

SHIRE OF PINGELLY

LOCAL PLANNING SCHEME NO. 3



PREPARED BY
LANDVISION



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SHIRE OF PINGELLY

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Preamble

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

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

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

Scheme Details

The Shire of Pingelly

Local Planning Scheme No. 3.

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

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Part 1 - Preliminary

1.1 Citation

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

1.1.2 The following Scheme is revoked –

Name	Gazettal Date
Shire of Pingelly Town Planning Scheme No. 2	27 July 1993

1.2 Responsible authority

The Shire of Pingelly 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 - 3)

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

Note: The Scheme Maps comprise sheets 1 to 3 depicting the reservation of land for public purposes and the zoning and density coding of remaining land within the Scheme Area.

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;

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

1.6

The aims of the Scheme

The aims of the Scheme are through the zoning and reserving of land in appropriate locations:

- To maintain and protect valuable areas of agricultural production.
- To provide opportunities for planned, contained and sustainable settlements in accordance with the regional settlement hierarchy.
- To provide the opportunities to improve the economic base for the Scheme Area through the mixing of compatible uses as recognised in the zoning and development tables.
- To encourage a better utilisation of existing infrastructure including the increased usage of sustainable energy sources.
- To protect existing local heritage.
- To maintain the positive aspects of a country lifestyle enjoyed by the inhabitants of the Scheme Area through appropriate control over the layout and design of developed areas.
- To improve the management of the natural resources of the Scheme Area.

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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 expressions 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.

1.9 Relationship with other Schemes

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

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.

(A Local Planning Strategy has been prepared and endorsed under the Town Planning Regulations 1967.)

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.

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- 2.4 Procedure for making or amending a Local Planning Policy**
- 2.4.1 If a local government resolves to prepare a Local Planning Policy, the local government –
- (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of –
 - (i) where the draft Policy may be inspected;
 - (ii) the subject and nature of the draft Policy; and
 - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
 - (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate.
- 2.4.2 After the expiry of the period within which submissions may be made, the local government is to –
- (a) review the proposed Policy in the light of any submissions made; and
 - (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.
- 2.4.3 If the local government resolves to adopt the policy, the local government is to –
- (a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
 - (b) if, in the opinion of the local government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.
- 2.4.4 A policy has effect on publication of a notice under clause 2.4.3 (a).
- 2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.
- 2.4.6 Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

2.5

Revocation of Local Planning Policy

A Local Planning Policy may be revoked by –

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

Part 3 – Reserves

3.1 Reserves

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

3.2 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 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 –

(a) Town Centre Zone

- To provide for a consolidated, accessible, safe and vibrant town centre with a mix of compatible uses.
- To protect, maintain and enhance where possible the visual and heritage elements of the town.
- To maintain the attractive features of a rural town lifestyle.

(b) Mixed Use Zone

- To provide for a range of commercial activities including showrooms and other forms of bulk retailing/display in strategically located areas.
- To ensure an orderly transition from and compatibility with existing residential uses.

(c) Industry Zone

- To encourage the consolidation of industrial development into areas which have been appropriately located for that purpose.
- To improve the amenity and visual appearance of industrial areas through appropriate landscaping.
- To protect the amenity of zones abutting the Industry Zone.

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(d) Residential Zone

- To provide for a range of housing choice with high level of amenity in residential areas and which reflects a rural lifestyle.

(e) Rural-Residential Zone

- To provide opportunities for planned, contained and sustainable low-density living environments in locations which do not adversely impact upon general agriculture production and/or town development and in accordance with the regional settlement hierarchy.
- To provide for a range of rural lifestyle opportunities such as hobby farms, horse breeding, rural retreats.
- To ensure rural-residential development is managed to minimise impacts on the natural environment and to enhance natural resource management.
- To ensure that all lots are adequately serviced with the necessary infrastructure;

(f) General Agriculture Zone

- To protect areas of broadacre agricultural significance for sustainable production.
- To encourage processing and value adding industries to be located within the Zone.
- To encourage intensive agriculture where it can be demonstrated that off-site impacts (if any) will not adversely affect existing agricultural activities.
- To protect and enhance rural landscapes.
- To protect the natural environment and biodiversity while ensuring appropriate development opportunities within the Zone are realised.
- To promote the sustainable management of natural resources including energy, water, land, minerals and basic raw materials by preventing land degradation and

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integrating land and catchment management with land use planning.

(g) Development Zone

- To make provision for future residential and industrial development.
- To ensure that development zoned areas are developed in an orderly manner in accordance with an approved Outline Development Plan.

4.3 Zoning Table

4.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, 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.

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TABLE 1: ZONING TABLE

LANDUSE	Town Centre	Mixed Use	Residential	Rural Residential	General Agriculture	Industry	Development	Special Use
abattoir	X	X	X	X	A	A	See Clause 5.22.2	See Schedule 4
agriculture – extensive	X	X	X	X	P	X		
agriculture – intensive	X	X	X	X	A	X		
agroforestry	X	X	X	X	A	X		
amusement parlour	D	A	X	X	X	X		
animal establishment	X	X	X	A	D	A		
animal husbandry – intensive	X	X	X	X	A	X		
aquaculture	X	X	X	A	D	A		
bed & breakfast	P	D	A	D	P	X		
betting agency	D	D	X	X	X	X		
caravan park	A	A	X	X	A	X		
caretaker’s dwelling	D	D	X	A	D	D		
car park	D	D	X	X	X	D		
childcare premises	D	D	D	D	D	X		
cinema/theatre	D	A	X	X	X	X		
civic use	D	A	A	A	A	X		
club premises	D	A	X	X	D	X		
community purpose	D	D	A	D	D	X		
consulting rooms	D	D	A	X	X	X		
convenience store	D	A	A	X	X	X		
corrective institution	X	X	X	X	A	X		
dog kennels	X	X	X	X	X	X		
educational establishment	D	A	A	X	A	A		
exhibition centre	D	A	X	D	D	X		
family day care	D	A	D	D	X	X		
fast food outlet	A	X	X	X	X	X		
fuel depot	A	A	X	X	D	D		
funeral parlour	D	D	X	X	X	X		
grouped dwelling	D	P	P	A	X	X		
home business	D	D	A	A	A	X		
home occupation	D	D	A	A	P	X		
home office	P	P	P	P	P	X		
home store	D	D	A	X	X	X		
hospital	D	D	X	X	X	X		
hotel	A	X	X	X	X	X		
industry – cottage	P	D	A	D	D	X		
industry – extractive	X	X	X	X	D	A		
industry – general	X	X	X	X	X	P		
industry – light	D	D	X	X	X	P		
industry – mining	X	X	X	X	P	X		

