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# **SHIRE OF KONDININ**

## **TOWN PLANNING SCHEME NO. 1**

### **DISTRICT ZONING SCHEME**

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*Updated to include Amd 7 gg 25/02/14*

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#### **DISCLAIMER**

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

Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

Please advise the Department of Planning of any errors or omissions in this document.

**Prepared by the Department of Planning**

**Original Town Planning Scheme Gazettal Date: 10 December 2004**

## SHIRE OF KONDININ TPS 1 – TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
2	28/4/09	1/9/09	DH	Schedule 11 - adding Rural Residential No. 1 "Lot 2 Lovering Road, Hyden".
3	15/9/09	29/9/09	DH	Table 1 - deleting notes located under Table 1 in Part 4 and replacing with new notes.
7	25/02/14	29/04/14	ML	Schedule 4 – amended land description details and use under SU1.

## **Preamble**

This Town Planning Scheme of the Shire of Kondinin consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Scheme Report for the Shire.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Scheme Report 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 Scheme Report, 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.

Queries regarding any aspect of the Scheme and how it may affect proposals for the future development and use of land within the local government district should be directed to the Shire of Kondinin Administration Centre, Gordon Street, Kondinin (Tel: 9889 1006 Fax: 9889 1197).

## **Scheme Details**

**The Shire of Kondinin**

**Town Planning Scheme No. 1**

**District Zoning Scheme**

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

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- Part 1 [Preliminary](#) — sets out the Scheme title, responsible authority for implementing the Scheme, definitions used in the Scheme, Scheme area, contents, purpose, aims and relationship to other Schemes and laws.
- Part 2 [Local Planning Policy Framework](#) — sets out the relationship between the Scheme and the Scheme Report and the procedures for preparing and adopting Local Planning Policies.
- Part 3 [Reserves](#) — sets out the reserves which apply in the Scheme area and related provisions.
- Part 4 [Zones and the use of land](#) — sets out the zones which apply in the Scheme area and the uses which may require approval or may be prohibited.
- Part 5 [General development requirements](#) — sets out the planning requirements which may apply to a particular use or development in a zone.
- Part 6 [Special control areas](#) — sets out particular provisions which may apply in addition to the zone requirements and generally concerns landscape, environmental, built form, and land and site management issues.
- Part 7 [Heritage protection](#) — sets out special provisions which apply to heritage places and areas.
- Part 8 [Development of land](#) — sets out the circumstances under which approval is required for the development of land as distinct from the use of land.
- Part 9 [Applications for planning approval](#) — sets out the procedure for applying for planning approval including both the use and development of land.
- Part 10 [Procedure for dealing with applications](#) — sets out the procedure for dealing with applications for planning approval and the matters to be taken into account.
- Part 11 [Enforcement and administration](#) — sets out the general provisions for the administration and enforcement of the Scheme.

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# **PART 1 — PRELIMINARY**

## **1.1 CITATION**

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

1.1.2 The following Scheme is revoked —

## **1.2 RESPONSIBLE AUTHORITY**

The Shire of Kondinin 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 – 4).

The Scheme is to be read in conjunction with the Scheme Report.

Note: The Scheme Map comprises four (4) separate map sheets. Map 1 is at a scale of 1:500,000 and covers all of the local government district of the Shire. Maps 2 and 3 are at a scale of 1:10,000 and cover the Kondinin and Hyden townsites. Map 4 is at a scale of 1:4,000 and covers the Karlgarin townsite.

## **1.5 PURPOSES OF SCHEME**

The purposes of the Scheme are to —

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

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

The aims of the Scheme are —

- to secure the amenity, health and convenience of the Scheme area and the inhabitants thereof;
- to ensure there is a sufficient supply of suitable serviced land for housing, employment, commercial activities, community facilities, recreation and open space;
- to provide for housing choice and variety in neighbourhoods with a community identity and high levels of safety, accessibility and visual amenity;

- to preserve, protect and enhance townscapes and places, buildings and objects of heritage value, historic interest, natural beauty or scientific interest which exist throughout the Shire;
- to promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities;
- to protect, conserve and enhance the environmental values and natural resources of the Scheme area including the protection of remnant vegetation and the rehabilitation and revegetation of degraded land while providing appropriate development opportunities to promote the local economy;
- to promote ecologically sustainable land use and development;
- to assist the effective implementation of the State Planning Strategy, State Planning Framework (SPP No.8) and other adopted strategies and policies as these apply to the Wheatbelt Region; and
- to make provision for other matters necessary or incidental to town planning and development generally.

## **1.7 DEFINITIONS**

1.7.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have —

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

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

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

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

## **1.8 RELATIONSHIP WITH LOCAL LAWS**

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

## **1.9 RELATIONSHIP WITH OTHER SCHEMES**

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

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

### **2.1 SCHEME DETERMINATIONS TO CONFORM WITH SCHEME REPORT**

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

*(A Scheme Report 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.

### **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 the zones shown on the Scheme Map.

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

### **4.2 OBJECTIVES OF THE ZONES**

The objectives of the zones are —

#### **Residential Zone**

- To retain the single house as the predominant form of residential development in townsites.
- To provide for lifestyle choice in and around townsites with a range of residential densities.
- To allow for the establishment of non-residential uses subject to local amenities not being adversely affected.

#### **Commercial Zone**

- To ensure that town centres remain the principal place for business and administration within the District.
- To encourage a high standard of development including buildings, landscaping and car parking.
- To make town centres an attractive place to work and to conduct business through the implementation of a townscape improvement plan.

#### **Rural Townsite Zone**

- To allow for a wide range of land uses such as may be found in a small townsite but subject to preservation of local amenities.

#### **General Industry Zone**

- To encourage industrial development with diverse employment opportunities.
- To provide for general industry to support development in the District.

#### **Light Industry Zone**

- To provide for light and service industry to support development in the District.
- To provide for light and service industries and associated uses which are compatible with, and acceptable in close proximity to, residential uses.
- To encourage a high standard of development including buildings, landscaping and car parking.

#### **Townsite Development Zone**

- To allow a variety of uses such as may be found in a small country town but subject to the preservation of local amenities and character.

- To ensure that the subdivision and development of land in the zone proceeds in accordance with the details of a Structure Plan approved by the local government.
- To allow a variety of uses in the zone without the need to rezone the area where minor modifications are required to an approved Structure Plan prior to final subdivision.

