APPROVAL**

Planning approval may be granted –

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

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

- 10.8.1 Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, or such other matters as the local government thinks fit.
- 10.8.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.
- 10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made not later than the expiration of two years beginning with the date of the first approval, or such other period as specified in the approval.

## **10.9 DEEMED REFUSAL**

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

- 10.9.2 An application for planning approval which is the subject of a notice under Clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as agreed in writing between the applicant and the local government.
- 10.9.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in Clause 10.9.1 and 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

#### **10.10 RIGHT OF REVIEW**

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may make application for review under Part 14 of the Planning and Development Act.

## **PART 11 – ENFORCEMENT AND ADMINISTRATION**

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

11.1.1 The local government in implementing the Scheme has the power to: -

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

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

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

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

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

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

11.2.3 For the purpose of Clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify –

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

11.2.4 A person on whom notice is served under this Clause may apply under Part 14 of the Planning and Development Act for review of the determination of the local government.

### **11.3 DELEGATION OF FUNCTIONS**

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

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

A person must not:-

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

Note: Section 218 of the Planning and Development Act provides that a person who:-

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

is guilty of an offence.

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

### **11.5 COMPENSATION**

- 11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Section 173 of the Planning and Development Act:-
  - a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
  - b) where the land has been reserved for a public purpose and:-
    - i) an application made under the Scheme for approval to carry out development on the land is refused; or

- ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

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

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

Note: 1. A claim for compensation under Section 173 of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

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

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

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

Note: Sections 190 and 191 of the Planning and Development Act empowers the local government to purchase or compulsorily acquire land comprised in a scheme.

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

- 11.7.1 Under Section 214 of the Planning and Development Act, 60 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

- 11.7.2 The local government may recover expenses under Section 214 of the Planning and Development Act in a court of competent jurisdiction.

# SCHEDULES

## SCHEDULE 1- DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

AMD 16 GG 30/10/15

### General Definitions

In the Scheme –

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

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

**“Building Code of Australia”** means the Building Code of Australia 1996 published by the Australia Building Codes Board.

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

**“Bushfire-prone Land”** means any land within 100 metres of an area of bushfire-prone vegetation equal to or greater than one hectare.

**“Bushfire-prone vegetation”** means contiguous vegetation including grasses and shrubs but not including maintained lawns, parks and gardens, nature strips, plant nurseries, golf courses, vineyards, orchards or vegetation on land that is used for horticultural purposes.

**“Commission”** means the Western Australian Planning Commission constituted under the *Planning and Development Act 2005*.

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

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

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

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

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

**“Gazettal date”**, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under Section 87 of the *Planning and Development Act*.

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

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

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

**“local government”** means the Shire of Irwin.

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

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

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

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

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

**“non-conforming use”** has the same meaning as it has in Section 172 of the Planning and Development Act.

**“Outbuilding”:** means a detached enclosed non-habitable structure, including garages, storage sheds, studios, games rooms and patios, but not carports, pergolas or structures that are connected to or form part of the main building (except within the Residential zone, where the Residential Design Codes’ definition for Outbuilding prevails).

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

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

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

**“Planning and Development Act”** means the *Planning and Development Act 2005*.

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

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

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

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

**“Residential Design Codes”** means State Planning Policy No. 3.1 – Residential Design Codes of Western Australia, published in the Government Gazette on 4 October 2002, together with any amendments thereto.

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

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

**“short stay”** means that no person is to stay for more than three months in any twelve month period.

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

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

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

## **Land Use Definitions**

In the Scheme:-

**Abattoir:** means premises used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

**Aged persons village:** means a building or group of buildings designed for residential occupation by aged persons and includes buildings and parts of buildings used for communal facilities, food preparation, dining, recreation, laundry or medical care.

**Agriculture – extensive:** means premises used for the raising of stock or crops but does not include agriculture – intensive or animal husbandry – intensive.

**Agriculture – intensive:** means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following –

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

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

**Amusement machine:** means any machine, game or device whether mechanical or electronic or a combination of both operated by one or more players for amusement or recreation.

**Amusement parlour:** means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than two amusement machines operating within the premises.

**Ancillary Dwelling:** means Ancillary Dwelling as defined in the Residential Design Codes.

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

**Animal husbandry – intensive:** means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) and other livestock in feedlots.

**Aquaculture:** shall have the same meaning as given to the term in and for the purposes of the *Fish Resources Management Act 1994*.

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

**Camping area:** means land used for the lodging of persons in tents.

**Caravan park:** has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*.

**Caretaker's dwelling:** means a dwelling on the same site as a building, operation, or plant and occupied by a supervisor of that building, operation, or plant.

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

**Chalet Park:** Site occupied by individual self-contained units usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of three months in any 12-month period.

**Child care premises:** has the same meaning as in the *Child Care Services Act (2007)*.

**Civic use:** means premises used by a Government Department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purposes.

**Club premises:** means premises used by a legally constituted club or association or other body of persons united by a common interest.

**Commercial vehicle:** means a vehicle whether licensed or not which is used or designed for use for business, trade, commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or earthmoving machine whether self-propelled or not. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes.

**Convenience Store** means premises –

AMD 18 GG 9/10/18

- (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 net lettable area.'

**Constructed road:** means a track which has been graded and stabilised within a dedicated road reserve.

**Consulting room(s):** means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care.

**Education establishment:** means premises used for the purpose of education and includes a school, tertiary institution, business college, academy or other educational centre.

**Family day care:** means premises used to provide family day care within the meaning of the *Child Care Services Act (2007)*.

**Farm forestry:** means any commercial tree production on farmland.

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

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

**Grouped dwelling:** shall have the same meaning given to the term in the Residential Design Codes.

**Hardware store:** means premises offering for sale products and materials used in home and building construction and maintenance, including but not limited to tools, fasteners, fittings, parts of machinery and associated appliances.