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LANDUSE	Town Centre	Mixed Use	Residential	Rural Residential	General Agriculture	Industry	Development	Special Use
industry – rural	X	X	X	X	D	P	See Clause 5.2.2.2	See Schedule 4
industry – service	P	D	X	X	X	D		
lunch bar	P	D	X	X	X	D		
market	D	D	X	X	D	X		
medical centre	P	D	A	X	X	X		
motel	D	A	X	X	X	X		
motor vehicle, boat or caravan sales	D	D	X	X	X	A		
motor vehicle repair	A	A	X	X	X	P		
motor vehicle wash	D	A	X	X	X	P		
nightclub	D	X	X	X	X	X		
office	P	D	X	X	X	X		
park home park	X	A	A	A	A	X		
place of worship	P	A	A	A	X	X		
plantation	X	X	X	X	A	X		
reception centre	A	A	X	A	A	X		
recreation – private	D	A	A	D	D	A		
residential building	D	D	P	P	P	X		
restaurant	D	A	A	X	A	X		
restricted premises	D	X	X	X	X	X		
rural home business	X	X	X	A	D	X		
rural pursuit	X	X	X	A	P	X		
service station	D	A	X	X	X	A		
shop	D	A	X	X	X	X		
showroom	D	D	X	X	X	A		
single dwelling	D	P	P	P	P	X		
storage	A	D	X	X	D	P		
tavern	D	X	X	X	X	X		
telecommunications infrastructure	A	A	X	D	D	D		
trade display	D	A	X	X	X	A		
veterinary centre	D	A	X	A	A	A		
warehouse	A	D	X	X	X	P		
winery	X	X	X	A	A	X		

4.3.3

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

- (a) the local government has exercised its discretion by granting planning approval;
- (b) the change is to a use which is designated with the symbol ‘P’ in the cross reference to that zone in the Zoning Table

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and the proposed use complies with all the relevant development standards and any requirements of the Scheme;

- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.

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

4.4 Interpretation of the Zoning Table

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

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

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or

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- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 Additional uses

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

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

4.6 Restricted uses

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

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

4.7 Special use zones

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

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

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

4.8 Non-conforming uses

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

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;

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

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

4.9 Extensions and changes to a non-conforming use

4.9.1 A person must not –

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

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

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

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

4.10 Discontinuance of non-conforming use

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

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4.11 Termination of a non-conforming use

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

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

4.12 Destruction of non-conforming use buildings

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

Part 5 – General development requirements

- 5.1 Compliance with development standards and requirements**
- 5.1.1 Any development of land is to comply with the provisions of the Scheme.
- 5.1.2 For the purposes of this Scheme, “development” has the meaning as defined in the Planning and Development Act .
- 5.2 Residential Design Codes**
- 5.2.1 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.
- 5.2.2 For the purposes of this Scheme, the Residential Design Codes are those adopted as a State planning policy under Section 25 of the Planning and Development Act and which replace the 1991 Residential Planning Codes.
- 5.2.3 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the local government.
- 5.2.4 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**
- 5.3.1 Where a dual code is indicated on the Scheme Map, the higher density code will only be considered where the development can be connected to reticulated sewerage.
- 5.3.2 Council may refuse planning approval for any residential development where in its opinion, provision cannot be made for the adequate disposal of liquid waste from that development.

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5.4 Restrictive covenants

5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or 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 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 Notwithstanding the standards contained in the Development Table - General and the variations to plot ratio available in the Town Centre Zone (Clause 5.17.2) the Council shall consider the following when contemplating varying maximum plot ratios:

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- (a) the proportion of the site area to be covered by building;
- (b) any area of public space in relation to the site area;
- (c) the amalgamation of the site area with adjacent allotments;
- (d) conformity with the Scheme objectives for the particular zone.

5.5.4 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.

5.5.5 Except where otherwise provided in the Scheme, development standards and requirements shall be in accordance with the Development Table - General. (Table 2)

5.5.6 Notwithstanding any other provisions of this Scheme, development in the Residential Zone or the Town Centre Zone shall be connected to a comprehensive sewerage system. Where such a connection is not available, and cannot reasonably be made available, the development will be assessed in accordance with the provisions of the Government Sewerage Policy.

5.5.7 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, other than for:

- (a) gardens and other landscaping;
- (b) access driveways; and
- (c) the parking of any motor vehicle or caravan for periods of not more than eight (8) hours consecutively.

