SHIRE OF WYNDHAM-EAST KIMBERLEY

TOWN PLANNING SCHEME NO. 7

KUNUNURRA AND ENVIRONS

UPDATED TO INCLUDE AMD 39 GG 4/1/13

DISCLAIMER

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

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

Date Produced:  7 January 2013

Prepared by the Department for Planning and Infrastructure

Date of Original Town Planning Scheme Gazetted:  19 January 2001
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<th>GAZETTAL DATE</th>
<th>UPDATED WHEN</th>
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<td>Amended Table 1 – Zoning Table to include “Art and Craft Centre”, “Cabin”, “Chalet” and “Museum”. Schedule 1 – Definitions, deleted definition “Nursery”, inserted “Chalet” and “Cabin” and edited “Transient Accommodation”. Amended Clause 5.21.1, 5.21.2 and re-numbered 5.21.2 to 5.21.3.</td>
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<td>11/3/10</td>
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<td>Inserted Clause 5.21.1, 5.21.2, renumbered the previous Clause 5.21 to Clause 5.22 and related schemes. Renumbered Clauses 5.22 – 5.27. Entered an extra bullet point into Clause 6.5.1. Modified Table 1 – Zoning table to including Class 16: Rural Smallholding.</td>
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<td>Inserted new provision (6.6 – Overall Planning Area No. 5 – Weero Road Rural Residential Area). Renumbered section 6.6 to 6.7, section 6.7 to section 6.8, and references throughout section 6 to 6.6 (now 6.7) and section 6.7 (6.8) accordingly.</td>
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SHIRE OF WYNDHAM - EAST KIMBERLEY

TOWN PLANNING SCHEME NO. 7

SCHEME TEXT (KUNUNURRA AND ENVIRONS)

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December 2000
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PART I - PRELIMINARY

1.1 CITATION

1.1.1 This Town Planning Scheme may be cited as the Shire of Wyndham - East Kimberley Town Planning Scheme No 7 - Kununurra and Environs hereinafter called 'the Scheme' and shall come into operation on the publication of the Scheme in the Government Gazette.

1.2 RESPONSIBLE AUTHORITY

1.2.1 The Authority responsible for implementing the Scheme is the Council of the Shire of Wyndham - East Kimberley hereinafter called 'the Council'.

1.3 SCHEME AREA

1.3.1 The Scheme applies to that part of the Shire of Wyndham - East Kimberley as shown on the Scheme Map by the broken black border and which area is hereinafter called the Scheme Area.

1.4 REVOCATION OF PREVIOUS SCHEME

1.4.1 The Shire of Wyndham-East Kimberley Town Planning Scheme No 4 - Kununurra, which was published in the Government Gazette on the March 1, 1985, and amended from time to time, is hereby revoked

1.5 CONTENTS OF THE SCHEME

1.5.1 The Scheme comprises:

(a) The Scheme Text

(b) The Scheme Maps (Sheets 1 to 20)

1.6 ARRANGEMENT OF THE SCHEME TEXT

1.6.1 The Scheme Text is divided into the following parts:-

Part I Preliminary
Part II Reserves
Part III Zones
Part IV Non-Conforming Uses
Part V General Development Requirements
Part VI Overall Planning Areas
Part VII Amenity Control
Part VIII Car Parking Standards and Provisions

Part IX Control of Advertising
Part X Conservation and/or Preservation of Places of Heritage Value
Part XI Planning Approval
Part XII Administration
1.7 SCHEME OBJECTIVES

1.7.1 The broad objectives of the Scheme are as follows:

(a) to set aside land for the continued development of the town in areas appropriate for urban development;

(b) to prevent the development of land near the townsite considered inappropriate for urban uses because of the adverse affects of inundation and other physical constraints;

(c) to reserve land for public purposes;

(d) to zone land outside the townsite area for specific rural and industrial uses;

(e) to zone and reserve land for landscape conservation and protection;

(f) to devise and implement policies for the lakeside areas for the provision of land for recreation, landscape protection and specific development as part of a major lakeside park system;

(g) to zone the balance of the land within the Scheme Area for the various purposes described in the Scheme;

(h) to provide development policies and controls for the purpose of securing land, maintaining an orderly and properly planned use and development of land within the Scheme Area;

(i) to set policies for the preservation of sites and places of historic and heritage value;

(j) to protect and enhance the environmental values and natural resources of the Scheme Area and to promote ecologically sustainable landuse and development;

(k) to recognise the objectives of the State Planning Strategy.