**Hobby farm:** means premises used for the keeping of farm animals or the growing of vegetables, fruit or flowers for non-commercial purposes or sale.

**Holiday accommodation:** means premises used for short stay accommodation and recreation for holiday purposes but does not include a hotel, motel, bed and breakfast or caravan park.

**Home business:** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- a) does not employ more than two people not members of the occupier's household;
- b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- c) does not occupy an area greater than 50 square metres, except that for land in the General Farming zone the local government may permit an area up to 200 square metres;
- d) does not involve the retail sale, display or hire of goods of any nature;
- e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight, except that for land in the General Farming zone under the Scheme the local government may permit the presence and use of up to 3 vehicles of more than 3.5 tonnes tare weight; and
- f) does not involve the use of an essential service of greater capacity than normally required in the zone.

**Home occupation:** means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- a) does not employ any person not a member of the occupier's household;
- b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- c) does not occupy an area greater than 20m<sup>2</sup>;
- d) does not display a sign exceeding 0.2 m<sup>2</sup> in area;
- e) does not involve the retail sale, display or hire of goods of any nature;

- f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- g) does not involve the use of an essential service of greater capacity than normally required in the zone.

**Home office:** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which –

- a) does not entail clients or customers traveling to and from the dwelling;
- b) does not involve any advertising signs on the premises; and
- c) does not require any external changes to the appearance of the dwelling.

**Hotel:** means premises providing accommodation the subject of a hotel license under the *Liquor Control Act 1988* and may include a betting agency on those premises, but does not include a tavern or motel.

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

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

**Industry – cottage:** means a trade or light industry producing arts and crafts goods which cannot be carried out under the provisions relating to 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 within 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 50m<sup>2</sup>;
- e) does not display a sign exceeding 0.2m<sup>2</sup> in area.

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

**Industry-general:** means an industry other than a cottage, extractive, light, mining, rural, or service industry.

**Industry-light:** means an industry-

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

**Industry-mining:** means land used commercially to extract minerals from the land.

**Industry-rural:** means:-

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

**Industry-service:** means an industry -light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold, or premises having a retail shop front and used as a depot for receiving goods to be serviced.

**Lodging house:** shall have the same meaning to the term in and for the purposes of the *Health Act 1911*.

**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.

**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 one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling).

**Motel:** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Control Act 1988*.

**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; or
- b) repairs to tyres,

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

**Motor vehicle wrecking:** means premises used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.

**Multiple dwelling:** has the same meaning as in the Residential Design Codes.

**Museum:** means premises used to exhibit cultural or historical artifacts.

**Office:** means premises used for administration, clerical, technical, professional or other like business activities.

**Open air display:** means the use of a site external to a building for the display and/or sale of goods and equipment.

**Park home:** shall have the same meaning given to the term in the *Caravan Parks and Camping Grounds Act 1995*.

**Park home park:** shall have the same meaning given to the term in the *Caravan Parks and Camping Grounds Regulations 1995*.

**Plantation:** has the same meaning given to the term in the Code of Practice for Timber Plantations in Western Australia, as amended.

**Plant nursery:** means premises used for the propagation, rearing, and sale of plants and the storage and sale of products associated with horticultural and garden activities.

**Potable water:** means water in which levels of physical, chemical and microbiological constituents do not exceed to guideline values set out in the National Health and Medical Research Council publication *Australian Drinking Water Guidelines 1996*.

**Private recreation:** means premises used for indoor and outdoor leisure, recreation and sport which are normally open to the public without charge.

**Public amusement:** means premises used for the amusement or entertainment of the public, with or without charge.

**Public recreation:** means premises used for public park, public gardens, playground or other grounds for recreation which are normally open to the public without charge.

**Public utility:** means any work or undertaking constructed or maintained by a public authority or the local government as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services.

**Reception centre:** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes.

**Residential building:** has the same meaning as in the Residential Design Codes.

**Restaurant:** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*.

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

- a) publications that are classified as restricted under the *Classification (Publications, Films & Computer Games) Enforcement Act 1996*; 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.

**Roadhouse:** means land and a building or buildings used primarily as a service station, but with a supplementary use as a restaurant, take away food outlet or as a shop providing an approved, limited range of day to day travel commodities and services and may include motor vehicle repairs.

**Rural pursuit:** means any premises used for:-

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

but does not include agriculture – extensive or agriculture - intensive.

**Rural workers accommodation:** means premises used for accommodation by a person or persons and the spouse and dependants of that person or persons engaged in agriculture, intensive agriculture, animal husbandry, piggeries or poultry farm on the same land and the term shall include both permanent dwellings and temporary accommodation for seasonal workers.

**Secondhand dwelling:** means a dwelling which has not been specifically designed as a transportable residence and has previously been located at any place other than on the lot upon which it is erected.

**Service station:** means premises used for:-

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

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

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

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

**Single Bedroom Dwelling:** As defined under the Residential Design Codes.

**Single house:** means Dwelling as defined under the Residential Design Codes.

**Stable:** means premises used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities.

**Stock yards:** means premises used for the holding and/or sale of animal stock.

**Storage yard:** means premises used for the storage of goods, equipment, plant or materials related to a particular trade.

**Tavern:** means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises.

**Telecommunications infrastructure:** means any part of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, or in connection with a telecommunications network.

**Transport depot:** means premises used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles, and may include overnight accommodation on-site for the transport workers.

**Veterinary Clinic:** means a building in which a Veterinary Surgeon or Veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight.

**Veterinary Hospital:** means a building used in connection with the treatment of sick animals, including farm animals and includes the accommodation of those animals.

**Warehouse:** means premises used to store or display goods and which may include sale by wholesale.

**Wayside stall:** means a building situated on private land which offers for sale to the general public produce or any commodity which is produced on the land upon which the buildings are located.

**Winery:** means premises used for the production of viticultural produce and which may include the sale of produce.

**Workforce accommodation** means premises, which may include modular or relocatable buildings, used – AMD 18 GG 9/10/18

- (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 or recreation facilities for the occupants and authorised visitors.