### **Rural Zone**

- To ensure the continuation of broad-hectare farming as the principal land use in the District and encouraging where appropriate the retention and expansion of agricultural activities.
- To consider non-rural uses where they can be shown to be of benefit to the District and not detrimental to the natural resources or the environment.
- To allow for facilities for tourists and travellers, and for recreation uses.

### **Rural Residential Zone**

- To select areas wherein closer subdivision will be permitted to provide for uses such as hobby farms, horse breeding and rural residential retreats.
- To make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.
- To locate Rural Residential zones generally within a five (5) kilometre radius of established settlements so that residents have convenient access to services and facilities without draining the resources of the wider community.
- To provide for the creation of rural residential lots having a minimum area of two (2) hectares within or adjacent to the Kondinin and Hyden townsites and larger lots elsewhere.

### **Special Use Zone**

- To provide for special categories of land use which are not fully compatible with other zones in the Scheme.

## **4.3 ZONING TABLE**

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

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

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

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

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

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

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

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

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

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.



# TABLE 1 – ZONING TABLE

P - Permitted D - Discretionary A - Special Notice X - Not Permitted

USE CLASSES	ZONES*							
	Residential	Commercial	Rural Townsite	General Industry	Light Industry	Townsite Development	Rural	Rural Residential
1 Aged or Dependent Persons Dwelling	D	X	D	X	X	D	D	D
2 Ancillary Accommodation	D	X	D	X	X	D	D	D
3 Animal Husbandry - Intensive	X	X	X	X	X	X	A	X
4 Bed & Breakfast Accommodation	A	A	A	X	X	A	A	A
5 Caretakers Dwelling	X	D	D	D	D	D	D	D
6 Civic Building	X	P	D	D	D	D	X	X
7 Club Premises	X	D	D	X	X	X	X	X
8 Dwelling - Grouped	D	X	A	X	X	D	X	X
9 Dwelling - Single	P	D	P	X	X	D	P	P
10 Educational Establishment	A	X	D	D	D	A	D	A
11 Feedlot	X	X	X	X	X	X	X* See Note 1 D* See Note 2 A* See Note 3	X
12 Fuel Depot	X	X	X	P	D	X	D	X
13 Home Occupation	A	X	A	X	X	A	A	A
14 Home Office	D	X	D	X	X	D	P	P
15 Hotel	X	D	A	X	X	X	X	X
16 Industry - Cottage	D	X	D	X	D	D	D	D
17 Industry - Extractive	X	X	X	X	X	X	D	X
18 Industry - General	X	X	A	D	X	X	A	X
19 Industry - Light	X	X	A	P	P	D	A	X
20 Industry - Rural	X	X	X	D	A	X	P	A
21 Industry - Service	X	D	A	P	P	D	A	X
22 Intensive Agriculture	X	X	X	X	X	X	P	X
23 Motel	A	P	A	X	X	A	A	A
24 Motor Vehicle Repair	X	X	A	P	P	X	A	X
25 Office	X	P	P	D	D	D	X	X
26 Plant Nursery	A	P	D	P	P	A	D	A
27 Public Utility	D	D	D	D	D	D	D	D
28 Public Worship	D	D	A	X	X	A	X	X
29 Residential Building	D	D	D	X	X	D	D	D
30 Restaurant	X	P	D	X	X	X	D	X
31 Rural Pursuit	X	X	A	X	X	X	P	A
32 Service Station	X	A	A	D	D	X	D	X
33 Shop	X	P	D	A	A	D	D	X
34 Tourist Accommodation	A	A	A	X	X	A	A	A
35 Transport Depot	X	P	A	P	D	X	A	X
36 Veterinary Hospital	X	A	A	P	A	X	D	D

**NOTES:**        *AMD 3 GG 15/9/09*

1.        Feedlots are not permitted in the Rural zone where such use is proposed to be located within a **five (5) kilometre** radius of an established townsite.
2.        Feedlots are not permitted in the Rural zone unless such use is proposed to be located more than **five (5) kilometres** from an established townsite and more than **two (2) kilometres** from an existing neighbouring residential dwelling.
3.        Feedlots are not permitted within **two (2) kilometres** of an existing neighbouring residential dwelling unless the local government has exercised its discretion by granting planning approval after considering a site specific study provided by the applicant addressing the proximity of sensitive land uses and potential impacts, and giving special notice in accordance with clause 9.4 of the Scheme and Specifically clause 9.4.3(a).1.

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

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

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

4.9.1 A person must not —

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

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

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

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

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

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

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

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

Note: Section 13 of the Town Planning Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

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

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

## **PART 5 — GENERAL DEVELOPMENT REQUIREMENTS**

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

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

### **5.2 RESIDENTIAL DESIGN CODES**

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

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

5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Design Code density, as being contained within the area defined by the centre-line of those borders.

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

The following variations to the Residential Design Codes apply in the Scheme area:

- (a) In areas coded R10 the development standards of the R10 code shall apply except that the development standards of the R25 code may be permitted by the local government but only where:
  - (i) the development is to be connected to a reticulated sewerage system or an alternative means of effluent disposal approved by the local government and the Department of Health;
  - (ii) the subject lot, in the opinion of the local government, is located in close proximity to essential services and facilities; and
  - (iii) the local government, following completion of the advertising procedures specified in Clause 9.4, is satisfied that the development will not have an adverse impact upon local amenities.

### **5.4 RESTRICTIVE COVENANTS**

5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential 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 The power conferred by this clause may only be exercised if the local government is satisfied that —
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
  - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

## **5.6 ENVIRONMENTAL CONDITIONS**

- 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 the 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 SITE AND DEVELOPMENT REQUIREMENTS**

- 5.7.1 Table 2 sets out the site and development requirements for various land uses which may be supplemented by the local government's specific requirements.
- 5.7.2 The local government in determining applications for any development may require such development to comply generally with the standards required for various land uses as required in Table 2 to ensure that the scale, nature, design, general appearance and impact of such uses is compatible with the objectives of the zone in which the development is proposed and the general purposes and aims of the Scheme.
- 5.7.3 The site and development requirements for the development of uses not referred to in Table 2 shall be in accordance with the local government's specific requirements in each particular case.

**TABLE 2 - SITE AND DEVELOPMENT REQUIREMENTS TABLE**

ZONE	MINIMUM SETBACKS FROM BOUNDARIES		
	FRONT	REAR	SIDE
Residential	As per R Codes	As per R Codes	As per R Codes
Commercial	*	*	*
Rural Townsite	*	*	*
General Industry	11 metres or 22 metres (See Note 3)	7.5 metres	3 metres
Light & Service Industry	*	7.5 metres	3 metres
Townsite Development	*	*	*
Rural	20 metres	15 metres	15 metres
Rural Residential	20 metres	15 metres	15 metres

**NOTES:**

1. This table is intended as a guideline and may be varied at the discretion of the local government.
2. \* means to be determined by the local government in each particular case.
3. A 11 metre front setback shall be applied where loading and unloading facilities are provided at the rear of buildings. A 22 metre front setback shall be applied where loading and unloading facilities are provided at the front of buildings.

