



# TOWN PLANNING SCHEME NO. 2



## **SHIRE OF CUBALLING**

### **TOWN PLANNING SCHEME NO. 2**

#### **Preamble**

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

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

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

## **Scheme Details**

The Shire of Cuballing

Town Planning Scheme No. 2.

The Shire of Cuballing 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**

### **1.1 Citation**

1.1.1 The Shire of Cuballing Scheme No. 2 (“**the Scheme**”) comes into operation on its Gazettal date

1.1.2 The following Scheme is revoked –

Name	Gazettal Date
Shire of Cuballing Town Planning Scheme No. 1	18 February 1994

### **1.2 Responsible authority**

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

### **1.3 Scheme area**

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

### **1.4 Contents of Scheme**

The Scheme comprises –

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1 - 3)

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

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

### **1.5 Purposes of Scheme**

The purposes of the Scheme are to –

- (a) set out the local government’s planning aims and intentions for the Scheme area;

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- (b) set aside land reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning application;
- (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 protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes;
- To promote the sustainable management of natural resources including energy, water, land, minerals and basic raw materials by preventing land degradation and integrating land and catchment management with land use planning;
- To encourage economic growth in rural areas by facilitating the more intensive and diversified use of rural land in appropriate areas for high value products which are compatible with surrounding farm practices and encouraging processing and value adding industries to be located within the Shire;
- To provide opportunities for planned, contained and sustainable rural residential development with access to services and infrastructure within and abutting the existing town sites;
- To protect the natural environment and biodiversity whilst ensuring appropriate development opportunities within the Shire are realised;

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- To protect the existing local heritage by encouraging compatible development which will aid the restoration and retention of the property.

**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 expressions in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes –

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

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

**1.8 Relationship with local laws**

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

**1.9 Relationship with other Schemes**

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

## **Part 2 – Local Planning Policy Framework**

### **2.1 Scheme determinations to conform with Local Planning Strategy**

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

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

### **2.2 Local Planning Policies**

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

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the Scheme area or in one or more parts of the Scheme area,

and may amend or add to or rescind the Policy.

### **2.3 Relationship of Local Planning Policies to Scheme**

2.3.1 If the provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the policy is designed to achieve before making its determination.

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

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

**2.5 Revocation of Local Planning Policy**

A Local Planning Policy may be revoked by –

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

### **Part 3 – Reserves**

- 3.1 Reserves**
- Certain lands within the Scheme area are classified as Local Reserves.
- 3.2 Regional Reserves**
- There are no regional reserves in the Scheme area.
- 3.3 Local Reserves**
- “Local Reserves” are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.
- 3.4 Use and development of Local Reserves.**
- 3.4.1 A person must not –
- (a) use a Local Reserve; or
  - (b) commence or carry out development on a Local reserve,
- without first having obtained planning approval under Part 9 of the Scheme.
- 3.4.2 In determining an application for planning approval the local government is to have due regard to –
- (a) the matters set out in clause 10.2; and
  - (b) the ultimate purpose intended for the Reserve.
- 3.4.3 In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for planning approval.

## **Part 4 – Zones and the Use of Land**

### **4.1 Zones**

4.1.1 The Scheme area is classified into zones shown on the Scheme Map.

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

### **4.2 Objectives of the zones**

The objectives of the zones are –

#### **(a) Rural Townsite Zone**

- To provide for a range of compatible uses within the town sites for a range of services, residential types, community and recreational facilities that may be found in a small country town;
- To encourage land uses which may positively affect the living and visual amenity on local amenities;
- To provide for the protection of the natural environment;
- To protect or enhance any local reserves;
- To encourage the modification/restoration of existing buildings in a manner which is compatible with the existing streetscape;
- To support commercial and industrial use in areas where the predominant established use is for residential purposes provided residential areas can be adequately buffered from any impacts.

#### **(b) General Agriculture Zone**

- To preserve productive land suitable for grazing, cropping and other compatible productive rural uses in a sustainable manner;

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- To allow for the extraction of basic raw materials where it is environmentally and socially acceptable;
- To ensure the preservation of the rural character and rural appearance of land within the zone;
- To encourage intensive agriculture where soil conditions and location are appropriate and it can be demonstrated that off-site impacts (if any) will not adversely affect existing agricultural activities;
- To protect the economic viability of rural zoned land through a presumption against subdivision except where such subdivision will enhance and/or promote the viability and diversity of general farming activity;
- To preserve and protect the natural undeveloped land areas throughout the zone; and
- To ensure that natural drainage patterns/catchments throughout the Shire are recognised in land management practices.

(c) **Rural-Residential Zone**

- To provide for rural smallholdings and a low density residential living environment in close proximity to the Rural Townsite zones;
- To ensure that all lots are adequately serviced with the necessary infrastructure;
- To ensure that no development is undertaken, specifically outbuildings, unless a single dwelling is existing on the property or is to be constructed at the same time.