1.8 INTERPRETATIONS

1.8.1 Except as provided in Clauses 1.8.2 and 1.8.3 the words and expressions of the Scheme have their normal and common meaning.

1.8.2 In the Scheme unless the context otherwise requires, or unless it is otherwise provided herein, words and expressions have the respective meanings given to them in Appendix 1, Planning and Development (Local Planning Schemes) Regulations 2015 - deemed provisions for local planning schemes, and the Residential Planning Design Codes.

1.8.3 Where a word or term is defined in the Residential Planning Design Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Planning Design Codes.
PART II - RESERVES

2.1 SCHEME RESERVES

2.1.1 The lands shown as Scheme Reserves on the Scheme Map, hereinafter called 'Reserves' are lands reserved under the Scheme for the purposes shown on the Scheme Map and are listed hereunder:

Major Road Reserve
Parks and Recreation Reserve
Public Purposes Reserve
Waterway Reserve
Special Foreshore Reserve
Conservation/Environmental Protection Reserve

2.2 MATTERS TO BE CONSIDERED BY THE COUNCIL

2.2.1 Where an application for Planning Approval is made with respect to land within a Reserve, the Council shall have regard to the ultimate purposes intended for the Reserve and the Council shall, in the case of land reserved for the purposes of a Public Authority, confer with that Authority before granting its approval.

2.3 COMPENSATION

2.3.1 Where the Council refuses Planning Approval for the development of a Scheme Reserve on the ground that the land is reserved for the purposes shown on the Scheme Map, or grants approval subject to conditions that are unacceptable to the applicant the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.

2.3.2 Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing Planning Approval or granting it subject to conditions that are unacceptable to the applicant.

2.3.3 In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price representing the unaffected value of the land at the time of refusal of Planning Approval or of the grant of approval subject to conditions that are unacceptable to the applicant.

2.4 OBJECTIVES FOR RESERVES

2.4.1 Major Road Reserve

To identify land required for existing and future major roads such as the future Kununurra By-pass road and existing Victoria Highway Reserve.

2.4.2 Park and Recreation Reserve

To identify and protect land utilised or intending to be utilised for local recreational needs.

2.4.3 Public Purpose Reserve

To identify and protect land required for public utilities, community purposes and educational facilities.
2.4.4 Waterway Reserve

To identify and protect significant lakes, rivers and irrigation channels and ensuring that environmental values are paramount in any consideration by the Council for applications for use of a waterway reserve.

2.4.5 Special Foreshore Reserve

To identify and protect those foreshore areas that have special conservation values particularly in regard to flora and fauna values and ensuring that areas of significance are ultimately identified and recorded through appropriate studies.

2.4.6 Conservation/Environmental Protection Reserve

To identify and protect those areas of conservation significance particularly within existing National Parks and other conservation reserves.
PART III - ZONES

3.1 ZONES AND DEVELOPMENT TABLE

3.1.1 The Scheme Area is divided into 14 Zones set out hereunder:

- Town Centre Zone
- Local Centre Zone
- Tourist Zone
- Residential Zone
- Residential Development Zone
- Light Industry Zone
- Mixed Business Zone
- Rural Industry Zone
- Composite Industry Zone
- General Rural Zone
- Rural Agriculture 1 Zone
- Rural Agriculture 2 Zone
- Rural Living Zone
- Special Site Zone
- Settlement Zone

AMD 15 GG 13/6/06

3.1.2 The zones are delineated and depicted on the Scheme Map according to the legend thereon. These zones and the development provisions relating to them shall be read in conjunction with Policy Statements as adopted by the Council from time to time in accordance with pursuant to Part XII Part 2 of the deemed provisions.

3.1.3 Table 1 indicates, subject to the provisions of the Scheme, the various uses permitted in the Scheme Area in the various zones. Such uses are determined by cross reference between the list of Use Classes on the left hand side of the Table 1 and the list of Zones at the top of the Zoning Table.