**Worship, place of:** means premises used for religious activities such as a church, chapel, mosque, synagogue and temple.

**SCHEDULE 2 – ADDITIONAL USES**

No.	Description of Land	Additional Use	Conditions
AU1	No. 30701 (Lot 4) Corner of Brand Highway & Francisco Road Bonniefield  AMD 8 GG 13/08/10	- Family Day Care - Child Care Premises	
AU2	Lot 24 Corner of Brand Highway & Masten Road Bookara  AMD 09 GG 05/04/11	- Public Amusement	The scale of any development shall have regard for the objectives of the zone shall preserve the rural amenity of the area.

**SCHEDULE 3 – RESTRICTED USES**

No.	Description of Land	Restricted Use	Conditions

## SCHEDULE 4 – SPECIAL USE ZONES

AMD 16 GG 30/10/15

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS																																								
1	Wakeford Road Bookara	Lot 2	<p>Tourism and Recreation Resort compromising:</p> <ul style="list-style-type: none"> <li>+ Resort Centre/Hotel/Motel Accommodation (Licensed)</li> <li>+ Clubhouse</li> <li>+ Mediterranean (Seaside) Villas</li> <li>+ Holiday Villas and Lake</li> <li>+ Resort Shopping</li> <li>+ Camping Area</li> <li>+ Caravan Park</li> <li>+ Horse Riding Farm</li> <li>+ Dormitories</li> <li>+ Function and Convention Centre</li> <li>+ Resort Community Facilities</li> <li>+ 18 hole Golf Course</li> <li>+ Model Tourist Farm</li> <li>+ Rural Pursuits</li> <li>+ Incidental uses to the permitted uses</li> </ul>	<ol style="list-style-type: none"> <li>1. Subdivision to create a maximum of five superlots may be supported if demonstrated to be necessary to facilitate the development of the zone for the uses intended. The layout of such subdivision shall reflect the site's topography and minimise the environmental impact, in particular vegetation clearing and potential erosion damage, of development and vehicular and pedestrian access.</li> <li>2. At the time of subdivision, the local government may request the Commission to impose a condition requiring preparation and implementation of a foreshore management plan, addressing matters including pedestrian access to the beach and rehabilitation of areas susceptible to erosion.</li> </ol>																																								
2	Waldeck Street Dongara	Lot 14	<ul style="list-style-type: none"> <li>+ Caravan/Chalet Park</li> <li>+ Camping Ground</li> <li>+ Incidental uses to the permitted uses</li> </ul>																																									
3	Brand Highway Dongara	Lot 10	<ul style="list-style-type: none"> <li>+ Roadhouse</li> <li>+ Managers Accommodation</li> <li>+ Public Restaurant</li> <li>+ Incidental uses to the permitted uses</li> </ul>																																									
4	Cave Way and Criddle Road Dongara	Lot 13	<ul style="list-style-type: none"> <li>+ Private Club/Institution</li> <li>+ Incidental uses to the permitted uses</li> </ul>																																									
5	Brady Road and Church Street, Dongara AMD 4 GG 13/01/12	Lot 60, 70	<table border="1"> <thead> <tr> <th>Land Use</th> <th>Residential R50 Area</th> <th>Residential R40 Area</th> <th>Tourism Area</th> </tr> </thead> <tbody> <tr> <td>Single Dwelling</td> <td>P</td> <td>P</td> <td>X</td> </tr> <tr> <td>Grouped Dwelling</td> <td>P</td> <td>X</td> <td>X</td> </tr> <tr> <td>Multiple Dwelling</td> <td>D</td> <td>X</td> <td>X</td> </tr> <tr> <td>Holiday Accommodation</td> <td>X</td> <td>X</td> <td>P</td> </tr> <tr> <td>Motel</td> <td>X</td> <td>X</td> <td>P</td> </tr> <tr> <td>Restaurant</td> <td>X</td> <td>X</td> <td>P</td> </tr> <tr> <td>Home Occupation</td> <td>A</td> <td>A</td> <td>X</td> </tr> <tr> <td>Bed and Breakfast</td> <td>A</td> <td>A</td> <td>X</td> </tr> <tr> <td>Family Day Care</td> <td>A</td> <td>A</td> <td>X</td> </tr> </tbody> </table>	Land Use	Residential R50 Area	Residential R40 Area	Tourism Area	Single Dwelling	P	P	X	Grouped Dwelling	P	X	X	Multiple Dwelling	D	X	X	Holiday Accommodation	X	X	P	Motel	X	X	P	Restaurant	X	X	P	Home Occupation	A	A	X	Bed and Breakfast	A	A	X	Family Day Care	A	A	X	<p>Development shall be in accordance with the Structure Plan as adopted by Council and approved by the Western Australian Planning Commission (WAPC). The Structure Plan shall include such detail and accompanying information as, but not limited to, the following—</p> <ul style="list-style-type: none"> <li>— A Foreshore Management Plan and coastal setback consistent with the requirements of State Planning Policy 2.6.</li> </ul>
Land Use	Residential R50 Area	Residential R40 Area	Tourism Area																																									
Single Dwelling	P	P	X																																									
Grouped Dwelling	P	X	X																																									
Multiple Dwelling	D	X	X																																									
Holiday Accommodation	X	X	P																																									
Motel	X	X	P																																									
Restaurant	X	X	P																																									
Home Occupation	A	A	X																																									
Bed and Breakfast	A	A	X																																									
Family Day Care	A	A	X																																									