**5.8. CAR PARKING REQUIREMENTS**

- 5.8.1. The minimum number and dimensions of car parking spaces to be provided on a residential lot shall be in accordance with the provisions of the Residential Design Codes.
- 5.8.2. Car parking bay dimensions for other uses shall be in accordance with Australian Standard AS2890.1.
- 5.8.3. A person shall not develop or use any land or erect, use or adopt any building in the Commercial, Rural Townsite, General Industry, Light and Service Industry, Townsite Development or Rural Residential zones unless car parking spaces specified by the local government are provided and such spaces are constructed and maintained in accordance with the Scheme.
- 5.8.4. The car parking spaces required under the provisions of the Scheme shall measure not less than the dimensions specified by the local government's current policy for the type of car parking layout adopted.
- 5.8.5. All car parking spaces and all necessary access ways shall, unless the local government agrees otherwise and except as hereinafter provided, be paved.
- 5.8.6. Where the maximum dimension of any open car parking area exceeds twenty metres in length or width, one car parking space in ten shall be used for garden and tree planting to provide visual relief and so long as the garden and tree planting areas shall be maintained in good order, those car parking spaces shall be included in calculations as car parking and not as landscaping.
- 5.8.7. Where the owner can demonstrate to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in Clause 5.8.1 or 5.8.3, landscaping may be provided in lieu of car parking spaces not constructed and the said landscaping shall be included in the calculations as car parking but not as landscaping provided that the local government may from time to time require that the additional parking spaces be provided.

5.8.8. In a commercial zone where a developer can satisfy the local government that the maximum car parking requirement cannot be provided on the site the local government may accept a cash payment in lieu of the provision of car parking spaces but subject to the requirements of this clause:

- (a) A cash-in-lieu payment shall be not less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme, plus the value, as estimated by the Chief Valuer of the Department of State Taxation, of the area of his land which would have been occupied by the parking spaces.
- (b) Before the local government agrees to accept a cash payment in lieu of the provision of car parking spaces, the local government must either have already provided a public car park nearby, or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen (18) months from the time of agreeing to accept the cash payment.
- (c) Payments made under this clause shall be paid into a special fund to be used to provide public car parks.

5.8.9. When considering an application to commence development the local government shall have regard to and may impose conditions in respect of the location and design of the required car parking spaces, natural planting and pedestrian spaces on the lot. In particular, the local government shall take into account and may impose conditions concerning -

- (a) the proportion of car parking spaces to be roofed or covered;
- (b) the proportion of car parking spaces to be below natural ground level;
- (c) the means of access to each car parking space and the adequacy of any vehicular manoeuvring area;
- (d) the location of the car parking spaces on the site and their effect on the amenity of adjoining development, including the potential effect if those spaces should later be roofed or covered;
- (e) the extent to which car parking spaces are located within required building setback areas;
- (f) the locations of proposed public footpaths, vehicular crossings, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety; and
- (g) The suitability and adequacy of elevated structural decks for development and service as a proportion of the required area for natural planting and pedestrian space.

## **5.9. LANDSCAPING**

5.9.1. The landscaping requirement shown in the Scheme means an open area designed, developed and maintained as garden planting and areas for pedestrian use and, at the discretion of the local government, may include natural bushland, swimming pools and areas under covered ways, garbage collection and handling spaces, and other open storage areas shall not be included.

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

5.9.3. The local government may in a landscaped area restrict the use of concrete, gravel, pebble and similar hard materials and require the planting of lawns, trees or shrubs in



lieu thereof.

5.9.4. No person shall, unless the local government otherwise approves, occupy any buildings forming part of an approved development until the required landscaping has been constructed and planted.

#### **5.10. GENERAL APPEARANCE OF BUILDINGS**

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

#### **5.11. DISABILITY SERVICES**

The local government may require the provision of facilities for the disabled when considering applications for planning approval.

#### **5.12. TOWNSCAPE CHARACTER**

Each of the townsites of Kondinin and Hyden has identifiable characters. In order to enhance existing character and complement current patterns of land use and development the local government will have regard for the scale, colours, materials and design of new buildings and extensions and proposals contained in any relevant townscape plans when considering applications for planning approval in town centre areas.

#### **5.13. BED AND BREAKFAST ACCOMMODATION**

Bed and breakfast accommodation shall be permitted to be operated from single houses but only where the development in the opinion of the local government:

- (i) does not adversely affect the amenity of the area;
- (ii) provides a tourist facility;
- (iii) is in a location approved by the local government;
- (iv) has been advertised for public comment in conformity with the local government's special notice requirements specified in clause 9.4 and no significant objections have been received during the advertising period; &
- (v) the proposal complies with all other Scheme requirements and any relevant local government policy.

#### **5.14. TOURIST FACILITIES**

The local government may permit tourist facilities in selected locations but only where the development, in the opinion of the local government:

- (i) does not adversely affect the amenity of the area;
- (ii) provides a tourist facility;
- (iii) has no significant environmental impact;
- (iv) complies with all other Scheme requirements and any relevant local government policy; and
- (v) has been advertised for public comment in conformity with the local government's special notice requirements specified in clause 9.4 and no significant objections have been received during the advertising period.

#### **5.15. TOWNSITE EXPANSION PLANS**

The local government has prepared and adopted Townsite Expansion Plans for the Kondinin and Hyden townsites as planning policies under clause 2.4 of the Scheme. These plans have been prepared to provide general guidance for the future subdivision, land use and development in areas identified as being suited to future townsite expansion. In considering applications for planning approval or town planning scheme amendments in these areas the local government shall make reference to the Townsite Expansion Plans in determining such applications.

## **5.16 DECLARED RARE FLORA**

Prior to the subdivision or development of any lot where there is remnant native vegetation, the local government may seek advice from the Department of Conservation and Land Management as to whether any declared rare flora will be affected by the proposal, and shall take appropriate action if the lot contains such flora.

## **5.17 TRANSPORTABLE BUILDINGS**

5.17.1 The use of transportable buildings for any purpose within the Scheme area is subject to the planning consent of the local government.