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TABLE 2: DEVELOPMENT TABLE - GENERAL⁽¹⁾

Land Use Zones	Min Lot Area (m ²)	Min Effect Frontage (m)	Min Boundary Setbacks (m)			Maximum Plot Ratio ⁽⁴⁾	Min Car Parking Spaces ⁽⁵⁾	Min Landscaping (% of Site)
			Front ⁽²⁾	Rear	Side ⁽³⁾			
Town Centre⁽⁶⁾	-	-	As determined by Council			0.8	1/15m ² of GLA for retail/commercial; 1/25m ² of GLA for office; 2/practitioner for consulting rooms; 1/5m ² of public areas; 1/bedroom for accommodation; or combination of above as determined by Council.	As determined by Council.
Mixed Use	1000	20	11	7.5	5	0.75		15 ⁽⁷⁾
Industry Warehouses	1000	25	15	7.5	5	0.60	1 per 50m ² of GLA or as determined by Council.	15
Light Factory Units	1000	25	11	7.5	5	0.60		15
General	2000	30	11	5.0	5	0.60		15
General	2000	30	15	7.5	5	0.50		20
Residential	In accordance with the Residential Design Codes as varied by Scheme provisions							
Rural Residential		25	15	10	10	Residences, outbuildings within defined building envelopes or as determined by Council	n/a	As determined by Council or Scheme provisions and Council's Natural Resource Management Policy.
General Agriculture		n/a	20 (50 to major road)	20	20	n/a	n/a	In accordance with Scheme provisions and Council's Natural Resource Management Policy.
Development	See Clause 5.22.2							
Special Use	As determined by Council							

Footnotes

- (1) Development standards may be varied by Council at its discretion under Clause 5.5 and in accordance with Scheme provisions.
- (2) Where a lot has more than one street frontage, Council may reduce the minimum setback to the secondary street (as determined by Council) by not more than 50% subject to Clause 5.19.5 in the Rural Residential Zone.
- (3) Side setbacks in the Industry Zone and the Mixed Use Zone may be reduced to zero subject to the agreement of the adjoining owner and the construction of a parapet wall to Council's satisfaction.
- (4) Maximum plot ratio may be varied in accordance with the provisions of Clause 5.5.3.
- (5) The car parking requirement may be varied in accordance with the provisions of Clause 5.12.3 and/or 5.12.5.
- (6) Development standards for the Town Centre Zone may be varied in accordance with the provisions of Clause 5.17.2.
- (7) Council may vary landscaping requirements for development in the Mixed Use Zone where it abuts a highway or major road.

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5.6 Environmental conditions

5.6.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 10 of the Scheme.

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

5.6.3 The local government is to –

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

Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the *Environmental Protection Act 1986*.

5.7 Development of Land without Constructed/Dedicated Road Frontage or Access

Notwithstanding any other provision of the Scheme, the Councils planning approval is required for any development on land abutting an un-constructed road or a lot or location which does not have frontage to a dedicated road. In considering such an application, the Council may: -

- (a) refuse the application until the road has been constructed and access by means of a dedicated road is provided; or
- (b) require other legal arrangements to be made for permanent legal access, to the satisfaction of the Council; or
- (c) where dedicated road access is available 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.

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5.8 Categories of Development or Development in areas affected by Local Planning Policies

5.8.1 Where Council adopts a Local Planning Policy under the provisions of Part 2 of the Scheme, Council shall have due regard to the provisions of such a policy affecting a specific area or development type in determining applications for planning approval in addition to the relevant provisions of the Scheme.

5.9 Outline Development Plans

Council will require an Outline Development Plan to be prepared, prior to its consideration of an application to subdivide in the Development Zone and in the Rural Residential, Industry and Residential Zones, when the proposed development proposes to create more than five (5) lots or an area greater than 10 ha is to be subdivided.

5.10 Amenity Provisions

5.10.1 Relocated Second-hand buildings

Council may permit the erection of a transported building on a lot where:

- (a) in its opinion such building is in a satisfactory condition and the design and location of the building is to the satisfaction of Council, and will not adversely affect the amenity of the locality;
- (b) the proposal complies with the provisions of Council's Local Planning Policy - Relocated Buildings.

5.10.2 Derelict Vehicles, Machinery and Objects

Council shall not permit the storage and/or wrecking of derelict vehicles, sea containers or machinery or the storage of any materials within any zone if it is visible from any road or where, in the opinion of Council, it detracts from the amenity of the landscape.

5.10.3 Use of Setback Areas

In the Town Centre Zone and the Industry Zone, no person shall use the setback area between the building line and the street alignment for any purpose other than one or more of the following:

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- (a) a means of access;
- (b) the daily parking of vehicles;
- (c) loading and unloading of vehicles;
- (d) trade display only with the consent of the Local government; and
- (e) landscaping.

5.10.4 Outdoor displays, industrial hire services, storage facilities, depots, laydown areas and any other open area shall be sealed, paved or landscaped to the satisfaction of Local government and maintained in good condition.

5.10.5 Parking and Repair of Commercial Vehicles in Residential Areas

The parking of a commercial vehicle in excess of 3 tonnes tare weight shall not be permitted on any Residential zoned lot without the approval of Council except for the purpose of delivering or loading normally associated with domestic residential uses. Any such approval shall be valid for a period of 12 months only and will be subject to renewal by Council at 12 monthly intervals thereafter.

5.11 Landscaping

5.11.1 The landscaping requirement for particular developments and land uses are listed in the Development Table - General (Table 2) or as varied by the provisions of this Scheme.

5.11.2 The landscaping requirement shown in the Development Table - General (Table 2) or referred to in the Scheme means an open area designed, developed and maintained as garden planting and areas for pedestrian use. At the discretion of Council natural bushland, swimming pools and areas under covered ways may be included within the landscaping requirement, however garbage collection and handling spaces, and other open storage areas shall not be included.

5.11.3 In considering the landscaping requirement of any application for planning approval, Council will have due regard to Council's Local Planning Policy - Landscaping.

5.11.4 Access driveways between a street alignment and any buildings may be included in the landscaping requirement but other car parking areas and driveways shall not be included.