3.1.4 The symbols used in the cross reference in the Zoning Table have the following meanings:

- 'P' means that the use is permitted provided it complies with the relevant standards and requirements laid down in the Scheme and all conditions (if any) imposed by the Council in granting Planning Approval;
- 'IP' means a use that is not permitted unless such use is incidental to the predominant use of the land as determined by the Council;
- 'AA' means that the Council may, at its discretion, permit the use;
- 'SA' means that the Council may, at its discretion, permit the use after notice of application has been given in accordance with Clause 11.2.
- 'X' means a use that is not permitted by the Scheme.

AMD 14 GG 13/6/06

3.1.5 Where no symbol appears in the cross reference of a use class against a Zone in the Zoning Table a use of that class is not permitted in that Zone.

DELETED BY AMD 14 GG 13/6/06 & SUBSEQUENT CLAUSES RENUMBERED.
3.1.5 Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

3.1.6 If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use classes the Council may:-

(a) determine that the use is not consistent with the objectives and purpose of the particular zone and policy statement and is therefore not permitted,

or

(a) determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the particular zone and policy statement and thereafter the Council will consider the application as an "SA" use.

3.1.7 Additional Uses  

Despite anything contained in the Zoning Table, the land specified in Appendix 2A 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 Appendix 2A with respect to that land.
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**PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2.**

**COMMISSION’S RESERVE TO INCLUDE: IN A COMMUNITY ZONING district, THE:**

- **PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A PREDOMINANT USES LISTED ON PREDOMINANT USES LIST, THE:**

Shire of Wyndham-East Kimberley TPS 7
**TABLE 1 - ZONING TABLE (Cont'd)**

### USE CLASSES:

1. TOWN CENTRE
2. LOCAL CENTRE
3. TOURIST
4. RESIDENTIAL
5. RESIDENTIAL DEVELOPMENT
6. LIGHT INDUSTRY
7. MIXED BUSINESS
8. RURAL INDUSTRY
9. COMPOSITE INDUSTRY
10. GENERAL RURAL
11. RURAL AGRICULTURE 1
12. RURAL AGRICULTURE 2
13. RURAL LIVING
14. SPECIAL SITE
15. SETTLEMENT

#### INSTITUTIONAL

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#### PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2.

#### COMMISSION

PREVIOUS USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.

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Shire of Wyndham-East Kimberley TPS 7  
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<td>Milk Depot</td>
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<td>X</td>
<td>X</td>
<td>AA</td>
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<td>X</td>
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<td>SA</td>
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</tr>
<tr>
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</tr>
</tbody>
</table>

PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2

PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2

* refer also to Clause 5.13.1(b)  

AMD 13 GG 26/10/04
PART IV - NON-CONFORMING USES

4.1 NON-CONFORMING USE RIGHTS

4.1.1 No provision of the Scheme shall prevent:

(a) the continued use of any land or building for the purpose for which it was being lawfully used at the time of coming into force of the Scheme;

(b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits, lawfully required to authorise the development to be carried out, were duly obtained and are current.

4.2 EXTENSION OF NON-CONFORMING USE RIGHTS

4.2.1 A person shall not alter or extend a non-conforming use or erect alter or extend a building more than 20% of the existing floor area of the building or buildings existing at the time of the gazettal of the scheme used in conjunction with a non-conforming use without first having applied for and obtained the Planning approval of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme and any relevant policy.

4.3 CHANGE OF NON-CONFORMING USES

4.3.1 Notwithstanding anything contained in the Zoning Table the Council may grant its Planning approval to the change of use of any land from a non-conforming use to another use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the non-conforming use and is, in the opinion of the Council, closer to the intended uses of the zone or reserve.

4.4 DISCONTINUANCE OF NON-CONFORMING USE

4.4.1 When a non-conforming use of any land or building has been discontinued for a period of six months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.

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

4.5 DESTRUCTION OF BUILDINGS

4.5.1 If any building is, at the gazetted date, being used for a non-conforming use, and is subsequently destroyed or damaged to an extent of 75 percent or more of its value the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the buildings shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner or position not permitted by the Scheme.
PART V - GENERAL DEVELOPMENT REQUIREMENTS

5.1 REQUIREMENT FOR PLANNING APPROVAL

5.1.1 In order to give full effect to the provisions and objectives of this Scheme, all development, including a change in the use of land, except as otherwise provided, requires the prior approval of the Council in each case. Accordingly, no person shall commence or carry out any development, including a change in the use of any land, without first having applied for and obtained the planning approval of the Council pursuant to the provisions of this Part.