5.17.2 The local government will require that the standards of finish of transportable buildings are agreed on prior to the issue of planning consent and must be consistent with those prevailing in the locality in which the building is to be located.

5.17.3 The local government will require an approved bond to be lodged with the local government in order to ensure compliance with the agreed standard of finish within a period of two (2) years or such longer period as it may determine, and such bond shall be refunded on satisfactory completion of the conditions imposed by the local government in issuing planning consent.

## **5.18 RESIDENTIAL ZONE**

5.18.1 Development in the Residential zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.

5.18.2 No horse or other hoofed animal shall be kept on any lot in the Residential zone.

## **5.19 COMMERCIAL ZONE**

5.19.1 Development in the Commercial zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.

5.19.2 Development in the Commercial zone shall not exceed two (2) storeys in height except where the local government considers that particular circumstances may warrant an exception being made and provided such development will not affect local amenity and will enhance the character of the immediate area.

5.19.3 In considering applications for planning consent in the Commercial zone (including additions and alterations to existing development) the local government shall have regard to the following:

- (i) the colour and texture of external building materials;
- (ii) building size, height, bulk, roof pitch;
- (iii) setback and location of the building on its lot;
- (iv) architectural style and design details of the building;
- (v) function of the building;
- (vi) relationship to surrounding development; and
- (vii) other characteristics the local government considers relevant.

5.19.4 The local government may require the building facade and side walls of any new development in the Commercial zone to be constructed in masonry with side walls having a minimum building depth in masonry of three (3) metres.

5.19.5 All landscaping to be provided in the Commercial zone shall complement the appearance of the proposed development and the immediate locality.

5.19.6 The layout of any proposed new car parking area in the Commercial zone shall have regard to traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining car park.

## **5.20 RURAL TOWNSITE ZONE**

- 5.20.1 Development in the Rural Townsite zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.
- 5.20.2 The local government shall have regard to any Townsite Expansion Plan adopted for the townsites covered by this zone and shall have regard to the appropriateness of any development proposal in terms of its location and compatibility with existing land uses.

## **5.21 GENERAL INDUSTRY ZONE**

- 5.21.1 Development in the General Industry zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.
- 5.21.2 The first five (5) metres of the front setback on any lot in the General Industry zone shall be landscaped to the satisfaction of the local government. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government.
- 5.21.3 All development in the General Industry zone shall be subject to the following requirements:
- a) Adequate screening of work, service and storage areas;
  - b) All loading and unloading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site;
  - c) Minimum fencing standard shall be 1.8m security fence unless otherwise approved by the local government; and
  - d) New buildings proposed adjacent to the Residential zone shall be compatible in scale, materials and appearance with any existing residential development.

## **5.22 LIGHT INDUSTRY ZONE**

- 5.22.1 Development in the Light Industry zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.
- 5.22.2 The first five (5) metres of the front setback on any lot in the Light Industry zone shall be landscaped to the satisfaction of the local government. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government.
- 5.22.3 All development in the Light Industry zone shall be subject to the following requirements:
- (a) Adequate screening of work, service and storage areas;
  - (b) All loading and unloading of materials, parking and the operation of all business associated with any industry shall take place within the boundaries of the site;
  - (c) Minimum fencing standard shall be 1.8m security fence unless otherwise approved by the local government; and
  - (d) New buildings proposed adjacent to land classified Commercial or Residential zone shall be compatible in scale, materials and appearance with any existing commercial or residential development.

## **5.23 TOWNSITE DEVELOPMENT ZONE**

- 5.23.1 Development in the Townsite Development zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.
- 5.23.2 Development proposals including subdivision for land zoned Townsite Development will not be considered by the local government until such time as a Structure Plan for all land within the zone has been prepared in accordance with the requirements of Part 6 of the Scheme.
- 5.23.3 All development in the Townsite Development zone shall be in accordance with a Structure Plan prepared and adopted in accordance with the provisions of Part 6 of the Scheme.

## **5.24 RURAL ZONE**

- 5.24.1 Development in the Rural zone shall comply with the requirements of Table 2 and the objectives for that zone as outlined in Part 4.

Except for:

- a) the establishment of a firebreak required to comply with a regulation or by-law; or
- b) the provision of access to a building site; or
- c) the area of building; or
- d) cash crops;

not more than 2,000m<sup>2</sup> on any lot shall be cleared of indigenous trees or substantial vegetation. If the local government is satisfied upon receipt of a submission the clearing of an area greater than 2,000m<sup>2</sup> will not adversely affect the amenity, character and landscape qualities of the locality it may approve such land to be cleared subject to conditions as may be required by the local government.

- 5.24.3 Having regard to the prime agricultural importance of land in the Rural zone the local government will only support further subdivision of existing lots where:
- a) the lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a farming property as a single unit (unless adjoining land could be similarly subdivided and thereby, by the process of precedent, lead to an undesirable pattern of land use in the area or in lots too small for uses compatible with the prevailing use in the area or in ribbon development alongside roads);
  - b) the lots are for farm adjustment and the erection of dwellings is restricted;
  - c) the lots are for specific uses such as recreation facilities and public utilities; or
  - d) the lots are required for the establishment of uses ancillary to the rural use of the land or are required for the travelling public and tourists (such as service stations and motels).

## **5.25 RURAL RESIDENTIAL ZONE**

- 5.25.1 Development in the Rural Residential zone shall comply with the requirements of Table 2, Schedule 11 and the objectives for that zone as outlined in Part 4.
- 5.25.2 Before making provision for a Rural Residential zone, the local government will require the owner(s) of the land to prepare a submission supporting the creation of the Rural Residential zone and such submission shall include:

- (i) a statement as to the purpose or intent for which the zone is being created and the reasons for selecting the particular area the subject of the proposed zone;
- (ii) a plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, creeks, wells and significant improvements;
- (iii) information regarding the method whereby it is proposed to provide a potable water supply to each lot; and
- (iv) in the absence of a Rural Strategy, it will be the responsibility of each applicant for rezoning to Rural Residential to prepare a land capability and suitability assessment to the satisfaction of the local government and in accordance with the Commission's relevant policies and guidelines.

5.25.3 Prior to the subdivision of land in the Rural Residential zone the local government shall require an Overall Plan of Subdivision or a Subdivision Guide Plan be prepared showing, amongst other things:

- (i) the proposed ultimate subdivision including lot sizes and dimensions;
- (ii) the minimum recommended lot size for subdivision;
- (iii) areas to be set aside for public open space, pedestrian access ways, horse trails, community facilities, etc as may be considered appropriate;
- (iv) those physical features it is intended to conserve; and
- (v) the proposed staging of the subdivision where relevant.