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
				<ul style="list-style-type: none"> <li>— An Urban Water Management Plan to be prepared to the specifications of the Local Government in consultation with the Department of Water and in accordance with WAPC policy.</li> <li>— A Landscape Plan to be prepared for the coastal setback area to the specifications of the Local Government.</li> <li>— Details as appropriate relating to vehicular access and parking, to the specifications of the Local Government.</li> <li>— A Detailed Area Plan (DAP) to be prepared for the Tourism area and for each Residential R40 and Residential R50 lot as defined by the Structure Plan. The DAP is to address interface issues with surround land uses and shall include details as to— <ul style="list-style-type: none"> <li>a. Building envelopes and the location, orientation and design of buildings;</li> <li>b. Distribution of land uses within a lot;</li> <li>c. Private open space;</li> <li>d. Services, vehicular access, parking, loading and unloading areas, storage yards and rubbish collection;</li> <li>e. Advertising signs, lighting and fencing;</li> <li>f. Noise attenuation measures;</li> <li>g. Ancillary dwellings and/or studio dwellings, home business or workspace;</li> <li>h. Landscaping; and</li> <li>i. Such other information considered relevant by the Local Government.</li> </ul> </li> </ul>
6	Church Street Dongara	Strata Lot 1, 81	<ul style="list-style-type: none"> <li>+ Caravan/Chalet Park</li> <li>+ Camping Ground</li> <li>+ Holiday Accommodation</li> <li>+ Incidental uses to the permitted uses</li> </ul>	
7	Church Street Dongara	Lot 94 (Reserve No.25412)	<ul style="list-style-type: none"> <li>+ Holiday Accommodation</li> <li>+ Incidental uses to the permitted uses</li> </ul>	
8	Ocean Drive	Pt Victoria Loc 688	<ul style="list-style-type: none"> <li>+ Local Authority and Community uses</li> <li>+ Incidental uses to the permitted uses</li> </ul>	

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
9	DELETED AMD 20 GG 19/05/2023			
10	Henry Road, Port Denison AMD 13 GG 12/3/13	Lots 951 and 952	+ Aged Persons Village	
11	Point Leander Drive Port Denison	Pt Sub Lot 54	Place of Worship + Residential Accommodation ancillary to the Place of Worship + Incidental uses to the permitted uses	
12	Point Leander Drive Port Denison	Pt Sub Lot 48	+ Public Restaurant + Holiday Accommodation + Tavern: provided it is incidental to the other permitted uses + Incidental uses to the permitted uses	Development of the site shall comply with the requirements of the Residential Design Codes for the R30 code. This does not imply that any subdivision of the site will be supported,
13	Point Leander Drive Port Denison	Pt Sub Lot 49	+ Caravan/Chalet Park + Incidental uses to the permitted uses	
14	Ocean Drive and Point Leander Drive Port Denison	Lot 915 Reserve No 37184	+ Aged Persons Village	
15	Ocean Drive Port Denison	Lot 946 Reserve 25826	+ Caravan/Chalet Park + Camping Ground + Incidental uses to the permitted uses	
16	Hampton Street Port Denison	Lot 947	+ Eating House + Incidental uses to the permitted uses	
17	Corner George and Carnarvon Street, Port Denison	Lot 3000 Reserve No. 32182	+ Caravan/Chalet Park + Camping Ground + Incidental uses to the permitted uses	Development is to be generally in accordance with an adopted Outline Development Plan. The ODP shall define the Coastal Foreshore Reserve consistent with SPP No. 2.6 and include a Foreshore Management Plan.
18	Corner Fletcher and George Street Port Denison	Lot 742	+ Aged Persons Village	
19	Corner Blenheim Road, Golf Course Road and Point Leander Drive, Port Denison	Lot 1	+ Ambulance Centre + Night Staff Accommodation + Incidental uses to the permitted uses	
20	Brand Highway, Dongara	Lots 7, 8 and 13	+ Roadhouse + Managers Accommodation + Public Restaurant + Incidental uses to the permitted uses	
21	Brand Highway, Dongara	Lot 15	+ Roadhouse + Managers Accommodation	

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
			<ul style="list-style-type: none"> <li>+ Public Restaurant</li> <li>+ Incidental uses to the permitted uses</li> </ul>	
22	Waldeck Street (Corner Brand Highway)	Lot 11	<ul style="list-style-type: none"> <li>+ Tourist Accommodation</li> <li>+ Public Restaurant</li> <li>+ Shop</li> <li>+ Reception Centre</li> <li>+ Public Amusement</li> <li>+ Incidental uses to the permitted uses</li> <li>+ Residential Building</li> </ul>	
23	Waldeck Street (north of Clementina Road)	Lot 12	<ul style="list-style-type: none"> <li>+ Motel</li> <li>+ Public Restaurant</li> <li>+ Incidental uses to the permitted uses</li> </ul>	
24	Moreton Terrace	Lot 23	<ul style="list-style-type: none"> <li>+ Hotel</li> <li>+ Motel</li> <li>+ Tavern</li> <li>+ Club Premises</li> <li>+ Public Utility</li> <li>+ Betting Agency</li> <li>+ Telecommunications Infrastructure</li> <li>+ Public Restaurant</li> <li>+ Incidental uses to the permitted uses</li> </ul>	
25	St Dominics Road	Lot 6	<ul style="list-style-type: none"> <li>+ Licensed Historic Inn</li> <li>+ Holiday Accommodation</li> <li>+ Lodging House,</li> <li>+ Restaurant</li> <li>+ Incidental uses to the permitted uses</li> </ul>	
26	Indian Ocean Drive, Arrowsmith <i>AMD 06 GG 09/11/10</i>	Portion of Lot 100	<ul style="list-style-type: none"> <li>+ Roadhouse</li> <li>+ Managers Accommodation</li> <li>+ Shop</li> <li>+ Public Restaurant</li> </ul>	Nil
28 (Cont'd)	Point Leander Drive, Port Denison <i>AMD 7 GG 02/03/12</i>	Lots 53 and 54 on Plan 226843	<ul style="list-style-type: none"> <li>+ Hotel</li> <li>+ Motel</li> <li>+ Restaurant</li> <li>+ Eating House</li> </ul>	<ul style="list-style-type: none"> <li>• Any development proposal shall be subject to clause 5.32 of the Scheme.</li> <li>• Notwithstanding the above, where a development straddles or encroaches the dividing boundary of the lots, the lots shall be amalgamated.</li> <li>• Any development application for the site must include a combination of Permitted Uses to the</li> </ul>