**4.3 Zoning Table**

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

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

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- ‘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.

**ZONING TABLE**

LAND USE	Rural Townsite	Rural Residential	General Agriculture
Abattoir	X	X	A
Agriculture – extensive	X	X	P
Agriculture – intensive	X	A	P
Agroforestry	X	X	A
Amusement parlour	A	X	X
Animal establishment	X	A	D
Animal husbandry – intensive	X	X	A
Aquaculture	X	A	D
Bed & breakfast	P	P	P
Betting agency	A	X	X
Caravan park	A	A	A
Caretaker’s dwelling	D	X	X
Carpark	A	A	X
Childcare premises	D	D	X
Cinema/theatre	A	X	X
Civic use	P	P	P
Club premises	D	D	D
Community purpose	D	D	D
Consulting rooms	D	X	X
Convenience store	P	X	X
Corrective institution	X	X	A
Dwelling	P	P	P
Educational establishment	A	X	A
Exhibition centre	D	D	D
Family day care	D	D	X
Fast food outlet	A	X	X
Fuel depot	D	X	D
Funeral parlour	A	X	X
Home business	D	D	P

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Home occupation	P	P	P
Home office	P	D	P
Home store	D	X	X
Hospital	A	X	X
Hotel	A	X	X
Industry – cottage	D	D	D
Industry – extractive	X	X	A
Industry – general	A	X	X
Industry – light	D	X	X
Industry – mining	X	X	X
Industry – rural	X	X	D
Industry – service	D	X	X
Lunch bar	D	X	X
Marine filling station	D	X	X
Market	D	X	D
Medical centre	D	X	X
Motel	D	X	X
Motor vehicle, boat or caravan sales	D	X	X
Motor vehicle wash	D	X	X
Nightclub	A	X	X
Office	D	X	X
Park home park	A	X	A
Place of worship	D	A	X
Plantation	X	X	A
Public Utility	A	A	A
Reception centre	D	A	A
Recreation – private	D	D	D
Residential building	P	P	P
Restaurant	D	A	A
Restricted premises	A	X	X
Rural Home Business	X	D	D
Rural pursuit	X	D	P
Service station	D	A	X
Shop	P	X	X
Showroom	D	X	X
Storage	D	X	D
Tavern	D	X	X
Telecommunications infrastructure	D	D	P
Trade display	D	X	X
Veterinary centre	D	A	X
Warehouse	D	X	X
Winery	D	X	A

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;

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

**4.4 Interpretation of the Zoning Table**

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

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

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the

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advertising procedures of clause 9.4 in considering an application for planning approval; or

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

**4.5 Additional uses**

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 fit 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 –

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- (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 it planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.

**4.10 Discontinuance of non-conforming use**

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

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**4.11 Termination of a non-conforming use**

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

Note: 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 areas 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**

There are no exclusions or variations to the Residential Design Codes, which apply to the Scheme.

### **5.4 Restrictive covenants**

5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.4.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been

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dealt with as an 'A' use and has complied with all of the advertising requirements of clause 9.4.

**5.5 Development Standards and Requirements**

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

**5.6 Variations to site and development standards and requirements**

5.6.1 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.

5.6.2 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.

5.6.3 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.

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**DEVELOPMENT TABLE - GENERAL**

Zone	Use	Min Lot Area (m <sup>2</sup> )	Min Effect Frontage (m)	Min Boundary Setbacks (m)			Min Car Parking Spaces	Min Landscaping % of Site	Other Requirements	
				Front	Rear	Side				
1. Rural Townsite	Residential	See Residential Design Codes as listed in this Schedule or as Determined by Council								
	Commercial	-	-	15	7.5	Nil or 2m if abutting a Residential property	1 per 20m <sup>2</sup> of gross leasable floor area			
	Shop	-	-	15	7.5	Nil or 2m if abutting a Residential property	1 per 10m <sup>2</sup> of gross leaseable floor area			
	Office	-	-	15	7.5	Nil or 2m if abutting a residential property	1 per 20m <sup>2</sup> of gross leasable floor area			
	Eating House			15	7.5	2m	1 per 5m <sup>2</sup> of Public area			
	Hotel	1 ha	80	20	15	10	1 per bedroom and 1 per 5m <sup>2</sup> of public area	25		
	Tavern	4000	40	20	15	10	1 per 5m <sup>2</sup> of Public area	25		
	Motel	4000	80	20	15	10	1.5 per accommodation Unit	20		
	Educational Establishment	To be determined by Council	30m	20	10	5m	As determined by Council	As determined by Council	As determined by Council	
	Service Station	1500 (Roadhouse 2000)	25	20	7.5	5	20	As determined by Council	Boundary setbacks apply to Pumps, Canopy, Buildings	
	Place of Public Worship	2000	20	15	7.5	2	1 per 5 seats	50		
	General Industry	2000	25	20	7.5	5m on one side	As determined by Council	As determined by Council		
Light/Service Industry	1000	25	11	7.5	5m on one side	As determined by Council	As determined by Council			
All other Permitted Uses	As listed in this Schedule or as determined by Council									
2. Rural Residential	All other Permitted Uses	As listed in this Schedule or as determined by Council								
3. General Agricultural	Abattoir		As determined by Council	50	20	20	As determined by Council	As determined by Council	As determined by Council	
	Rural Pursuit	1 ha	50m	15	15	5	As determined by Council	As determined by Council	As determined by Council	
	All other Permitted Uses	As listed in this Schedule or as determined by Council								

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**5.7 Environmental conditions**

5.7.1 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.