5.25.4 In addition to the Overall Plan of Subdivision or Subdivision Guide Plan, the Scheme provisions for a specific Rural Residential zone shall specify:

- (i) any facilities which the purchasers of the lots will be required to provide (eg. their own potable water supply, liquid or solid waste disposal, etc.);
- (ii) proposals for the control of land uses and development which will ensure that the purpose or intent of the zone and the rural environment and amenities are not impaired; and
- (iii) any special provisions appropriate to secure the objectives of the zone.

5.25.5 The Scheme provisions for specific areas classified Rural Residential zone shall be as laid down in Schedule 11 of Town Planning Scheme No.1 and future subdivision of land in these areas shall generally be in accordance with the Overall Plan of Subdivision or Subdivision Guide Plan adopted by the local government for these locations.

5.25.6 All development in the Rural Residential zone shall comply with the following specific requirements:

- a) in addition to a building licence, the local government's planning consent is required for all development, excluding a single house, and such application shall be made in writing to the local government in accordance with the provisions of Part 9 of the Scheme;
- b) not more than one (1) dwelling per lot shall be erected but the local government may, at its discretion, approve ancillary accommodation;
- c) in order to conserve the rural environment and/or features of natural beauty all trees shall be retained unless their removal is authorized by the local government;
- d) in order to enhance the rural amenity of the land in areas the local government considers deficient in tree cover it may require, as a condition of any planning consent, the planting of such trees and/or groups of trees and species as specified by the local government;
- e) any person who keeps an animal or animals or who uses any land for the

exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the local government; and

- f) with the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of a Rural Residential zone, the local government may take any action which in the opinion of the local government is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the local government in taking such action shall be recoverable by the local government from the landowner.

5.25.7 In considering an application for planning consent for a proposed development in the Rural Residential zone (including additions and alterations to existing development) the local government shall have regard to the following:

- a) the colour and texture of external building materials;
- b) building size, height, bulk, roof pitch;
- c) setback and location of the building on its lot;
- d) architectural style and design details of the building;
- e) relationship to surrounding development;
- f) provisions to be made for bush fire control in accordance with a Town Planning Scheme Policy adopted by the local government; and
- g) any other characteristics considered by the local government to be relevant.

## **5.26 DEVELOPMENT PLANS**

5.26.1 The local government may prepare or may require the preparation of a Development Plan prior to considering any subdivision or development proposal in any zone.

5.26.2 Notwithstanding the requirements of this Scheme, all development is to comply with the requirements of any endorsed development plan/s.

5.26.3 Any departure or alterations to development plans may, subject to the approval of the Commission, be permitted if the local government considers that the proposed departure or alteration will not prejudice the progressive subdivision and development of the area.

5.26.4 A proposed development plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and where the proposed development plan becomes a development plan, the local government is to have due regard to such reserves, zones or Residential Design Codes when recommending subdivision or approving development of land within. In the absence of an endorsed development plan the symbols in the Zoning Table will apply.

### 5.26.5 Advertising of Development Plans

The local government may within 30 days of receiving the development plan require that it be advertised in accordance with clause 9.4.

### 5.26.6 Adoption of Development Plans

Following adoption of the development plan, with or without modifications, the local government shall request the Commission to endorse the development plan as the basis for approval of subdivision applications within areas covered by the plan.

#### 5.26.7 Appeal

The proponent of a development plan required by this Scheme may appeal in accordance with Part V of the Town Planning Act:

- a) The failure of the local government to make a determination on the content and requirement of a development plan (or an amendment to a development plan) within 120 days of receiving a request for direction;
- b) A decision by the local government not to endorse a development plan (or an amendment to a development plan);
- c) Conditions of approval of the development plan (or alterations to a development plan).

## **PART 6 — SPECIAL CONTROL AREAS**

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

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



## PART 7 — HERITAGE PROTECTION

### 7.1. HERITAGE LIST

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

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

### 7.2. DESIGNATION OF A HERITAGE AREA

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

- (ii) a record of places of heritage significance; and
  - (iii) objectives and guidelines for the conservation of the heritage area;

and

  - (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.
- 7.2.3. If a local government proposes to designate an area as a heritage area, the local government is to —
  - (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
  - (b) advertise the proposal by —
    - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
    - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
    - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;

and

    - (c) carry out such other consultation as the local government considers appropriate.
- 7.2.4. Notice of a proposal under clause 7.2.3(b) is to specify —
  - (a) the area subject of the proposed designation;
  - (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
  - (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.
- 7.2.5. After the expiry of the period within which submissions may be made, the local government is to —
  - (a) review the proposed designation in the light of any submissions made; and
  - (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.
- 7.2.6. If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.
- 7.2.7. The local government may modify or revoke a designation of a heritage area.
- 7.2.8. Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

### **7.3. HERITAGE AGREEMENTS**

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

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

### **7.4. HERITAGE ASSESSMENT**

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

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

Where desirable to —

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

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

## PART 8 — DEVELOPMENT OF LAND

### 8.1. REQUIREMENT FOR APPROVAL TO COMMENCE DEVELOPMENT

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

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

### 8.2. PERMITTED DEVELOPMENT

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

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —
  - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; 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
  - (ii) the development will be located in a heritage area designated under the Scheme;
  - (iii) the proposal involves a relocated, transportable or second-hand dwelling;
  - (iv) the development is proposed on a lot which does not have access to a dedicated and/or constructed road;
  - (v) the development is in a Special Control Area; or
- (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;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.

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

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

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

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

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

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

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

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

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

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

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

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

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

### **9.2. ACCOMPANYING MATERIAL**

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

- (a) a plan or plans to a scale of not less than 1:500 showing —
  - (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;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
  - (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
  - (d) any other plan or information that the local government may require to enable the application to be determined.

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

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

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

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

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

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

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

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

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

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

local government by a specified day being not less than 14 days from the day the notice is published;



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

## PART 10 — PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1. CONSULTATION WITH OTHER AUTHORITIES

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

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

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

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

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, 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;
- (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 including waterways, wetlands, physical landform, remnant vegetation and landscape values and any means that are proposed to protect or to mitigate impacts on the natural environment including land care practices;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;

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

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

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

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

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

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

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

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

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

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

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

## **10.6. TEMPORARY PLANNING APPROVAL**

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

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

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

Planning approval may be granted —

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

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

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

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

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

## **10.9. DEEMED REFUSAL**

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

10.9.2. An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the

application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

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

#### **10.10. APPEALS**

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

## **PART 11 — ENFORCEMENT AND ADMINISTRATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

of delegation.