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
				<p>satisfaction of the local government. In determining an appropriate combination of the Permitted Uses, the local government will have regard to the inclusion of both an accommodation component and a food premises component.</p> <ul style="list-style-type: none"> <li>• Design guidelines for any development must be prepared to the satisfaction of the local government.</li> </ul>
29	Indian Ocean Drive, Arrowsmith.  AMD 18 GG 9/10/18	Portion of Lot 55	<p>Tourist Site, comprising:</p> <ul style="list-style-type: none"> <li>- Caravan Park</li> <li>- Chalet Park</li> <li>- Camping Area</li> <li>- Single House</li> <li>- Workforce Accommodation</li> <li>- Convenience Store</li> <li>- Restaurant</li> </ul> <p>Incidental uses to the permitted uses</p>	<ol style="list-style-type: none"> <li>1. Development of the site shall be subject to an approved Local Development Plan, in accordance with Part 6, Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations</i> deemed provisions 2015.</li> <li>2. The Tourist Site development is required to accord with an approved Landscape Character Assessment (including weed management) which is to take into account the Main Roads WA future road widening, in accordance with the requirements of the <i>Indian Ocean Drive Planning Guidelines</i>.</li> <li>3. A Transport Impact Assessment is required to be prepared at Local Development Plan stage, to the satisfaction of Main Roads WA.</li> <li>4. A Bushfire Management Plan is required to be finalised and approved at the Local Development Plan stage that adequately demonstrates that compliance with the <i>Guidelines for Planning in Bushfire Prone Areas</i> can be achieved. This must include, but is not limited to: <ol style="list-style-type: none"> <li>i) adequate hazard separation/defendable space provided to ensure siting and design of development minimises the level of bushfire impact; and</li> <li>ii) additional access to the development</li> </ol> </li> </ol>

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
				<p>site.</p> <p>5. A Foreshore Management Plan is required to be prepared at Local Development Plan stage to address the increased usage of the North Knobby Head foreshore area.</p> <p>6. Building design, layout and development is to reflect and blend with the surrounding natural environment, and to be situated in a way that does not obstruct views from Indian Ocean Drive.</p> <p>7. Visible rooftops are to be made of non-reflective materials, not of a steep pitch, orientated to minimise glare for road users and roof colour should blend with the landscape.</p> <p>8. Signage is to be in accordance with a signage strategy endorsed by the local government and is to include restrictions on the visibility of signage from Indian Ocean Drive.</p> <p>9. Any new utility services required for the Tourist development should not be located within the Indian Ocean Drive view shed corridor when feasible to locate elsewhere.</p> <p>10. The provision of water supply for the Tourist Site is required to be provided through an on-site groundwater bore and rainwater tanks. The necessary licensing of the on-site water bore is required to be obtained, prior to lodgement of the Local Development Plan.</p> <p>11. On-site wastewater disposal through the use of Aerobic Treatment Units (ATUs) is required, to be determined at Local Development Plan stage and to the satisfaction of the Health Department.</p> <p>12. Electricity supply to the site is to be</p>

No.	LOCATION	LAND PARTICULARS	PERMITTED USES	SPECIFIC CONDITIONS
				<p>determined at Local Development Plan stage and should include the use of renewable resources, where possible.</p> <p>13. Only one (1) dwelling may be permitted on the Special Use site. This dwelling is for the exclusive occupation of the manager of the tourist accommodation, their partner and dependents.</p> <p>14. The 'Workforce Accommodation' land use may only provide for accommodation associated with the tourist development.</p> <p>15. In relation to the 'Caravan Park', only 'short stay' sites are permitted as defined under the <i>Caravan Parks and Camping Grounds Regulations 1997 (WA)</i> as amended.</p> <p>16. One (1) fuel bowser limited to diesel and ULP may be provided incidental to the Convenience Store and in support of the tourist facility.</p> <p>Development of the caravan site on the land is to comply with the <i>Caravan Parks and Camping Grounds Act 1995</i> and the <i>Caravan Parks and Camping Grounds Regulations 1997</i>, and any updates and/or creation of new legislation that supersede those mentioned.</p>

**SCHEDULE 5 – EXEMPTED ADVERTISEMENTS**

<b>LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT</b>	<b>EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters or poster signs and applies to non-illuminated signs otherwise stated)</b>	<b>MAXIMUM AREA OF EXEMPTED SIGN</b>
Dwellings	One professional name-plate as appropriate	0.2m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
Places of Worship, Meeting Halls and places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non – illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m <sup>2</sup>
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting Local Laws.	Not Applicable
Industrial and Warehouse Premises	<p>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.</p> <p>A maximum of two free- standing advertisements signs not exceeding 5 metres in height above ground level.</p>	<p>Total area of such advertisement shall not exceed 15m<sup>2</sup></p> <p>Maximum permissible total area shall not exceed 10m<sup>2</sup> and individual advertisement signs shall not exceed 6m<sup>2</sup>.</p>
Showrooms, Racecourses, major racing tracks, sports stadia, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public and streets.	Not Applicable

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters or poster signs and applies to non-illuminated signs otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Public Places and Reserves	<p>a) Advertisement signs (illuminated or non- illuminated) relating to the functions of Government, a public authority or a local government excluding those of a promotional nature constructed or exhibited by, on behalf of any such body, and</p> <p>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 a local government, and</p> <p>c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	<p>Not Applicable</p> <p>Not Applicable</p> <p>Not Applicable</p>
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons or at upon railway station.	No sign shall exceed 2m <sup>2</sup> in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	Not Applicable
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>

TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
<p>Building Construction Sites (advertisement signs displayed only for the duration of construction) as follows -</p> <p>a) Dwellings</p> <p>b) Multiple dwellings, shops, commercial and industrial properties</p> <p>c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding three (3) storeys in height</p>	<p>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</p> <p>One sign as for a) above.</p> <p>One sign as for a) above One additional sign showing the name of the project builder</p>	<p>2m<sup>2</sup></p> <p>5m<sup>2</sup></p> <p>10m<sup>2</sup> 5m<sup>2</sup></p>
Sale of goods or livestock	One sign per lot displayed for a period not exceeding three (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>Property transactions</p> <p>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>One sign per street frontage for each property relating the Sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for a) above.</p>	<p>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>

<b>TEMPORARY SIGNS</b>	<b>EXEMPTED SIGN TYPE AND NUMBER</b> (All non-illuminated unless otherwise stated)	<b>MAXIMUM AREA OF EXEMPTED SIGN</b>
c) Large properties comprised of shopping centres, buildings in excess of four (4) storeys and rural properties in excess of five (5) hectares.	One sign as for a) above.	Each sign shall not exceed an area of 10m <sup>2</sup>
Display Homes Advertisement signs displayed for the period over which homes are on display for public inspection.	a) One sign for each dwelling on display. b) In addition to a) 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.	2m <sup>2</sup> 5m <sup>2</sup>

**SCHEDULE 6 – FORM OF APPLICATION FOR PLANNING APPROVAL****SHIRE OF IRWIN****APPLICATION FOR PLANNING APPROVAL**

<b>Owner Details</b>			
<b>Name:</b>			
<b>Address:</b>			
<b>Phone:</b> (Wk): (H): Mob:		<b>Fax:</b>	<b>Postcode:</b>
<b>Contact Person:</b>			
<b>Signature:</b>		<b>Date:</b>	
<b>Signature:</b>		<b>Date:</b>	
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>			

<b>Applicant Details</b>			
<b>Name:</b>			
<b>Address:</b>			
		<b>Postcode:</b>	
<b>Phone:</b> (Wk): (H): Mob:		<b>Fax:</b>	<b>Email:</b>
<b>Contact Person:</b>			
<b>Signature:</b>		<b>Date:</b>	

<b>Property Details</b>		
<b>Lot No:</b>	<b>House/Street No:</b>	<b>Location No:</b>
<b>Diagram or Plan No:</b>	<b>Certificate of Title Vol. No:</b>	<b>Folio</b>
<b>Diagram or Plan No:</b>	<b>Certificate of Title Vol. No:</b>	<b>Folio</b>
<b>Title encumbrances (e.g. easements, restrictive covenants):</b>		
<b>Street Name:</b>	<b>Suburb:</b>	
<b>Nearest Street Intersection:</b>		

**Schedule 6 continued**

<b>Existing Building/Land Use:</b>
<b>Description of proposed development and/or use:</b>
<b>Nature of any existing buildings and/or use:</b>
<b>Approximate cost of proposed development:</b>
<b>Estimated time of completion:</b>

**OFFICE USE ONLY**

**Acceptance Officer's Initials:**

**Date Received:**

**Local government Reference No:**

## SCHEDULE 7 – ADDITIONAL INFORMATION FOR ADVERTISEMENTS

### SHIRE OF IRWIN

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

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

.....  
.....

2. Details of proposed sign:

a) Type of structure on which advertisement is to be erected (ie. freestanding, wall mounted, other):  
.....

b) Height: ..... Width: ..... Depth: .....

c) Colours to be used: .....

d) Height above ground level –

- (to top of advertisement) .....
- (to underside) .....

e) Materials to be used: .....

Illuminated: Yes / No

If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: .....

3. Period of time for which advertisement is required:

.....

4. Details of signs (if any) to be removed if this application is approved:

.....

.....

Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.

Signature of advertiser(s): .....

(If different from land owners) .....

Date: .....

**SCHEDULE 8 – NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

**SHIRE OF IRWIN**

**LOCAL PLANNING SCHEME NO. 5**

**Notice of public advertisement of planning proposal**

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

Lot No.

Street:

Suburb:

Proposal: .....

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

Signed: .....

Dated: .....

For and on behalf of the Shire of Irwin

**SCHEDULE 9 – NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**

**SHIRE OF IRWIN**

**LOCAL PLANNING SCHEME NO. 5**

**Determination on application for planning approval**

Location:

Lot: Plan/Diagram:

Vol. No: Folio No.:

Application Date: Received on:

Description of proposed development: .....

.....

The application for planning approval is:

- Granted subject to the following conditions:
- Refused for the following reason(s):

Conditions/reasons for refusal:

.....

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

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

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under Part 14 of the Planning and Development Act.  
Application for a review must be lodged within 28 days of the determination.

Signed: Dated:

.....