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

5.7.3 The local government is to –

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

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

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

**5.8 Development of Land without Constructed/Dedicated Road Frontage or Access**

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

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

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**5.9 Categories of Development or Development in areas affected by Local Planning Policies**

Where Council adopts a Local Planning Policy under the provisions of Part 2 of the Scheme, the provisions of such a policy affecting a specific area or development type will be taken into account by Council in determining applications for planning approval in addition to the relevant provisions of the Scheme.

**5.10 Amenity Provisions**

**5.10.1 Relocated Second-hand buildings**

The Local Government may permit the erection of a transported dwelling on a lot where the design and location of the building is to the satisfaction of the Local Government, and in its opinion, does not adversely affect the amenity of the locality.

**5.10.2 Outbuildings**

- (a) The setback from boundaries for outbuildings will be in accordance with those applicable to dwellings under the Residential Design Codes in a Residential Zone or as indicated in the Development Table - General for non-residential zones except as provided for in Council's Local Planning Policy - Outbuildings.
- (b) Planning approval will not be granted for any outbuildings on any Rural Townsite or Rural Residential zoned lot which does not contain a residence.
- (c) The design and construction of outbuildings will be in accordance with the provisions of Council's Local Planning Policy - Outbuildings.

**5.11 Development in the General Agriculture Zone**

5.11.1 Council may grant approval of up to two dwellings on any lot, where the land is managed for agricultural production, tourism, or education purposes and where the occupants are engaged in those specified predominant land uses or activities.

5.11.2 Council will support more intensive forms of agricultural production in the General Agriculture zone subject to:

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- (a) identification of soil types, availability and adequacy of water supply, and any areas of salt affected land and/or land degradation;
- (b) evidence from suitably qualified consultants and/or the Department of Agriculture on the suitability of the proposed lots and lot size for the intended land use;
- (c) evidence of suitable land care management issues addressing retention of remnant vegetation, revegetation areas, land degradation and salinity management;
- (d) evidence that the proposed activity is compatible with broadacre agriculture or that adverse impacts can be contained within the site; and
- (e) such other matters as may be determined by Council.

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

5.11.4 **Tree Planting/Vegetation Corridors/Greenbelt**

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

5.11.5 Council may also require tree planting and/or drainage measures in designated areas through its Local Planning Policy - Natural Resource Management.

5.11.6 Areas designated under the provisions of Sub-Clause 5.11.5 shall be identified on the Policy Map and/or marked on an overlay to the Scheme Maps.

**5.12 Development in the Rural Residential Zone**

5.12.1 Only one dwelling will be permitted on any lot used only for rural living purposes.

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- 5.12.2 Council may permit ancillary accommodation providing it is located within the same building envelope or building clearance area as the first or primary dwelling.
- 5.12.3 Council may require an Outline Development Plan to be prepared by the proponent and endorsed by Council in the Rural Residential Zone prior to any development or subdivision being approved or recommended for approval.
- 5.12.4 An Outline Development Plan will be required when the proposed development proposes to create more than five (5) lots or an area greater than 10 ha is to be subdivided.
- 5.12.5 The Outline Development Plan will need to contain the information listed in Council's Local Planning Policy - Rural Residential Development.
- 5.12.6 All subdivision shall have a minimum lot size of 4 ha unless the lots can be connected to a reticulated water supply.
- 5.12.7 All development, including a single house will require an application for planning approval to be made to Council unless it is within a defined building envelope accepted by Council and be subject to the provisions of Clause 8.1 of the Scheme.
- 5.12.8 In order to conserve the rural environment of features of natural beauty all trees shall be retained unless their removal is authorized by Council, and all building confined to the specific building envelope.
- 5.12.9 Development proposals will need to have due regard to the EPA Position Statement No. 2 - Environmental Protection of Native Vegetation in Western Australia.
- 5.12.10 Development proposals will need to have due regard to the protection of wetlands and watercourses as required by the EPA through the setting aside of dryland buffers.

## **Part 6 – Special control areas**

- 6.1**                    **Operation of special control area**
- 6.1.1                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 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 submission on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
  - (c) carry out such other consultation as it thinks fit; and
  - (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.
- 7.1.4 Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.
- 7.1.5 The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.

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7.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

- Note:
1. The purpose and intent of the heritage provision 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 of the heritage area;

and

- (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.