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

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

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

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

A person must not —

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area —
  - (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 10(4) of the Town Planning Act provides that a person who —

- (a) contravenes or fails to comply with the provisions of a town planning scheme; or
- (b) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,  
is guilty of an offence.  
Penalty: \$50 000, and a daily penalty of \$5 000.

#### **11.5. COMPENSATION**

11.5.1. A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under section 11(1) of the Town Planning Act —

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and —
  - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
  - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

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

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

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

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

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

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

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

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

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

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



## Schedules

Schedule 1	Dictionary of defined words and expressions
	- General definitions
	- Land use definitions
Schedule 2	Additional uses
Schedule 3	Restricted uses
Schedule 4	Special use zones
Schedule 5	Exempted advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	Environmental conditions
Schedule 11	Special Requirements – Rural Residential Zones
Schedule 12	Development Areas

# SCHEDULE 1 — DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

[cl. 1.7]

## 1. General definitions

In the Scheme —

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

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

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

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

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

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

“**curtilage**” in relation to a dwelling means the yard of the dwelling or an area in the immediate vicinity of the dwelling on the same lot used for purposes ancillary to the dwelling. The curtilage shall not include the area located between the street frontage of the lot and the dwelling thereon except with the special approval of the local government. The term shall have a like meaning in relation to land around buildings other than dwellings.

“**facade**” means the exposed faces of a building towards roads or open space or the frontal outward appearance of the building;

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

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

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

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

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

- (a) residential purposes, has the same meaning as in the Residential 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;

**“heritage area”** means an area which is of cultural heritage significance and of such distinctive nature or character that special controls are considered necessary to retain and enhance that character, even though each individual place in the area may not itself be of significance.

**“heritage list”** means a list of those places which, in the opinion of the council, are of such cultural heritage significance to the local government that conservation and protection under the provisions of this scheme is warranted.

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

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

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

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

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

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

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

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

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

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

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

**“potable water”** means water in which the level of physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in ‘International Standards for Drinking Water’ published by the World Health Organisation;

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

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

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

**“Residential Design Codes”** means 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;

**“Scheme Report”** means the Scheme Report 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;

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

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

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

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

## 2. Land use definitions

In the Scheme —

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

**“aged or dependent persons dwelling”** has the same meaning given to the term in the Residential Design Codes;

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

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

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

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

**“amenity building”** means a building or part of a building used by employees or persons otherwise engaged in the conduct of an industry or business on the same site, for their personal comfort, convenience or enjoyment or leisure, but not used or intended for use for the work of the industry or business;

**“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;

**“ancillary accommodation”** means self contained living accommodation on the same site as a single house and may be attached or detached from the single house existing on the lot;

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

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

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

**“aquaculture”** shall have the same meaning as given to the term in and for the purposes of the *Fish Resources Management Act 1994*;

**“auction mart”** means premises on or in which goods are exposed or offered for sale by auction, but does not include a place used for the sale by auction of fresh food, fruit, vegetables or livestock;

**“bed and breakfast accommodation”** 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*;

**“builder’s storage yard”** means premises used for the storage of building materials, pipes or other similar items related to any trade and may include manufacture, assembly and dismantling processes incidental to the predominant use;

**“café”** means restaurant;

**“camping area”** means any land used for the lodging of persons in tents or other temporary shelter;

**“caravan”** means a vehicle as defined under the Road Traffic Act 1974 (as amended) maintained in condition suitable for licence under that Act at all times and being designed or fitted or capable of use as a habitation or for dwelling or sleeping purposes;

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

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

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

**“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 building”** means a building designed, used or intended to be used by a government department, an instrumentality of the Crown, or the local government as offices or for administrative or other like purposes;

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

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

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

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

**“contractor’s yard”** means premises used for the storage of contractor’s plant and equipment, including prefabricated or transportable buildings and materials;

**“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;

**“corner shop”** means premises used for the sale of daily grocery needs to persons in the immediate locality with a gross floor area not exceeding 100m<sup>2</sup> attached to a dwelling in the residential zone and which is operated as an additional use thereto by the permanent tenants of the dwelling;

**“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 premises used for the boarding and breeding of dogs where such premises are registered or required to be registered by the local government and may include the sale of dogs where such use is incidental to the predominant use;

**“drive-in theatre”** means premises used to make provision for an audience to view the entertainment while seated in motor vehicles;

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

**“dwelling”** means a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by:

- a single person;
- a single family; or
- no more than six (6) persons who do not comprise a single family.

**“dwelling - grouped”** has the same meaning given to the term in the Residential Design Codes.

**“dwelling - single”** has the same meaning given to the term in the Residential Design Codes;

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

**“equestrian activity”** means premises used for the showing, competition or training of horses and includes a riding school;

**“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;

**“factory unit building”** means a building or structure or group of buildings or structures designed, used or adapted for use as two or more separately occupied production or storage areas;

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

**“farm supply centre”** means premises used for the sale of farm supplies including vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment;

**“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;

**“feedlot”** means a confined yard area with watering and feeding facilities where animals are completely hand or mechanically fed for the purpose of production. This does not include the feeding or penning of animals in this way for weaning, dipping or similar husbandry purposes or for drought or other emergency feeding, or at a slaughtering place or in recognised saleyards;

**“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;

**“garden centre”** means premises used for the sale and display of garden products including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden buildings;

**“health centre”** means any buildings used as a maternity or x-ray centre, a district clinic, a masseur’s establishment or a medical clinic and can include ancillary services such as pathologists, radiologists and paramedicals;

**“health studio”** means premises designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation;

**“hobby farm”** means any land or buildings used for the keeping of farm animals or the growing of vegetables, fruit or flowers for non commercial purposes or sale;

**“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 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 licence under the *Liquor Licensing Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;

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

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

incidental to any of those industrial operations;

**“industry - cottage”** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which —

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an 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, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry – mining;

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



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

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
- (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;

**“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;

**“intensive agriculture”** see **“agriculture – intensive”**;

**“kindergarten”** means any land or buildings used as a school for young children;

**“landscape supplies”** means premises used for the storage and sale of items such as woodchips, logs, rocks, sand stone and other such materials;

**“laundromat”** means any land or building, open to the public in which washing machines, with or without provision for drying clothes, are available for use;

**“lodging house”** shall have the same meaning as is given to the term in and for the purposes of the Health Act 1911 (as amended);