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- 5.11.5 Landscaping required pursuant to this Scheme or pursuant to a conditional planning approval shall be carried out at the time of the development or at such other time as may be agreed in writing between the developer and the Council and shall thereafter be permanently maintained to the satisfaction of the Council.
- 5.11.6 No person shall, unless the Council otherwise approves, occupy any buildings forming part of an approved development until the required landscaping has been constructed and planted.
- 5.11.7 Retaining Walls/Screen Walls
- No retaining wall shall be constructed which alters the contours of the natural surface by more than 0.6 metres without the approval of Council.
- 5.12 Car parking**
- 5.12.1 The off street car parking requirements for particular developments and land uses are listed in the Development Table - General. (Table 2) or as varied by the provisions of this Scheme.
- 5.12.2 Subject to the provisions of this Clause, the car parking requirements shall be provided on the site which is the subject of the proposed development, or with the approval of Council in the immediate vicinity thereof.
- 5.12.3 Where an applicant for planning approval can demonstrate to the satisfaction of the Council that there is not the demand for the number of parking spaces specified in Table No. 2, landscaping may be provided in lieu of car parking spaces not constructed and the landscaping shall be included in calculations as car parking not as landscaping.
- 5.12.4 Where the maximum dimension of an open car parking area exceeds 20 m in length or width, one parking space in every 20 shall be used for garden and planting of native plants and trees to provide visual relief and so long as the garden and planting areas are maintained in good order, those parking spaces shall be included in calculations as landscaping and not as car parking.
- 5.12.5 Where an applicant for planning approval can demonstrate that other off-street parking facilities are available to be shared with other land uses operating at different times, Council may approve a development with less than the required number of on-site car bays provided:

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- (a) the Council is satisfied that no conflict will occur in the operation of land uses for which the joint use of parking facilities is proposed; and
- (b) landowners who request sharing of parking facilities enter into a legal agreement to Council's satisfaction for reciprocal rights to parking facilities.

5.13

Traffic Management

5.13.1

Parking, loading and unloading and access, complete with necessary drainage, signs and marking as required by Council shall be provided prior to any occupation of the development or at such time as may be agreed in writing between Council and the developer. Such areas shall be maintained to the satisfaction of Council.

5.13.2

Traffic Entrances

- (a) Council may limit access to a lot to a single entry/exit point or 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.
- (b) Access to a lot for vehicles shall not be permitted directly to or from major roads where access is available from side or rear streets.
- (c) Where access to a lot abutting a major road outside of the Town Centre Zone 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.
- (d) In the case of access to any road which is the responsibility of Main Roads Western Australia, that department is to be consulted prior to the construction/modification or closure of any vehicular access to such road.

5.13.3

Visual Truncations

Except with the approval of Council, no building, or fence or other form of visual obstruction greater than 0.75m in height, measured from the natural ground level at the boundary, shall be constructed or placed on a lot within a 15m truncation of a street corner or within a 3m by 1.5m truncation of a vehicular access way.

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5.13.4 Access for Loading and Unloading Vehicles

In non-residential zones

- (a) No land or buildings shall be developed unless provision is made for an area clear of the street for the purpose of loading or unloading goods or materials.
- (b) The Council will seek to ensure that the majority of servicing vehicles will be able to leave and enter the street in a forward direction.
- (c) It is expected that any access way shall be not less than 4.5 metres wide but in exceptional circumstances the Council may permit an access way of lesser width but not less than 3.0 metres and then only when a one-way system can be established.

5.14 Advertisements

For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land and buildings for that purpose is development within the definition of the Town Planning and Development Act and requires the planning approval of Council in accordance with the provisions of Part 9 of the Scheme, unless an exempted advertisement as listed in Schedule 5.

5.15 Home Occupation/Home Business/Home Office

5.15.1 A planning approval is not required to conduct a home office as defined in the Scheme.

5.15.2 Where Council issues an approval to conduct a home occupation or a home business, the approval relates 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 in the occupier of the land in respect of which a home occupation or home business approval is issued, the approval is cancelled.

5.15.3 If in the opinion of the Council, a home occupation or home business is causing a nuisance or annoyance to owners or occupiers of land in the locality, the Council may rescind the approval.

5.15.4 An approval to conduct a home occupation or home business is issued subject to an annual permit which may be renewed by application to the Council for planning approval.

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5.15.5 In considering an application for home occupation or home business Council will have regard for the provisions of Council's Local Planning Policy - Home Occupation/Home Business.

5.16 Natural Resource Management

5.16.1 Notwithstanding the specific provisions of the Scheme or any Local Planning Policies detailed within the Scheme, Council shall in considering any development proposal have regard to any systems areas designated by the Environmental Protection Authority and/or any Drainage Plan and/or Soil Conservation Plan which relates to land within the Scheme area.

5.16.2 Tree Planting/Vegetation Corridors/Greenbelt

In order to improve the environmental amenity of areas that Council considers deficient in tree cover, Council may require as a condition of any planning approval, the planting of such trees and/or groups of trees and species as specified by the Council.

5.16.3 Council may also require on the advice of Landcare Groups, Agriculture WA or the Water and Rivers Commission, tree planting and/or drainage measures in designated areas through its Local Planning Policy - Natural Resource Management.

5.17 Development in the Town Centre Zone

5.17.1 In considering an application for planning approval for a proposed development (including additions and alterations to existing development) in the Town Centre Zone, Council shall have regard to the criteria and design guidelines contained in Council's Local Planning Policy - Town Centre Design and Townscape Guidelines.

5.17.2 Notwithstanding the development standards set out in Table 2 Council may approve the following variations within the Town Centre Zone for non-residential development.

- (a) An increase in plot ratio of 20% may be granted where Council is satisfied that public open areas, courtyards or colonnades or other setbacks or preservation of heritage buildings warrants an increase to the permissible plot ratio;
- (b) Site coverage of up to 100% where Council is satisfied that adequate arrangements have been made in regard to access, car parking, circulation of traffic, safety, servicing, loading and unloading, stormwater drainage, effluent disposal and any other matter which Council deems necessary; and

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- (c) A zero building setback from the front boundary where landscape and paved pedestrian areas are to be provided adjacent to the front boundary and Council is satisfied that adequate arrangements have been made in regard to access, car parking, circulation of traffic, safety, servicing and loading and unloading.
- (d) Development shall not exceed 2 storeys in height except where Council considers that particular circumstances may warrant an exception and provided Council is satisfied that the proposal is compatible with the objectives for the zone; and
 - i) will not restrict light, sunshine and natural ventilation enjoyed by surrounding properties;
 - ii) will not intrude upon the privacy enjoyed by surrounding properties with overview;
 - iii) will not diminish views or outlook available from surrounding properties;
 - iv) is sympathetic with the townscape and character of the surrounding built environment.