7.2.3 If a local government proposes to designate an area as a heritage area, the local government is to –

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) advertise the proposal by –
  - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;

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- (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
- (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;

and

- (c) carry out such other consultation as the local government considers appropriate.

7.2.4 Notice of the proposal under clause 7.2.3(b) is to specify–

- (a) the area subject of the proposed designation;
- (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
- (c) in what form and what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.

7.2.5 After the expiry of the period within which the submissions may be made, the local government is to –

- (a) review the proposed designation in the light of any submissions made; and
- (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.

7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.

7.2.7 The local government may modify or revoke a designation of a heritage area.

7.2.8 Clause 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

**7.3 Heritage agreements**

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

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

**7.4 Heritage assessment**

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

**7.5 Variations to Scheme provisions for a heritage place or heritage area**

Where desirable to –

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage list under clause 7.2.1; 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 5.6.2.

## **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 development without first having applied for and obtained a planning approval of the local government under Part 9.

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

### **8.2 Permitted development**

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

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is –
  - (i) located in a place that has been entered in the register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - (iii) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where –
  - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes or the Development Table - General;

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- (ii) the development will be located in a heritage area designated under the Scheme;
  - (iii) the proposed dwelling is a transportable house;
  - (iv) the proposed dwelling is a relocated second hand dwelling or part thereof;
  - (v) outbuildings associated with a dwelling are proposed on a lot of 2 hectares or less and which is outside a defined building envelope accepted by Council;
  - (vi) the proposed dwelling is on land which is zoned Rural Residential and a building envelope has not been formally identified for the lot;
  - (vii) the proposed dwelling is to be located in a local policy area declared by Council under the provisions of Part 2 of the Scheme.
- (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;

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- (f) any exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the heritage list or in a heritage area.
- (g) agriculture extensive, home business, home occupation, home office and rural pursuit in the General Agriculture Zone;
- (h) the erection of a boundary fence except where otherwise required by the Scheme;
- (i) the carrying out of any works on, in, over or under a street or road by a public authority acting in pursuant of its statutory obligations;
- (j) the carrying out of works urgently required for public safety or for the safety or security of plant or equipment or for the maintenance of essential services
- (k) the use of land in a reserve, where such land is vested in Council or vested in a Public Authority:
  - (i) for the purpose for which the land is reserved under the Scheme; or
  - (ii) in the case of land vested in a public authority, for any purpose for which such land may be lawfully used by that authority;

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

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



## **Part 9 – Applications for planning approval**

### **9.1 Form of application**

9.1.1 An application for approval of 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 5 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

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

**9.2 Accompanying material**

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

- (a) a plan or plans to scale of not less than 1:500 showing:
  - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
  - (ii) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - (v) the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - (vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - (vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
  - (viii) the nature and extent of any open space and landscaping proposed for the site;

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

**9.4**

**Advertising of applications**

9.4.1

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

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

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

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- 9.4.2 Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice be given in 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 scheme 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;

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

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- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1;
- (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 the determination in relation to the application, the local government is to convey its determination to the applicant in the form of prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the local government's determination.

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

**10.5 Term of planning approval**

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

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

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

**10.6 Temporary planning approval**

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

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

**10.7 Scope of planning approval**

Planning approval may be granted –

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

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**10.8 Approval subject to later approval of details**

- 10.8.1 Where an application is for development that includes the carrying out or any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.
- 10.8.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.
- 10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters may be made no later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

**10.9 Deemed refusal**

- 10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.
- 10.9.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.
- 10.9.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.9.1. or 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

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**10.10 Appeals**

An applicant aggrieved by the 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 an owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the 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.

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

11.2.4 A person on whom notice is served under this clause may 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 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 the 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 delegation were a delegation under Division 4 of Part 5 of that Act.

**11.4 Person must comply with provisions of Scheme**

A person must not –

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

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

Note: Section 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 the approval to carry out development on the land is refused; or
  - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of

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permitting the land to be used or developed for no purpose other than a public purpose,

no later than 6 months after the application is refused or the permission granted.

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

**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 preserve, 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 word and expressions  General definitions Land use definitions
Schedule 2	Additional Uses
Schedule 3	Restricted Uses
Schedule 4	Special Use Zones
Schedule 5	Exempted Advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	Environmental Conditions (Does not apply to this Scheme)

## SCHEDULE ONE

### DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

**1. General definitions**

In the Scheme –

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

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

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

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

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

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

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

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

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**“Gazettal date”** in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.