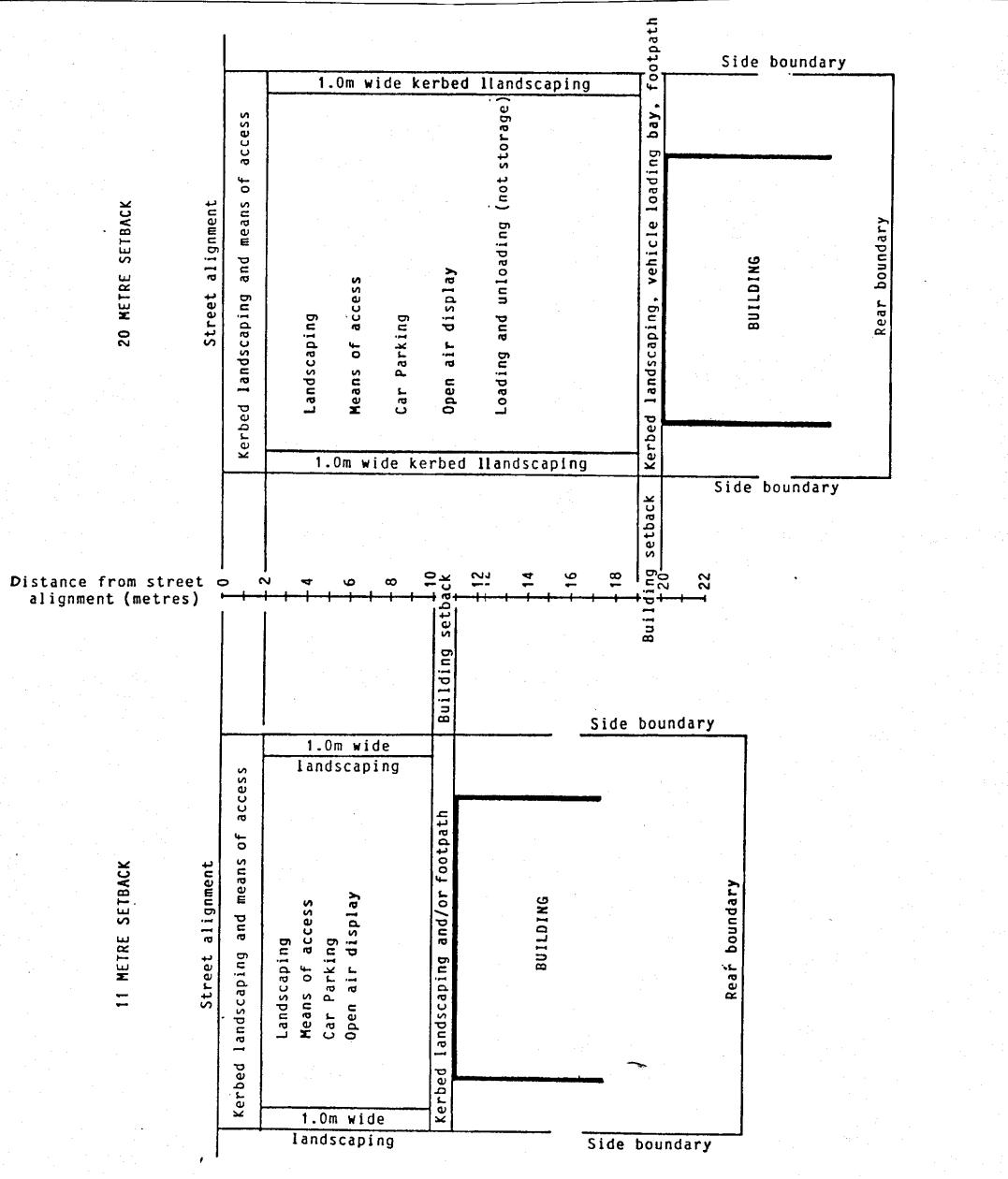
for and on behalf of the Shire of Irwin.

**SCHEDULE 10 – ENVIRONMENTAL CONDITIONS**

<b>Scheme or Amendment No.</b>	<b>Gazettal Date</b>	<b>Environmental Conditions</b>

**SCHEDULE 11 - INDICATIVE USE OF SETBACK AREAS IN NON-RESIDENTIAL ZONES**  
AMD 16 GG 30/10/15

## **Indicative Use of Setback Areas in Non-Residential Zones** (Unless otherwise provided for in the provisions of the Scheme)



### Note:

1. The above diagrams are examples of 11m and 20m front setback usage.
  2. The local government may approve setbacks other than these detailed above where a development proposal is being undertaken in sympathy with Town Centre and or Neighbourhood Commercial Development.
  3. Where development is on a lot which adjoins any Residential Zone, the local government may impose specific landscape and setback provisions in accordance with the provisions of sub-Clause 4.2.5b) of the Scheme.

**SCHEDULE 12 – RURAL RESIDENTIAL ZONES – SPECIFIED AREAS**

AMD 16 GG 30/10/15

NO	SPECIFIED AREA	SPECIAL PROVISIONS
1	NORTH DONGARA	<p>a) Subdivision</p> <p>To be in general accord with the overall plan of subdivision for the area as required under Clause 5.29.2.2.</p> <p>b) Development Criteria</p> <p>The following requirements apply in addition to those in Clause 5.29.</p> <p>i) The local government will require as a condition of development, the planting and maintenance of a 10 metre wide belt of native or locally acceptable trees and shrubs along the alignment of the Brand Highway, inside the boundary of the lots.</p> <p>ii) The local government will require the owner as a condition of development, to plant and maintain a minimum of 20 native or locally acceptable trees capable of growing to a height of 5 metres, around the buildings erected on site.</p> <p>iii) Should it appear to the local government that, by virtue of its use or stocking, any land is in, or is approaching a condition where wind or water erosion could occur it may, pursuant to the provisions of this Scheme, serve notice upon the owners and/or occupiers of the land specifying the action which must be taken by the reduction of stock and/or at the expense of the owner or occupier to remedy the condition of the land to the local government's satisfaction.</p>
2	SPRINGFIELD	<p>a) <b>Subdivision</b></p> <p>i) To be in general accord with the endorsed overall plan of subdivision for the area, but having regard for the other provisions of this Schedule and:</p> <p>a) recommendations of the Water Corporation, Department of Environment and Conservation and any other relevant authority with respect to the creation of lots potentially affected by the operation of the Waste Water Treatment Plant (WWTP). Any variation to this overall plan of subdivision shall require the endorsement of the local government and the Commission and will be considered having regard to the landscape and environmental values of the area, access, draining, servicing, capability for on-site effluent disposal, and the requirements of the WWTP buffer;</p>