5.2 PLANNING APPROVAL NOT REQUIRED

5.2.1 The Planning Approval of the Council is not required for the following development of land:

(a) the use of land in a Reserve, where such land is held by the Council or vested in a public authority;

(i) for the purpose for which the land 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.

(b) the carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act;

(c) the carrying out of any works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;

(d) the carrying out of works urgently necessary in the public interest of safety or for the safety or security of plant or equipment or for the maintenance of essential services;

(e) the erection of a boundary fence except as otherwise required by the Scheme;

(f) the erection on a lot of a single dwelling house, including ancillary outbuildings, in a zone excluding the Rural Living and Rural Smallholdings Zone where the proposed use is designated with the symbol 'P' in the cross-reference to that zone in the zoning table provided such dwelling is consistent with the Residential Planning Code and does not require a specific Council decision to vary the codes;

(g) the erection of an outbuilding of an area less than 60 m² in area; (h) a home office AMD 13 GG 26/10/04

5.3 DEVELOPMENT STANDARDS TABLE - TABLE 2

5.3.1 The Development Standards Table specifies the standards and requirements with which the various uses permitted within the Scheme area must comply.

5.3.2 Subject to the provisions of this Scheme, no person shall develop or use any land or building in any zone within the Scheme area for any of the purposes mentioned in the
Zoning Table unless development or building is in conformity with the provisions of the Scheme and the standards set out in the Development Standards Table.

5.3.3 Where a particular use is not mentioned in the Development Standards Table, the development requirements shall be determined by the Council.

5.3.4 Where an application is for more than one use on the same site and different standards apply for each use, subject to the provisions of this Scheme, the Council will determine what standard shall apply.

5.4 BUILDING LEVELS, HEIGHT AND SEWER TREATMENT BUFFER AREA

5.4.1 A building, except with the approval of the Council, shall not be constructed upon any land within an area considered by Council as being liable to flooding and in this regard the Council shall consult with the Western Australian Water Corporation and the Water and Rivers Commission Department of Water prior to granting planning approval.

5.4.2 On approving any building within the Scheme Area, the Council may set minimum levels for any floor and appurtenant area of the building in order to avoid potential flood problems.

5.4.3 A building (including a dwelling house) shall not be erected on land to which this Scheme applies where the building contains more than three storeys or the perpendicular distance from its highest point to the natural ground level of the land on which it is erected exceeds 10 metres.

5.4.4 Notwithstanding clause 5.4.3, reference to a building does not include reference to:

(a) an aerial
(b) a chimney stack
(c) a mast
(d) a pole
(e) a receiving or transmission tower
(f) a silo
(g) a utility installation
(h) a ventilator
(i) a windmill
(j) a building in the Light Industry, Rural Agriculture 1, General Rural and Rural Industry Zones.

5.4.5 Development within 500 metres of the Kununurra sewer treatment works may not be approved by the Council if such development includes a permanent residential or temporary residential component including tourist accommodation in the event that Council considers that such development may be affected by the odour buffer area.

5.5 VARATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

5.5.1 Except for development in respect of which the Residential Planning 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 Council may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

5.5.2 In considering an application for planning approval under this clause, where, in the opinion of the Council, 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 in accordance with Part 8 of the deemed provisions, by following one or more of the provisions for advertising uses under clause 11.2, and
have regard to any expressed views prior to making its determination to grant the variation.

5.5.3 The power conferred by this clause may only be exercised if the Council is satisfied that -

(a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and preservation of the amenities of the locality; 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;
(c) the spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.
**TABLE 2 - DEVELOPMENT STANDARDS**