**Land use definitions**

In the Scheme –

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

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

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

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

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

“**amusement parlour**” means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;

“**animal establishment**” means premises used for the breeding, boarding, training or caring of animals for commercial

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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 feedlots;

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

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

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

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

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

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

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

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

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

**“convenience store”** means premises –

- i. 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;
- ii. operated during hours which include, but may extend beyond, normal trading hours;
- iii. which provide associated parking;
- iv. the floor area of which does not exceed 300 square metres net lettable area;

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

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

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

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

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

**“fuel depot”** means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service

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station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;

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

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

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

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

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

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

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

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

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

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

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

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

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by 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;

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- (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 principle 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 on, or adjacent to, the land from which the materials are extracted, but does not include industry-mining;

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

**“industry – light”** means an industry –

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

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

**“industry – rural”** means –

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

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**“industry – service”** means –

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

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

**“marine filling station”** – means premises used for the storage and supply of liquid fuels and lubricants for marine craft;

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

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

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

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

**“motor vehicle repair”** – means premises used for or in connection with –

- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
- (b) repairs to tyres,

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

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**“motor vehicle wash”** – means premises where the primary use is the washing of motor vehicles;

**“night club”** – means premises –

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

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

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

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

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

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

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

**“residential building”** – has the same meaning as in the Residential Design Codes;

**“restaurant”** - means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Licensing Act 1988*;

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

- (a) publications that are classified as restricted under the *Censorship Act 1996*;

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- (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;

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

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

**“rural pursuit”** – means any premises used for –

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

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

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

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

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

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“**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;

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

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

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

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

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

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

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

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**SCHEDULE TWO**

**ADDITIONAL USES**

<b>No.</b>	<b>Description of land</b>	<b>Additional use</b>	<b>Conditions</b>

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**SCHEDULE THREE**

**RESTRICTED USES**

<b>No.</b>	<b>Description of land</b>	<b>Restricted use</b>	<b>Conditions</b>

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**SCHEDULE FOUR**

**SPECIAL USE ZONES**

No.	Description of land	Special use	Conditions
1.	Pt Lot 244 Ridley Street, Cuballing	Dwelling Home Business Home Occupation Home Office Home Store	i) All use and development shall be in accordance plans, and conditions approved by the local government;  ii) No alterations or extensions to the land use shall be undertaken without the approval of the local government.

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**SCHEDULE FIVE**

**EXEMPTED ADVERTISEMENTS**

<b>Land and/or Development</b>	<b>Use</b>	<b>Exempted Sign</b>	<b>Maximum Size</b>
Dwellings		One Professional Name Plate	0.2m <sup>2</sup>
Home Occupation		One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
Places of Worships, meeting halls and places of public assembly		One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Shops, Showrooms and other uses appropriate to the Town site area		All advertisements affixed to the building below the top of the awning, or in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building.	N/A
Industrial		A maximum of 4 advertisements applied to or affixed to the wall of the building.	

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**SCHEDULE SIX**

**FORM OF APPLICATION FOR PLANNING APPROVAL**

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**Application for Planning Approval**

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

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

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**Part 2**

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

<b>Existing building/land use:</b>
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>	
<i>Acceptance Officer's initials:</i>	<i>Date Received:</i>
<i>Local Government Reference No:</i>	

**SCHEDULE SEVEN**

**ADDITIONAL INFORMATION FOR SIGNS (ADVERTISEMENTS)**

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

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

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

2. Details of proposed sign:

- (a) Type of structure on which advertisement is to be erected  
(i.e. free standing, wall mounted, other):.....  
.....
- (b) Height:..... Width..... Depth:.....
- (c) Colours to be used:.....
- (d) Height above ground level –
- (to top of advertisement):.....
  - (to underside):.....
- (e) Materials to be used:.....  
.....

Illuminated: Yes / No

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

3. Period of time for which advertisement is required:.....  
.....
4. Details of signs (if any) to be removed if this application is approved:  
.....  
.....  
.....  
.....

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

Signature of advertiser(s):  
.....  
(if different from landowners) .....

Date: .....

**SCHEDULE EIGHT**

**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

(cl. 9.4.4)

**Town Planning and Development Act 1928 (As Amended) 1928**

**Shire of Cuballing**

**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

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

Lot No: \_\_\_\_\_ Street: \_\_\_\_\_

Locality: \_\_\_\_\_

Proposal:.....  
.....  
.....

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

Signed:

Dated:

.....

for and on behalf of the Shire of Cuballing.

**SCHEDULE NINE**

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

**Town Planning and Development Act 1928 (As Amended) 1928**

**Shire of Cuballing**

Determination on Application for Planning Approval

Location:

Lot:

Plan/Diagram:

Vol. No:

Folio No:

Application Date:

Received on:

Description of proposed

development:.....

.....

The application for planning approval is:

Granted subject to the following conditions:

Refused for the following reason(s)

Conditions/reasons for refusal:

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

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

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

Note 3:            If an applicant is aggrieved by this determination there is a right of appeal under Part V of the Town Planning and Development Act 1928 (As Amended) 1928. An appeal must be lodged within 60 days of the determination.

Signed:

Date:

.....

for and on behalf of the Shire of Cuballing.