NO	SPECIFIED AREA	SPECIAL PROVISIONS
2	SPRINGFIELD (Cont'd)	<p>b) the Department of Industry and Resources and Department of Environment and Conservation and any other relevant authority regarding the creation of lots potentially affected by the lime sand mine and process plant buffers as shown on the Scheme Map and the Local Planning Strategy.</p> <p>ii) All new lots created within 500m of the boundary of Reserve 22459 (as shown in the Local Planning Strategy) to be created with Memorials on Title informing prospective purchasers of presence of the mobile dune which is a natural feature and of the mining operations. This is an interim measure until such time as the mobile sand is mined and the area revegetated. The Memorials to state as follows:</p> <p><i>"This lot is adjacent to a naturally occurring mobile sand dune that is subject to quarrying operations and the use and enjoyment of the land may be affected by natural dune movement as well as by the quarrying or factors related to the quarrying."</i></p> <p>iii) All new lots created within 2km of Cockburn Cements Lime Sand process plan (as shown in the Local Planning Strategy) are to be created with Memorial's on Title informing prospective purchasers of those operations. The memorials to state as follows:</p> <p><i>"This lot is near an operating lime sand processing plant and the use and enjoyment of this land may be affected by those operations or other factors relating to those operations."</i></p> <p>iv) Subdivision of properties that include land within 1.5km of Cockburn Cement's plant is to minimise (without reducing) the potential for development within the area;</p> <p><b>b) Development Criteria</b></p> <p>The following requirements apply in addition to those in Clause 5.29.</p> <p>i) No development being supported within a 500m radius of the mobile dune toe over Reserve 22459 as shown on the Scheme Map, but allowing for any natural movement from that time, until the mobile dune is stabilized to the satisfaction of DoIR and there are no potential impacts from mining.</p>

NO	SPECIFIED AREA	SPECIAL PROVISIONS
2	SPRINGFIELD (Cont'd)	<ul style="list-style-type: none"> <li data-bbox="763 265 1440 354">ii) No development being supported within 1.25km of Cockburn Cement's Lime Sand processing Plant on Kailis Drive, as shown on the Scheme Map.</li> <li data-bbox="763 384 1440 541">iii) No building envelope shall be located within the WWTP buffer indicated on Scheme Maps 3 and 4 unless agreed to by the local government, the Water Corporation, Department of Environment and any other relevant authority.</li> <li data-bbox="763 570 1440 788">iv) A prerequisite to the creation of, or development of a dwelling on, any lot in the Springfield Rural Residential Zone not connected to reticulated water shall be the provision of an adequate sustainable potable water supply for domestic use, and provision of a separate water supply for land management and firefighting purposes.</li> <li data-bbox="763 817 1440 1069">v) The developer of any lot is to address to the satisfaction of the local government, the aspect of best management practice with regard to effluent disposal, in order that ground water quality is protected. In certain cases the local government could require a development to be connected to an alternative on-site effluent disposal system as approved by the Department of Health.</li> <li data-bbox="763 1098 1440 1188">vi) No building, other than fencing, shall be constructed without a building licence being issued by the local government.</li> <li data-bbox="763 1217 1440 1435">vii) The floor level of all buildings shall not be less than two metres above the highest known ground water level, as determined at the time of application of a building licence, and where necessary shall also pay regard to the Floodplain development strategy for the Irwin River as defined by the Department of Environment.</li> <li data-bbox="763 1464 1440 1682">viii) At the time of the building application for each lot, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the local government, which shall show site contours, existing trees and vegetation to be removed and retained, and proposals for tree planting, maintenance, and lot rehabilitation.</li> </ul> <p data-bbox="822 1711 1440 1859">Where considered necessary, the local government will as a condition of development, require an applicant to plant and maintain a specified number of native or locally acceptable drought resistant trees.</p>

NO	SPECIFIED AREA	SPECIAL PROVISIONS
2	SPRINGFIELD (Cont'd)	<p>ix) The keeping of horses, sheep, goats and other grazing animals, shall be subject to the prior approval of the local government, and these animals shall be restricted to any lot area defined by the local government. Approval to keep animals shall not exceed the stocking rates recommended by the Department of Agriculture for the lot concerned.</p> <p>In approving the grazing of animals on any lot, the local government must be satisfied that such approval will not result in the removal or damage of vegetation and trees, or result in soil erosion and dust pollution. As a condition of approval the local government may require the animals to be stabled, or corralled, and areas of vegetation to be fenced with stock proof fencing in a manner satisfactory to the local government.</p> <p>Where in the opinion of the local government the continued presence of animals on any portion of land in the area is likely to contribute, or is contributing to the dust pollution or soil erosion, notice may be served on the owner of the said land, requiring the immediate removal of these animals specified in the notice for a period specified in the notice.</p> <p>When notice has been served on a landowner in accordance with this Clause, the local government may also require the land to be fully rehabilitated within three (3) months of the serving of the notice.</p> <p>x) It is expected that each subdivider will make a cash-in-lieu contribution for Public Open Space at the time of subdivision. Such contribution being based on 5% of the gross value of their land area. All monies received by the Local Authority as cash-in-lieu contributions will be held in Trust and used for the purchase of land for recreational purposes and/or development of recreational/leisure facilities on suitably located reserved land within the sphere of influence of the Special Rural Zone.</p>

## **ADOPTION**

Adopted by Resolution of the Shire of Irwin at the meeting of the Council held on the 12th day of November 2002.

.....  
President

.....  
Date 3/1/08

.....  
Chief Executive Officer

.....  
Date 3/1/08

## **FINAL APPROVAL**

1. Adopted by Resolution of the Shire of Irwin at the meeting of the Council held on the 26th day of June, 2007 and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of:

.....  
President

.....  
Date 3/1/08

.....  
Chief Executive Officer

.....  
Date 3/1/08

This Scheme Text is to be read in conjunction with the approved maps of the Scheme described in Clause 1.4 of this Scheme and to which formal approval was given by the Minister for Planning and Infrastructure on the date shown below.

2. Recommended/submitted for final approval.

.....  
Delegated under s.16 of  
the PD Act 2005.

.....  
Date 17/3/08

3. Final approval granted.

.....  
Minister For Planning and  
Infrastructure

.....  
Date 17/3/08