- 5.17.3 Where residential development is proposed in the Town Centre Zone, and an R Code is not indicated on the Scheme Map and where other provisions of the Scheme do not prevail, the R20 Code will apply for a single residential dwelling and the R30 Code will apply for duplexes or other attached houses which Council may approve subject to conditions and at its discretion.
- 5.17.4 For mixed use development comprising a combination of residential and non-residential uses, the provisions of Part 4.2 of the Residential Design Codes will apply to the residential component of the development (at R25 code), and the provisions of this Scheme to the non-residential component of the development.
- 5.17.5 Development proposals shall recognise the preservation of areas or buildings of architectural or historic interest and the development of land abutting the same.
- 5.17.6 Council will not support commercial or industrial uses in the Town Centre Zone where the predominant established use is for residential purposes unless their impacts can be adequately buffered.

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- 5.18 Development in the Mixed Use Zone**
- 5.18.1 Development in the Mixed Use Zone shall be in accordance with the standards indicated in the Development Table - General unless varied by the provisions of the Scheme.
- 5.18.2 Where residential development is proposed in the Mixed Use Zone, and an R Code is not indicated on the Scheme Map and where other provisions of the Scheme do not prevail, the R20 Code will apply for a single residential dwelling and the R30 Code will apply for duplexes or other attached houses which Council may approve subject to conditions and at its discretion.
- 5.18.3 For mixed use development comprising a combination of residential and non-residential uses, the provisions of Part 4.2 of the Residential Design Codes will apply to the residential component of the development (at R25 code), and the provisions of this Scheme to the non-residential component of the development.
- 5.18.4 Council will not support commercial or industrial uses in the Mixed Use Zone where the predominant established use is for residential purposes unless their impacts can be adequately buffered.
- 5.18.5 Change of Use to Existing Premises
- Within the Mixed Use Zone, the Council at its discretion may vary the application of the relevant development standards in respect of any development involving a change of land use of an existing building.
- 5.19 Development in the Rural Residential Zone**
- 5.19.1 Only one dwelling will be permitted on any lot in the Rural Residential Zone.
- 5.19.2 Council may permit ancillary accommodation providing it is located within the same building envelope or building clearance area as the first or primary dwelling, or otherwise complies with the Residential Design Codes.
- 5.19.3 Outbuildings will not be granted planning approval on any lot within the Rural Residential zone, unless a single dwelling exists on the lot, or is to be constructed as the first stage of the development proposal.

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- 5.19.4 The minimum setbacks for dwellings, outbuildings, or any other structure shall be in accordance with the Development Table - General (Table 2) or as varied by the provisions of this Scheme.
- 5.19.5 In the case where a lot has more than one street frontage, Council may at its discretion permit the construction of buildings nearer to the secondary street frontage nominated by Council, but not nearer than 10m to that street or streets.
- 5.19.6 For the purposes of guiding subdivision and development in specific rural residential zones, the provisions set out in Schedule 11 (where different to Scheme Provisions) shall apply to the specified zones. Future subdivision will be required to generally accord with an Outline Development Plan prepared for the specified area referred to in Schedule 11 and such a plan of subdivision shall form part of the Scheme.
- 5.19.7 Proposals for Rural Residential Zones shall have due regard to Council's Local Planning Policy - Rural Residential Development.

5.20 Development in the General Agriculture Zone

- 5.20.1 In assessing applications for development and/or subdivision within the General Agriculture Zone, Council will consider the following:
- (a) the availability of services required to support the proposed development or subdivision and the economic impact of the provision of, extension or upgrading of those services that may be required;
 - (b) the adequacy of the roads, existing or proposed in the area which may be needed to support the amount of road traffic expected to be generated by the development or subdivision; and
 - (c) the need to enforce such conditions as Council deems appropriate in order to minimise any adverse effect the development or subdivision may have on the general environment of the area.
- 5.20.2 Council may grant approval of up to two dwellings on any lot, provided the lot exceeds 40ha in area, where the land is managed for agricultural production, tourism, or education purposes and where the occupants are engaged in those specified predominant land uses or activities.

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- 5.20.3 The minimum setbacks for dwellings, outbuildings, or any other structure are as indicated in the Development Table - General (Table 2).
- 5.20.4 Council shall refuse an application for planning approval where in its opinion the proposed development will adversely affect the rural landscape or will adversely impact upon the agricultural use of the land.
- 5.20.5 An application for planning approval for intensive agriculture in the General Agriculture Zone shall be assessed by Council in accordance with Council's Local Planning Policy - Intensive Agriculture.
- 5.20.6 A proposal which in the opinion of Council does not adversely affect neighbouring properties and complies with the provisions of Council's Intensive Agriculture Policy and Natural Resource Management Policy will be considered "permitted development" under the provisions of Clause 8.2 of this Scheme.
- 5.21 Development in the Industry Zone**
- 5.21.1 Development in the Industry Zone shall be in accordance with the Development Table - General (Table 2) or as varied by the provisions of this Scheme.
- 5.21.2 In considering planning applications within the Industry Zone, the local government shall have regard for the:
- (a) compatibility of the proposed uses with other surrounding uses;
 - (b) potential impact of the proposal on the efficient and effective operations of existing and planned industry, infrastructure or public purposes; and
 - (c) risks, hazards, health and amenity associated with the proposed use being located in proximity to existing and planned industry, infrastructure or public purpose or any other use.
- 5.21.3 Notwithstanding any provision of the Building Code of Australia the local government may, if it considers the proposal appropriate, approve buildings which abut one side boundary, provided vehicular access to the rear of the lot is maintained.
- 5.21.4 Where a use in the Industry Zone is defined as a Prescribed Premises in the Regulations to the Environmental Protection Act

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1987 (as amended) or an Offensive Trade under the Health Act 1911 (as amended), the Local Government shall advertise the proposal as set out in Clause 9.4 and may notify the Environmental Protection Authority and/or the Health Department and seek comment or advice before considering the matter in the light of such comment or advice.