**SCHEDULE TEN**

**ENVIRONMENTAL CONDITIONS**

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

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**ADOPTION**

Adopted by resolution of the Council of the SHIRE OF CUBALLING at the meeting of the Council held on the 21st day of December 2001 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

PRESIDENT – I WATTS \_\_\_\_\_

CHIEF EXECUTIVE OFFICER – P NAYLOR \_\_\_\_\_

**FINAL APPROVAL**

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

PRESIDENT – I WATTS \_\_\_\_\_

DATE: \_\_\_\_\_

CHIEF EXECUTIVE OFFICER – P NAYLOR \_\_\_\_\_

DATE: \_\_\_\_\_

Recommended for Approval

DELEGATED UNDER S20 OF WAPC ACT 1985

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

Final Approval

\_\_\_\_\_ A MAC TIERNAN, Minister for Planning and Infrastructure

DATE: \_\_\_\_\_

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**LOCAL PLANNING POLICY**  
**CLIFFORD STREET AREA – CUBALLING**

To maintain and enhance the amenity of an area of Clifford Street, lots designated with R2 density coding south of Carton Street and west of Clifford Street Cuballing, the following additional provisions shall apply:

- a) The applicant will be required to gain planning approval from the Council for single residential and ancillary development;
- b) In order to enhance the amenity of the land, where Council considers an area 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 Council;
- c) A building envelope with an area of at least 1000m<sup>2</sup>, but not exceeding 30% of each lot area, in a position to be agreed by the Council may be cleared. Trees or other vegetation outside the approved building envelope shall not be removed unless with the approval of the Council and then only for fences, firebreaks, access, servicing, or removal of dead or dangerous trees.

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**LOCAL PLANNING POLICY**  
**DRYANDRA FOREST AREA OF INFLUENCE**

1. Land subject to this policy is delineated on the Policy Map.

2. Purpose

To manage future development and land uses so as to ensure that the Dryandra Forest is adequately protected and not negatively impacted upon through new land uses.

To encourage sound conservation and land management principles within the area of influence in order to assist with the conservation practices being undertaken by the Department of Conservation and Land Management.

3. Application Requirements

Planning Approval is required to construct or extend a dwelling or other building in the Policy Area.

4. Relevant Considerations

In considering applications for Planning Approval, the Local Government shall have regard to-

- (a) the likely impact on the State Forest, specifically in relation to native flora and fauna;
- (b) the proposed activities for the land and the potential risk of causing an increase in remnant vegetation losses; and
- (c) any provision or recommendation from the Department of Conservation and Land Management, including the effect on current land management practices of the Department of Conservation and Land Management.
- (d) the upgrading and maintenance of boundary fencing with the State Forest; and
- (e) land management practices including but not limited to the use of chemicals.

5. Referral of Applications for Planning Approval

The Local Government will refer any Application for Planning Approval to the Department of Conservation and Land Management for comment.

The Local Government may also refer any Application for Planning Approval to any other relevant agency for comment.

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**LOCAL PLANNING POLICY**  
**HOTHAM RIVER ENVIRONS**

1. Land subject to this policy is delineated on the Policy Map.

2. Purpose

To manage development in areas where there is high risk of inundation so as to protect people and property from undue damage and where there is a potential risk to human health.

To preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems.

3. Application Requirements

Planning Approval is required to construct or extend a dwelling or other building or drainage or to construct drainage channels in the Policy Area.

4. Relevant Considerations

In considering applications for Planning Approval, the Local Government shall have regard to-

- (a) the likely impact on the health and welfare of future occupants;
- (b) the proposed activities for the land and their potential increase in the risk of causing an increase in nutrients entering the water regimes;
- (c) the method by which any land is to be drained;
- (d) any provision or recommendation from any Catchment Management Plan.

The Local Government will impose conditions on any Planning Approval relating to-

- (a) the construction and occupation of any dwelling or outbuilding;
- (b) the type of effluent disposal system;
- (c) minimum floor levels for any building above the highest known water levels;
- (d) any land use that may contribute to the degradation of the surface or sub-surface water quality.

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- (e) no development other than for conservation purposes will be permitted within 30 metres of any water body;
  - (f) damming, draining or other developments which may alter the natural flow of surface water will not be permitted unless such works are part of an approved Catchment Management Plan.
5. Referral of Applications for Planning Approval

The Local Government may refer any Application for Planning Approval to any relevant agency for comment.