<table>
<thead>
<tr>
<th>Landuse or Development</th>
<th>Minimum Setbacks</th>
<th>Parking</th>
<th>Landscaping</th>
<th>Special Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Street</td>
<td>Side</td>
<td>Rear</td>
<td></td>
</tr>
<tr>
<td>Automotive Sales/Hire</td>
<td>9m</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay every 50m² GFA up to 200m² in area thereafter one bay every 200m² GFA or part thereof</td>
</tr>
<tr>
<td>Caravan Park / Camping Ground</td>
<td>9m</td>
<td>3m</td>
<td>3m</td>
<td>One per site plus one visitor space for every ten sites</td>
</tr>
<tr>
<td>Childminding facility/kindergarten</td>
<td>6m *</td>
<td>3m</td>
<td>6m</td>
<td>One bay for every employee and one bay for every four children attending</td>
</tr>
<tr>
<td>Consulting Rooms (Medical)</td>
<td>7.5m *</td>
<td>1m</td>
<td>6m</td>
<td>Four spaces per practitioner</td>
</tr>
<tr>
<td>Fast Food Outlet</td>
<td>9m *</td>
<td>3m</td>
<td>6m</td>
<td>One bay for every 10m² GFA or part thereof or one bay every four seats provided whichever is greater</td>
</tr>
<tr>
<td>Health Studio/Centre</td>
<td>9m *</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay for every 20m² GFA (including swimming pools) or part thereof</td>
</tr>
<tr>
<td>Hotel/Tavern</td>
<td>10m *</td>
<td>5m</td>
<td>10m</td>
<td>One bay per two bedrooms plus one for every 6m² of bar and public area</td>
</tr>
<tr>
<td>Industry-General</td>
<td>9m</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay for every 100m² GFA or part thereof</td>
</tr>
</tbody>
</table>

GFA means Gross Floor Area
* Nil in town centre zone
<table>
<thead>
<tr>
<th>Landuse or Development</th>
<th>Minimum Setbacks</th>
<th>Parking</th>
<th>Landscaping</th>
<th>Special Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Street</td>
<td>Side</td>
<td>Rear</td>
<td></td>
</tr>
<tr>
<td>Industry Light</td>
<td>9m</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay for every 65m² GFA up to 200m², then one bay every 100m² thereafter or part thereof</td>
</tr>
<tr>
<td>Industrial Unit Building (Multiple Occupancy)</td>
<td>9m</td>
<td>Parapet 1 side 6m the other side</td>
<td>BCA</td>
<td>Two bays per Industrial unit or one bay for every 100m² of part thereof GFA whichever is greater</td>
</tr>
<tr>
<td>Motel</td>
<td>9m</td>
<td>3m</td>
<td>3m</td>
<td>One bay per two units plus one bay for every four seats in any restaurant</td>
</tr>
<tr>
<td>Office</td>
<td>9m *</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay for every 40m² GFA or part thereof</td>
</tr>
<tr>
<td>Open Air Display</td>
<td>2m</td>
<td>1m</td>
<td>1m</td>
<td>One bay for every 50m² or part thereof</td>
</tr>
<tr>
<td>Public Assembly, Public Worship (place of)</td>
<td>9m *</td>
<td>3m</td>
<td>3m</td>
<td>One bay for every eight seats provided</td>
</tr>
<tr>
<td>Reception Centre</td>
<td>9m *</td>
<td>3m</td>
<td>6m</td>
<td>One bay for every 10m² GFA or one bay for every four seats provided whichever is the greater</td>
</tr>
<tr>
<td>Restaurant</td>
<td>9m *</td>
<td>3m*</td>
<td>6m*</td>
<td>One bay for every 10m² GFA or one bay for every 4 seats whichever is the greater</td>
</tr>
</tbody>
</table>

GFA means Gross Floor Area
* Nil in town centre zone
<table>
<thead>
<tr>
<th>Landuse or Development</th>
<th>Minimum Setbacks</th>
<th>Parking</th>
<th>Landscaping</th>
<th>Special Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Street</td>
<td>Side</td>
<td>Rear</td>
<td></td>
</tr>
<tr>
<td>Residential Building or Residential Hotel or Boarding House</td>
<td>9m*</td>
<td>3m*</td>
<td>6m*</td>
<td>One space per two beds</td>
</tr>
<tr>
<td>Service Station</td>
<td>11.5m</td>
<td>3m Canopy 3m</td>
<td>3m Canopy 3m</td>
<td>Two bays plus one bay for every employee with a total minimum of four bays</td>
</tr>
<tr>
<td>Shop</td>
<td>9m *</td>
<td>BCA</td>
<td>BCA</td>
<td>1 bay per 20m² GFA</td>
</tr>
<tr>
<td>Showroom</td>
<td>9m *</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay for every 50 m² GFA or part thereof and thereafter one bay every 100m² GFA or part thereof</td>
</tr>
<tr>
<td>Tourist Accommodation</td>
<td>9m *</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay per 2 bedrooms of accommodation</td>
</tr>
<tr>
<td>Veterinary Consulting Rooms</td>
<td>7.5m</td>
<td>1m</td>
<td>6m</td>
<td>Four bays plus one bay per employee</td>
</tr>
<tr>
<td>Warehouse</td>
<td>9m</td>
<td>BCA</td>
<td>BCA</td>
<td>One bay every 100m² GFA or part thereof</td>
</tr>
</tbody>
</table>