5.21.5 Factory Unit Development

Land in the Industry and Mixed Use Zones may be used for a Factory Unit development, provided that:

- (a) there is no more than one occupancy for each factory unit;
- (b) no industrial unit is used for machinery or automotive wrecking or for the sale of motor vehicles or caravans;
- (c) factory units shall be separated from each other by an internal wall or walls constructed of brick, stone or concrete in accordance with the Building Code of Australia and shall not be altered, moved or removed without the consent of the Local government; and
- (d) the factory unit complies with Local government's policy for factory units as amended from time to time.

5.22 Development in the Development Zone

5.22.1 Development in the Development Zone will be subject to:

- (a) The availability of services adequate to accommodate the proposed development.
- (b) The preparation of an Outline Development Plan prepared in accordance with the provisions of Sub-Clause 5.9 and approved by Council.
- (c) The carrying out of the procedures for adoption of the Outline Development Plan in accordance with the provisions of Part 2 of the Scheme as though it were a Local Planning Policy.
- (d) The endorsement by the WAPC of a subdivision guide plan.

5.22.2 Development standards and uses permitted in the Development Zone will accord with those permitted for the equivalent zone for

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the designated primary use unless varied by the provisions of the Outline Development Plan.

5.23 Subdivision

5.23.1 The approval to subdivide/amalgamate lots is granted by the Western Australian Planning Commission (WAPC) in accordance with the provisions of the Residential Design Codes and the principles of Liveable Neighbourhoods in Residential Zones and in accordance with WAPC policy (particularly SPP No. 11 “Agricultural and Rural Land Use Planning”, in the General Agriculture Zone) and in accordance with the Scheme Provisions in all zones, including Special Use Zones and Special Control Areas, and where relevant, adopted Outline Development Plans.

5.23.2 In assessing subdivision applications for Residential areas, Council will have due regard to the WAPC guidelines indicated in Clause 5.21.1 and in particular the principles relating to climate and site responsive design (Element 3) and water sensitive urban water management practices (Element 5) of Liveable Neighbourhoods.

5.23.3 In the General Agriculture zone there shall be a presumption against the subdivision of land unless the Council is satisfied:

- (a) the lots have already been divided by significant natural or man-made features and an undesirable precedent would not be set;
- (b) the lots are for farm adjustment and the erection of dwelling houses is restricted by memorials on Titles;
- (c) the adjustment of lot boundaries where the application, if approved, will not result in the creation of additional lots;
- (d) the lots are for specific uses such as recreation facilities and public utilities;
- (e) the lots are required for the establishment of uses ancillary to the rural use of the land (eg. abattoir, canning works), or are required for the travelling public and tourists (eg. service stations, motels);
- (f) of the need to excise a conservation lot;
- (g) that the subdivision is necessary to enable the carrying out of an intensive agricultural pursuit and is in

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accordance with Council's Local Planning Policy -
Intensive Agriculture.

- 5.23.4 Council will not support subdivision in the General Agriculture Zone which in its opinion will have the potential to adversely affect the rural landscape or be prejudicial to the agricultural use of the land.
- 5.23.5 Council shall not recognise the surrounding historic pattern of settlement alone as justification to support a subdivision proposal.

Part 6 – Special control areas

- 6.1 Operation of special control area**
- 6.1.1 The following special control areas are shown on the Scheme Maps:
- Moorumbine townsite;
 - Dattening townsite.
- 6.1.2 The base zoning for each special control area is “Rural Residential”. Reserves are allocated to specific purposes.
- 6.1.3 Council may prepare a Local Planning Policy and/or Plan for all or part of each special control area and development within the area will be in accordance with Policy provisions and/or the Plan as well as relevant Scheme provisions.
- 6.1.4 The purpose of the special control area in each case is to guide development in an orderly manner:
- (a) in accordance with and consistent with the limitations of existing infrastructure;
 - (b) Councils regional settlement hierarchy;
 - (c) the natural resource management provisions of this Scheme;
 - (d) the general land use allocations indicated in Council’s policy plan for each area.
- 6.1.5 An application for planning approval is required for all development within the special control area.
- 6.1.6 An application for planning approval for any use other than residential needs to demonstrate how its operation and location will be compatible with existing residences.
- 6.1.7 An application for a use which would otherwise not be permitted in the Scheme for the particular zone or reserve may be approved by Council having regard to the following criteria and only after following the procedure set down in Clause 9.4:
- the consistency of the proposal with the regional settlement hierarchy;
 - the adequacy of existing infrastructure to accommodate the proposal;

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- the compatibility of the proposal with existing residential development;
- the protection of heritage sites;
- the protection of environmental features/values;
- the compatibility of the proposal with Reserve purposes.

6.1.8 An application for planning approval will, where appropriate, be referred to the servicing agencies to establish the need for, or adequacy of infrastructure to satisfactorily service the development.

6.1.9 No additional lots shall be created unless with a minimum area of 1.5 ha but the Council may recommend approval and the Commission may approve the adjustment of boundaries between lots or the amalgamation of lots.

Part 7 – Heritage protection

7.1 Heritage List

- 7.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.
- 7.1.2 In the preparation of the Heritage List the local government is to –
- (a) have regard to the municipal inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
 - (b) include on the Heritage List such 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 consultation 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.