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**LOCAL PLANNING POLICY**  
**OUTBUILDINGS**

Within all Rural Townsite and Rural Residential zoned land and on General Agricultural zoned lots with an area of 2ha or less, planning approval may be granted to outbuildings appurtenant to any dwelling, provided all boundary setbacks and building separation requirements have been complied with, the building is of single storey construction, located behind any dwelling on site and provided the proposed development complies with the following:

- (a) In the Rural Townsite and Rural Residential zones of the Shire, where the lot size is 1500m<sup>2</sup> or less in area:
  - (i) Zinalume construction, where the total outbuilding does not exceed 55m<sup>2</sup> in floor area;
  - (ii) Colourbond construction, where the total outbuilding does not exceed 65m<sup>2</sup> in floor area;
  - (iii) Masonry construction and/or where the total outbuilding area has walls constructed of the same materials and appearance as the house and does not exceed 75m<sup>2</sup> in floor area and no parapet wall is greater than 8 metres in length.
- (b) In Rural Townsite and Rural Residential zones of the Shire where the lot size is over 1500m<sup>2</sup> or on General Agricultural zoned lots with an area of 2 ha or less;
  - (i) Zinalume construction, where the total outbuilding does not exceed 85m<sup>2</sup> in total floor area;
  - (ii) Colourbond construction, where the total outbuilding does not exceed 120m<sup>2</sup> in total floor area;
  - (iii) Masonry construction and/or where the total outbuilding has walls constructed of the same materials and appearance as the house and does not exceed 170m<sup>2</sup> in total floor area.
- (c) Wall height of any outbuildings not to exceed 3 metres. In the case of gable floor construction, the maximum height is not to exceed 4 metres.
- (d) Prior to the considering a parapet wall construction on any boundary, the applicant will present to Council with written agreement to the same by any affected adjoining landowner.

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- (e) The applicant providing the Local Government with a written undertaking that the outbuilding constructed will only be used for the purpose permitted within the zone in which it is located, under the provisions of the Scheme.
- (f) Any application for planning approval which does not comply with the above shall be referred to Council for consideration.
- (g) No planning approval will be granted for any outbuildings on any Rural Townsite or Rural Residential zoned lot which does not contain a residence.
- (h) Setbacks from boundaries for Outbuildings
  - (i) If attached to the dwelling the setbacks for an outbuilding shall be a minimum of 1.0 metre from side boundaries with eaves not closer than 0.75 metres to a side boundary in the Rural Townsite Zone. Setback to the rear boundary shall be as specified in the Residential Design Codes for Rural Townsite zoned lots and/or a minimum of 10 metres for Rural Residential zoned land.
  - (ii) If detached from the dwelling, outbuildings shall be at least 1.8 metres clear of the dwelling with a minimum setback of 1.0 from the side boundary and 1.2m from the rear boundary in the Rural Townsite Zone and shall be a minimum of 10 metres rear setback in the Rural Residential Zone.

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**LOCAL PLANNING POLICY**  
**RURAL RESIDENTIAL DEVELOPMENT**

In considering proposals for Rural Residential development Council will have due regard for the following:

1. Potable Water Supply

- (a) In considering residential development within the Rural Residential Zone, the Local government will require evidence of the availability of a potable water supply either from a reticulated system, an underground bore or a rainwater storage system.
- (b) Where the supply of potable water is by rainwater storage only, such rainwater storage system shall be directly connected to an adequate catchment.
- (c) In lieu of the erection of a rainwater storage tank, Local government may accept the submission of a receipted account or signed contract to supply and install a suitable water tank prior to the issue of a building licence for a proposed dwelling to ensure the availability of an adequate water supply.

2. Effluent Disposal

Where connection to reticulated sewer is unavailable to a lot in the Rural Residential Zone, domestic sewage shall be disposed of by means of on-site aerobic treatment units or by alternative nutrient attenuating on-site domestic disposal system (septic tank and leach drain) acceptable to the Health Department of Western Australia.

3. Tree Preservation/Planting

- (a) In order to conserve the rural environment of features of natural beauty, all trees shall be retained unless their removal is authorized by Council, and all building confined to the specified building envelope.
- (b) Council as a condition of planning approval may require the planting of a minimum of twenty (20) drought resistant native trees or 10/hectare whichever is the greater capable of growing to a height of at least three (3) metres, in a position agreed to by the Council.

4. Building Materials

- (a) All buildings to be constructed on any lot will be of a material approved by Council and all roof and where approved wall cladding will be finished in non-reflective material (ie. Colourbond).

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- (b) All fencing proposed on any lot is to be of a material and located in a position approved by Council.
5. Parking and Loading of Vehicles
- All parking or loading and unloading of vehicles associated with any on-site activity other than those of a residential nature, is to take place in the lot area contained behind the 20 metre building line from the lot frontage.
6. Untidy Places
- No unsightly material or equipment, which could detract from the amenity of the area in general or adjoining properties in particular, is to be stored on-site unless it is screened in a manner acceptable to Council.
7. Advertising Signs
- Any advertising sign proposed on a lot will only be approved by Council if it complies with the sign specifications as they relate to a Home Occupation/Business activity as laid down in Schedule No. 9.
8. Livestock Management
- (a) With the intention of preventing overstocking or other practices detrimental to the amenity of the zone and to prevent land degradation and nutrient export, the keeping of livestock shall not be permitted in the Rural Residential Zone without the approval in writing from the Local government.
- (b) In considering any applications for the keeping of livestock, the Local government will have regard to advice from the Department of Agriculture, the Department of Environmental Protection and from the Water and Rivers Commission in relation to protection of watercourses
9. Fire Management
- (a) An Outline Development Plan prepared as a requirement under the provisions of the scheme for a rural residential proposal shall include a Bush Fire Risk Assessment and Management Plan prepared by the developer/subdivider to the satisfaction of Local government and the Fire Emergency Services Authority and shall be referred to any government agency owning land that shares a common boundary with the land the subject of subdivision/development proposal.
- (b) Strategic firebreaks as shown on the Outline Development Plan shall be constructed by the developer and maintained to the satisfaction of the Local government and Fire Emergency Services Authority by the landholder.