**“lunch bar”** means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas;

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

**“medical centre”** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

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

**“motor vehicle, boat or caravan sales”** means premises used to display, sell or hire motor vehicles, boats or caravans and may include the servicing of motor vehicles, boats or caravans sold from the premises;

**“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;

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

**“multiple dwelling”** has the same meaning given to the term in the Residential Design Codes;

**“museum”** means premises used to store and exhibit objects or artefacts illustrative of history, natural history, art, nature and culture;

**“night club”** means premises —

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

**“nursing home”** means any building used for the medical treatment or care of sick persons, whether resident or not, but does not include consulting rooms;

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

**“open air display”** means the use of land as a site for the display and/or sale of goods and equipment;

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

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

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

**“petrol filling station”** means premises used for the supply of petroleum products and motor vehicle accessories;

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

**“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;

**“prison”** shall have the same meaning given to it in and for the purposes of the Prisons Act 1981 (as amended);

**“produce store”** means premises wherein fodders, fertilisers and grain are displayed and offered for sale;

**“public amusement”** means premises used for the amusement or entertainment of the public with or without charge;

**“public exhibition”** means premises used for the display of materials or for promotion of artistic, cultural or educational purposes;

**“public mall”** means any public street or right-of-way designed especially for pedestrians who shall have right-of-way and vehicle access shall be restricted to service vehicles at times specified by the local government;

**“public parking station”** means premises or part of premises open to the public generally for the parking of vehicles for which payment of a fee or charge may be required;

**“public utility”** means any work or undertaking constructed or maintained by a public authority or the council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services;

**“public worship”** means premises used primarily for religious activities such as a church, chapel, mosque, synagogue or temple but does not include an institution for primary, secondary or higher education or a residential training institution;

**“radio and TV installation”** means premises used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers;

**“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;

**“recreation – public”** means premises used for indoor and outdoor leisure, recreation and sport which are usually open to the public without charge;

**“reformatory”** means land or buildings used for the confinement or detention in custody of juvenile offenders against the law with a view to their rehabilitation;

**“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 for hire, loan or exchange, or the exhibition, display or delivery of —

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

**“retirement village”** means premises used to accommodate retirees together with ancillary facilities;

**“roadhouse”** means premises used for the predominant purpose of a service station but incidentally including a cafe, restaurant and/or shop;

**“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;

**“salvage yard”** means premises used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats;

**“sawmill”** means premises where logs or large pieces of timber are sawn;

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

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
  - (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles,
- but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

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

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

**“stable”** means premises used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities;

**“stock yards”** means premises used for holding and/or sale of animal stock;

**“storage yard”** means any land used for the storage of goods, equipment, plant or materials;

**“takeaway 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;

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

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

**“tourist accommodation”** means accommodation specifically catering for tourists such as chalets, farm stay, guesthouses and similar but does not include a hotel, motel or caravan park, and which is not to be occupied by a person for more than three (3) months in a twelve (12) month period;

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

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

**“veterinary clinic”** means premises in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight, and may include a dispensary of medications incidental thereto;

**“veterinary hospital”** means premises used in connection with the treatment of animal injuries and ailments, and includes the care and accommodation of animals during or after such treatment;

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

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

**“zoological gardens”** means premises used for the keeping, breeding or display of fauna and the term includes ‘Zoo’ but does not include kennels or keeping, breeding or showing of domestic pets.

## SCHEDULE 2 — ADDITIONAL USES

[cl. 4.5]

No.	Description of land	Additional use	Conditions
A1.	Lot 74 (No.17) Rankin Street, Kondinin.	▪ Ambulance Hall	▪ As determined by the local government.
A2.	Lots 133 & 134 Connell Street, Kondinin.	▪ Rural Saleyard	▪ As determined by the local government.
A3.	Lot 113 Connell Street, Kondinin.	▪ Museum, Antique and Arts and Craft Shop	▪ As determined by the local government.

## SCHEDULE 3 — RESTRICTED USES

[cl. 4.6]

No.	Description of land	Restricted use	Conditions

## SCHEDULE 4 — SPECIAL USE ZONES

[cl. 4.7.1]

No.	Description of land	Special use	Conditions
SU1.	<p>Reserve No. 31208 (Lot 259) Gordon Street, Kondinin.</p> <p>Reserve No. 16731 (Lot 263) Gordon Street, Kondinin.</p> <p><i>AMD 7 GG 25/02/14</i></p> <p>Reserve No. 23640 (Lot 262) Graham Street, Kondinin.</p> <p><i>AMD 7 GG 25/02/14</i></p>	<ul style="list-style-type: none"> <li>▪ Caravan Park</li>   <li>▪ Caravan Park</li>   <li>▪ Caravan Park</li> </ul>	<ul style="list-style-type: none"> <li>▪ No extension or change of land use without local government approval.</li> </ul>



SU2.	Railway Land, Marshall Street, Hyden (In accordance with the diagram in Schedule 12).	<ul style="list-style-type: none"> <li>▪ Community Purposes</li> <li>▪ Farm Supply Centre</li> <li>▪ Office</li> <li>▪ Restaurant</li> <li>▪ Shop</li> <li>▪ Showroom</li> </ul>	<ul style="list-style-type: none"> <li>▪ Development shall be in accordance with a development plan prepared under clause 5.26 of the Scheme. The plan shall be prepared in consultation with Main Roads WA.</li> </ul>
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## SCHEDULE 5 — EXEMPTED ADVERTISEMENTS

[cl. 8.2(f)]

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	1 professional name plate as appropriate	0.2sqm
Home Occupation	1 advertisement describing the nature of the home occupation	0.2sqm
Places of Worship, Meeting Halls and Places of Public Assembly	1 advertisement detailing the function and/or the activities of the institution concerned.	0.2sqm
Cinemas, Theatres and Drive-in Theatres	2 signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed	Each advertisement sign not to exceed 5sqm
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and Warehouse Premises	<p>A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building.</p> <p>A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.</p>	<p>Total area of any such advertisements shall not exceed 15sqm</p> <p>Maximum permissible total area shall not exceed 10sqm &amp; individual advertisement signs shall not exceed 6sqm.</p>
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	N/A
Public Places and Reserves	a) Advertisement signs (illuminated or non-illuminated) relating to the functions of government, a public authority or council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	N/A

## SCHEDULE 5 — EXEMPTED ADVERTISEMENTS (CONT'D)

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Public Places and Reserves (Cont'd)	b) Advertisement signs (illuminated or non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the council of a municipality, and	N/A
	c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2sqm in area
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2sqm