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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;

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- (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 the proposal under clause 7.2.3(b) is to specify–

- (a) the area subject of the proposed designation;
- (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
- (c) in what form and 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 Clause 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 5.5.5.

7.6 Notwithstanding the provisions of this part of the Scheme, Council may maintain a list of the places of heritage value and natural beauty which wherever possible should be conserved and preserved.

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 a 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 the land (subject of Part 4).

2. Development includes erection, placement and display of any advertisements.

8.2 Permitted development

Except as otherwise provided for 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*; or
 - (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, ancillary outbuildings and swimming pools, except where –
 - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes or the Development Table - General;

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- (ii) the development will be located in a heritage area designated under the Scheme;
 - (iii) the proposed development comprises transportable buildings;
 - (iv) the proposed development comprises a relocated second hand building or part thereof;
 - (v) outbuildings associated with a dwelling are proposed on a lot of 2 hectares or less and are outside a defined building envelope accepted by Council;
 - (vi) the proposed dwelling (or outbuildings) are on land which is zoned Rural Residential and a building envelope has not been formally identified for the lot;
 - (vii) the proposed dwelling is to be located in a local policy area declared by Council under the provisions of Part 2 of the Scheme;
 - (viii) the proposed dwelling abuts a major road reserved in the Scheme;
 - (ix) the proposed dwelling is on a lot or location which does not have access to a dedicated and 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 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; or
 - (iv) located within a heritage area designated under the Scheme;
- (d) a home office;

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- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees;
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area;
- (g) agriculture - extensive, home occupation and rural pursuit in the General Agriculture Zone;
- (h) the erection of a boundary fence or screen wall except where or within 0.9m of a dividing boundary and/or to a height of greater than 1.8m above natural ground level;
- (i) the carrying out of any works on, in, over or under a street or road by a public authority acting in pursuant of its statutory obligations;
- (j) the carrying out of works urgently required for public safety or for the safety or security of plant or equipment or for the maintenance of essential services
- (k) the use of land in a reserve, where such land is vested in Council or vested in a Public Authority:
 - (i) for the purpose for which the land is reserved under the Scheme; or
 - (ii) in the case of land vested in a public authority, for any purpose for which such land may be lawfully used by that authority;

provided the development complies with the provisions of the Development Table - General for the surrounding or relevant land use zone as determined by Council.

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.

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8.4 Unauthorized existing developments

8.4.1 The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

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

Part 9 – Applications for planning approval

9.1 Form of application

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

- (a) a use or commencement of development on a Local reserve under clause 3.4;
- (b) commencement of a ‘P’ use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2, and/or is not considered “permitted development” under clause 8.2;
- (c) commencement of a ‘D’ use or an ‘A’ use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

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

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

9.2 Accompanying material

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

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

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- (b) plans, elevation and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the local government may require to enable the application to be determined.

9.3

Additional material for heritage matters

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

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

9.4

Advertising of applications

9.4.1

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

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

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

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- 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 be given in clause 9.4.3.
- 9.4.3 The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways –
- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
 - (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;
 - (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.
- 9.4.4 The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.
- 9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.
- 9.4.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.
- 9.5 The Need for Approval from the Minister for Indigenous Affairs**
- In addition to planning approval, an applicant may require the consent of the Minister for Indigenous Affairs under the Aboriginal Heritage Act 1972 before commencing development for which planning approval has been granted.

Part 10 – Procedure for dealing with applications

10.1 Consultation with other authorities

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

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

10.2 Matters to be considered by local government

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

- (a) the aims and provisions of the Scheme and any other relevant local planning schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new local planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;

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- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage list under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;

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- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any other planning consideration the local government considers relevant.

10.3 Determination of applications

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

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

10.4 Form and date of determination

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

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

10.5 Term of planning approval

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

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

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

10.6 Temporary planning approval

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

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

10.7 Scope of planning approval

Planning approval may be granted –

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

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10.8 Approval subject to later approval of details

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

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

10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made no later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

10.9 Deemed refusal

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

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

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

10.10 Right of Review

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

11.2 Removal and repair of existing advertisements

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

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

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

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- 11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify –
- (a) the advertisement the subject of the notice;
 - (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
 - (c) the period, being not less than 60 days from the date of the local government’s determination, within which the action specified is to be completed by the advertiser.

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

11.3 Delegation of functions

11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

11.3.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO’s powers or the discharge of any of the CEO’s duties under clause 11.3.1.

11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.

11.4 Person must comply with provisions of Scheme

A person must not –

- (a) contravene or fail to comply with the provisions of the Scheme;

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- (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 local planning scheme; or
- (b) commences or continues to carry out any development which is required to comply with a 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 11(1) of the Town Planning Act –

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and –
 - (i) an application made under the Scheme for the 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

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subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

no 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: 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, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

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

Schedules

Schedule 1	Dictionary of defined word and expressions General definitions Land use definitions
Schedule 2	Additional Uses
Schedule 3	Restricted Uses
Schedule 4	Special Use Zones
Schedule 5	Exempted Advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	Environmental Conditions
Schedule 11	Rural Residential Zones and Provisions

SCHEDULE ONE

DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

1. **General definitions**

In the Scheme –

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

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

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

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

“**cultural heritage significance**” – has the same meaning as 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;

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“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 the 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 Pingelly.

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

“lot” – has the same meaning as in the 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;

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“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;

“region scheme” – means a regional planning scheme made under the *Western Australian Planning Commission Act 1985*, as amended from time to time;

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

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

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

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

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

2.