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10. In considering proposals for rural residential development Council may require an Outline Development Plan to be prepared by the proponent and endorsed by Council prior to any development or subdivision being approved or recommended for approval.
11. The Outline Development Plan will need to contain the following details:
- (a) A map showing the area to which the proposed outline development plan (ODP) is to apply;
  - (b) A site analysis map showing the characteristics of the site including:
    - i) landform, topography and land capability; and
    - ii) conservation and environmental values including bushland, wetlands, damp lands, streams and water courses and proposed setbacks to these features;
  - (c) A context analysis map of the immediate surrounds to the site including:
    - i) major open space and parklands;
    - ii) protection of natural features such as water courses and vegetation;
    - iii) street block layouts;
    - iv) the street network including street types;
    - v) urban water management areas; and
    - vi) existing and future land use.
  - (d) A written report to explain the mapping and to address the following:
    - i) the design rationale for the proposed pattern of subdivision, land use and development;
    - ii) urban water management;
    - iii) proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services; and
    - iv) the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.
  - (e) A plan of subdivision and design which addresses the following:
    - i) the proposed ultimate subdivision including lot sizes and dimensions;
    - ii) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc. as may be considered appropriate;
    - iii) those physical features it is intended to conserve;
    - iv) the proposed staging of the subdivision where relevant.
  - (f) A statement as to the purpose of intent of the development and the reasons for selecting the particular area.

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12. In addition to the plan of subdivision, 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 of intent of the zone and the rural environment and amenities are not impaired;
  - iii) any special provisions appropriate to secure the objectives of the zone.

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**LOCAL PLANNING POLICY**  
**NATURAL RESOURCE MANAGEMENT**

1. In making its decision on an application for planning approval or to rezone land, Council shall have due regard to the potential for the proposal to:
  1. reduce soil salinity;
  2. prevent soil erosion;
  3. provide habitats for native fauna;
  4. enhance rural amenity; and
  5. integrate land and catchment management.

and may impose conditions relating to the following:

  - (a) The need to protect and rehabilitate water courses and catchment areas.
  - (b) The need for the preservation of existing trees and nature corridors and the planting of additional trees and other vegetation within all zones and reservations within the Shire, in order to provide shade, aesthetic pleasure, reduce noise, provide habitats for natural fauna, reduce salinity in soil, prevent erosion and assist in the proper balancing of the greenhouse effect.
  - (c) The need to ensure that natural drainage patterns/ catchments throughout the Scheme area are recognised in land management practices provided for in the Scheme.
2. Council may also require tree planting in designated areas in accordance with the provisions of this Policy in areas:
  - (a) of land degradation such as salt affected areas and drainage lines on the advice of the relevant Landcare Group and/or the Department of Agriculture, and/or the Water and Rivers Commission areas;
  - (b) around and through developed areas including road reserves, the urban/rural interface and visually prominent locations;
  - (c) planted for the specific purpose of agroforestry.
3. Where Council designates an area under this policy it shall serve notice upon individual landowners in designated areas requiring the preservation or planting of groups and corridors of trees and vegetation and/or drainage works, and thereafter no landowner shall cut, remove or otherwise destroy any tree and or vegetation or alter the drainage works in the designated area unless the Council rescinds the notice or orders.
4. Where a tree planting and/or drainage notice is issued under the provisions of this Policy, Council will administer and where such works are not required under any

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other provision of this Scheme or any other Act or statute, seek funding (either wholly or partially) for the designated tree planting and/or drainage works.

5. Stock Control

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 dust pollution and soil erosion to the satisfaction of the Council. Where in the opinion of the Council the continued presence of animals is likely to contribute or is contributing to dust pollution or soil erosion, the Council shall recommend to the relevant environmental protection authority that it serve notice on the owner of the land requiring the removal of the animals within the period specified and for those animals specified in the notice.

6. Development on Flood Prone Land

- (a) Local government may refer applications for subdivision and development approval affecting flood prone land to the Department of Environmental Protection and/or the Water and Rivers Commission and shall pay due regard to any advice received on such applications.
- (b) Council will not permit any building or development which may be adversely affected by inundation to be located on land which is considered by Council as being liable to flooding or inundation or within a defined flood plain. Where such areas can be identified they shall be marked on an overlay to the Scheme Maps or on the Natural Resource Management Policy Plan.