## SCHEDULE 5 — EXEMPTED ADVERTISEMENTS (CONT'D)

TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
<p>Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows):</p> <p>i) Dwellings</p> <p>ii) Multiple Dwellings, Shops, Commercial &amp; Industrial projects</p> <p>iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.</p> <p>Sales of Goods or Livestock</p> <p>Property Transactions Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows:</p> <p>a) Dwellings</p> <p>b) Multiple dwellings, shops, Commercial &amp; Industrial Properties</p> <p>c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha</p>	<p>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</p> <p>One sign as for (i) above.</p> <p>One sign as for (i) above.</p> <p>One additional sign showing the name of the project builder.</p> <p>One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.</p> <p>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for (a) above.</p> <p>One sign as for (a) above.</p>	<p>2sqm</p> <p>5sqm</p> <p>10sqm</p> <p>5sqm</p> <p>2sqm</p> <p>Each sign shall not exceed an area of 2sqm</p> <p>Each sign shall not exceed an area of 2sqm</p> <p>Each sign shall not exceed an area of 10sqm</p>

## SCHEDULE 5 — EXEMPTED ADVERTISEMENTS (CONT'D)

TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Display Homes Advertisement signs displayed or the period over which homes are on display for public inspection.	i) One sign for each dwelling on display. ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2sqm 5sqm

# SCHEDULE 6 — FORM OF APPLICATION FOR PLANNING APPROVAL

[cl. 9.1.1]

## Application for planning approval

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

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

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

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

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

# SCHEDULE 7 — ADDITIONAL INFORMATION FOR ADVERTISEMENTS

[cl. 9.1.2]

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

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

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

[cl. 9.4.4]

*Town Planning Act 1928*

Shire of Kondinin

**Notice of public advertisement of planning proposal**

<p>The local government has received an application to use and/or develop land for the following purpose and public comments are invited.</p>		
Lot No.:	Street:	Suburb:
<p>Proposal: .....</p> <p>.....</p> <p>.....</p>		
<p>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 .....</p>		
Signed: .....		Dated: .....
<p>.....</p> <p>for and on behalf of the Shire of Kondinin.</p>		



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

[cl. 10.4.1]

*Town Planning Act 1928*

Shire of Kondinin

## Determination on application for planning approval

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

## SCHEDULE 10 — ENVIRONMENTAL CONDITIONS

[cl. 5.6.1]

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

## SCHEDULE 11 - SPECIAL REQUIREMENTS - RURAL RESIDENTIAL ZONES

[cl. 5.25.3]

No.	Description of land	Special Requirements
1.	Lot 2 Lovering Road, Hyden  <i>AMD 2 GG 28/4/09</i>	1. <u>Objective</u>  The objective is to create low density rural living-type lots capable of supporting small scale agricultural uses and activities or other compatible land uses with an emphasis on minimising any detrimental impacts on all existing natural vegetation and providing for the revegetation and rehabilitation of degraded areas including those affected by salinity.  2. <u>Subdivision</u>  Having regard for the proximity of the land to the adjacent airstrip, surrounding agricultural practices and the land capability considerations, the land may be subdivided into no more than three lots of no less than 30ha in area, and to be generally as shown on the Subdivision Guide Plan approved by the Council and endorsed by the WA Planning Commission.  3. <u>Notification</u>  At the subdivision stage the Shire will recommend to the WA Planning Commission that a notification be placed on the Certificate of Title of each new lot advising that the lot is located in close proximity to the Hyden airstrip and may be subject to noise and other possible impacts associated with the continued operation of the airstrip.  4. <u>Permissible Land Uses</u>  Council may consider a number of land uses in the 'Rural Residential' zone in accordance with Table 1 - Zoning Table. In considering any development application Council will have regard for the following matters:  (i) The compatibility of the proposed land use/s with the existing airstrip;  (ii) The proposed location and relationship of the development with existing established land uses;

No.	Description of land	Special Requirements
1.	Lot 2 Lovering Road, Hyden (Cont'd)  <i>AMD 2 GG 28/4/09</i>	<ul style="list-style-type: none"> <li data-bbox="863 282 1380 383">(iii) The need for additional rehabilitation, revegetation and/or landscaping buffers;</li> <li data-bbox="863 405 1380 472">(iv) The matters listed under Clause 10.2 of the Scheme Text; and</li> <li data-bbox="863 495 1380 595">(v) The objectives for all land classified 'Rural Residential' zone in TPS No. 1.</li> </ul> <p data-bbox="767 618 1238 663">5. <u>Landscaping and Revegetation</u></p> <ul style="list-style-type: none"> <li data-bbox="863 685 1380 842">(a) Within each lot no indigenous trees or vegetation may be felled, damaged or removed except where the trees or vegetation are dead, diseased or dangerous.</li> <li data-bbox="863 864 1380 1088">(b) Revegetation of the "Revegetation Areas" identified on the Subdivision Guide Plan is to be undertaken at the subdivision development stage using local endemic species and maintained to the satisfaction of the Shire.</li> <li data-bbox="863 1111 1380 1267">(c) The "Revegetation Areas" identified on the Subdivision Guide Plan are to be fenced from stock at the subdivision development stage to the satisfaction of the Shire.</li> <li data-bbox="863 1290 1380 1447">(d) The development of any buildings or structures within the areas identified as "Revegetation Areas" on the Subdivision Guide Plan is not permitted.</li> <li data-bbox="863 1469 1380 1671">(e) The local government may require as a condition of planning approval additional planting and maintenance of endemic native trees and shrubs or salt resistant species.</li> </ul>

# SCHEDULE 12 — LAND DESCRIPTION FOR SPECIAL USE ZONE SU2

[Schedule 4]



## Adoption

Adopted by resolution of the Council of the Shire of Kondinin at the meeting of the Council held on the 13<sup>th</sup> day of June 2000.

..... 20<sup>th</sup> September 2000  
Shire President

..... 20<sup>th</sup> September 2000  
Chief Executive Officer

## Final Approval

1. Adopted by resolution of the Council of the Shire of Kondinin at the meeting of the Council held on the 19<sup>th</sup> day of November 2003 and the seal of the Municipality was pursuant to that resolution affixed in the presence of

.....  
Shire President

.....  
Chief Executive Officer

2. Submitted and recommended for final approval by the Western Australian Planning Commission.

..... 20.....  
Delegated under S.20 of WAPC Act 1985 Date

3. Final approval granted

..... 20.....  
Minister for Planning and Infrastructure Date