Land use definitions

In the Scheme –

“**abattoir**” – means land and buildings for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products;

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

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

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

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

“**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 2 amusement machines operating within the premises;

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

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“**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 feedlots;

“**aquaculture**” – means any fish farming operation for which a Fish Farm license issued pursuant to the provisions of Part V of the Fisheries Act, 1905 (as amended), and the Fisheries Regulations, 1938 (as amended), is required

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

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

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

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

“**car park**” – 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;

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

“**cinema/theatre**” – means premises where the public may view a motion picture or theatrical production;

“**civic use**” – means premises used by the 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;

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

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

“convenience store” – means premises –

- a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- b) operated during hours which include, but may extend beyond, normal trading hours;
- c) which provide associated parking; and
- d) the floor area of which does not exceed 300 square metres net lettable area;

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

“dog kennels” – means any land or buildings used for breeding, boarding, training or caring of dogs for commercial purposes;

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

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

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

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

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

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

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

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

“home occupation” – means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

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

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provision for the fuelling, repair or maintenance of motor vehicles; and

- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

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

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

“home store” – means any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling;

“hospital” – means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;

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

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

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by who lesale 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 does not fall within the definition of a home occupation and which –

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

“industry – extractive” – means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, 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;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

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

“industry – rural” – means –

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

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“industry – service” – means –

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

“lunch bar” – means premises or part or 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 Licensing 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 wash” – means premises where the primary use is the washing of motor vehicles;

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“night club” – means premises –

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

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

“park home park” – has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

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

“plantation” – has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;

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

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

“residential building” – has the same meaning as in the Residential 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 Licensing Act 1988*;

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

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

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

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

“rural pursuit” – means any premises used for –

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

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

“service station” – means premises used for –

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

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

“shop” – means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a

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hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

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

“storage” – means premises used for the storage of goods, equipment, plant or materials;

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

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

“trade display” – means premises used for the display of trade goods and equipment for the purpose of advertisement;

“transportable structures/dwellings” – means a structure for ease of transporting from one location to another, and includes structures such as “Donga” units with skid mountings, metal sandwich panel and flat roof design, and other proprietary names like “Durabuilt”, “Atco” and the like;

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

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

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

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SCHEDULE TWO

ADDITIONAL USES

No.	Description of land	Additional use	Conditions
1	Milton Road East Pingelly CG6310	Transport depot including the storage of grains in bulk and the garaging, maintenance, management, and repair of machinery used for the storage and/or transport of grain.	As determined by Council
2	Reserve No. 27461, corner Stone and Prestige Streets, Pingelly	Animal Shelter – Marsupial Retreat	As determined by Council

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SCHEDULE THREE

RESTRICTED USES

No.	Description of land	Restricted use	Conditions

SCHEDULE FOUR

SPECIAL USE ZONES

No.	Description of land	Special use	Conditions

SCHEDULE FIVE

EXEMPTED ADVERTISEMENTS

Land use and/or development	Exempted sign	Maximum size
Dwellings	One professional name plate	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m ²
Places of Worships, meeting halls and places of public assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Shops, showrooms and other uses appropriate to the town site 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.	N/A
Industrial	A maximum of 4 advertisements applied to or affixed to the wall of the building.	

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SCHEDULE SIX

FORM OF APPLICATION FOR PLANNING APPROVAL

Shire of Pingelly
Local Planning Scheme No. 3

Application for Planning Approval

Owner details :		
Name:		
Address:		Postcode:
Phone:		FAX:
Home:	Work:	Email:
Mobile:		
Contact Person:		
Signature:		Date:
Signature:		Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature.		

Applicant details:		
Name:		
Address:		Postcode:
Phone:		FAX:
Home:	Work:	Email:
Mobile:		
Contact Person for Correspondence:		
Signature:		Date:

*Shire of Pingelly
Local Planning Scheme No. 3*

Part 2

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

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

Office Use Only	
<i>Acceptance Officer's initials:</i>	<i>Date Received:</i>
<i>Local Government Reference No:</i>	

SCHEDULE SEVEN

ADDITIONAL INFORMATION FOR SIGNS (ADVERTISEMENTS)

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

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

.....
.....
.....

2. Details of proposed sign:

- (a) Type of structure on which advertisement is to be erected
(i.e. free standing, 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 landowners)

Date:

SCHEDULE EIGHT

NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

(cl. 9.4.4)

Planning and Development Act 2005

Shire of Pingelly

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: _____

Locality: _____

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 Pingelly.

SCHEDULE NINE

**NOTICE OF DETERMINATION ON APPLICATION FOR
PLANNING APPROVAL**

Planning and Development Act 2005

Shire of Pingelly

Determination on Application for Planning Approval

Location:

Lot:

Vol. No:

Application Date:

Plan/Diagram:

Folio No:

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 review under Part 14 of the Planning and Development Act 2005. An application for review must be lodged within 28 days of the determination.

Signed:

Dated:

.....

.....

for and on behalf of the Shire of Pingelly.

SCHEDULE TEN

ENVIRONMENTAL CONDITIONS

(Does not apply to this Scheme)

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

SCHEDULE ELEVEN

RURAL RESIDENTIAL ZONES AND PROVISIONS

Description of Location	Provisions
Aldersyde Road Avon Location 4925	1. All lots of less than 2 ha shall be connected to a reticulated public water supply as a condition of subdivision.
Pingelly Townsite	1. No additional lots shall be created unless with a minimum area of 1.5 ha but the Council may recommend approval and the Commission may approve the adjustment of boundaries between lots or the amalgamation of lots.

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ADOPTION

Adopted by resolution of the Council of the SHIRE OF PINGELLY at the meeting of the Council held on the _____ day of _____ 20__ and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

PRESIDENT _____

CHIEF EXECUTIVE OFFICER _____

FINAL APPROVAL

Adopted for final approval by resolution of the Council of the SHIRE OF PINGELLY at the meeting of the Council held on the _____ day of _____ 20__ and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

PRESIDENT _____

DATE: _____

CHIEF EXECUTIVE OFFICER _____

DATE: _____

Recommended for Final Approval

For Chairman of the Western Australian Planning Commission
Delegated under S16 of PD Act 2005

SIGNED: _____

DATE: _____

Final Approval Granted

_____ A MAC TIERNAN, Minister for Planning and Infrastructure

DATE: _____

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