GFA means Gross Floor Area
* Nil in town centre zone
5.6 LANDSCAPING

5.6.1 Any Application for Planning Approval for any building other than a single dwelling may be required by Council to be accompanied by a plan showing the proposed landscaping of the site and comprising:

(a) the location and general nature of planted areas,

(b) the location and nature of materials to be used on non-planted areas,

(c) the location and size of any outbuildings or other minor proposed structures.

5.6.2 The applicant shall commence the implementation of any approved landscape plan within six calendar months of the completion of all other approved works and shall complete the works no later than six calendar months following approval to occupy any building.

5.7 RESIDENTIAL DEVELOPMENT: RESIDENTIAL PLANNING DESIGN CODES

5.7.1 For the purpose of this Scheme 'Residential Planning Design Codes' means the Residential Planning Design Codes set out in Appendix 2 to the Statement of Planning Policy No 1, together with any amendments thereto.

5.7.2 A copy of the Residential Planning Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

5.7.3 In the event of there being any inconsistency between the Residential Planning Design Codes identified by Clauses 5.7.1 and 5.7.2, the provisions in the document identified in Clause 5.7.1 shall prevail.

5.7.4 Unless otherwise provided for in the Scheme the development of land for any residential purposes dealt with by the Residential Planning Design Codes shall conform to the provisions of those codes and the schedules to those codes.

5.7.5 The Residential Coding of land shall be in accordance with that shown on the Scheme Map.

5.7.6 For the purposes of development in the Residential Development zone, the residential planning code applicable to residential development shall be that shown on a Structure Plan prepared and approved under the procedures outlined in Part VI of this Scheme.

5.7.7 Where a site has dual coding Council may approve residential development at a density exceeding that applicable to the R15 Code if it is generally consistent with the design criteria in Council Policy relating to design of higher density residential uses in established residential areas.

5.8 RESIDENTIAL ZONE

5.8.1 Objectives

(a) to allocate a density coding for the Residential zone throughout the Scheme Area designed to:

(i) provide sufficient land in appropriate locations for residential development to meet the needs of the Scheme Area's anticipated growth and population without unduly restricting the choice of sites;

(ii) promote and safeguard health, safety, convenience, the general public welfare and the amenity of the residential areas;

(iii) Allow redevelopment opportunities for areas of older housing stock.
5.9 RESIDENTIAL DEVELOPMENT ZONE

5.9.1 Objectives:

(a) To identify opportunities for the future subdivision and development of land for the purposes of single and group residential purposes together with, if determined necessary by Council, associated community and recreational facilities.

(b) To ensure that subdivision and development of land within the zone is consistent with a structure plan adopted by Council and endorsed approved by the W.A. Planning Commission in accordance with the Part 4 of the deemed provisions prepared in accordance with Clause 6.6 of this scheme.

5.10 TOWN CENTRE ZONE

5.10.1 Objectives:

(a) to zone adequate land for the continued development of a main commercial and community facility centre for the town;

(b) to prepare and implement an overall Town Centre Strategy to guide and promote development;

(c) to apply appropriate development and land use controls to ensure the development is to a satisfactory standard.

5.10.2 Upper Floors

Where the ground floor of a two-storey building is used for the purpose of commerce, the upper floors of such building may be used for such purposes as may be permitted by the Council and may include shops, offices or residential development. Residential uses in such circumstances are to be confined to the upper storey only.

5.10.3 Service Areas

Where areas for the loading and unloading of vehicles carrying goods and commodities to and from the premises are to be provided they shall be constructed and maintained in accordance with an approved plan relating thereto and shall provide for on-site loading and unloading of a size not less than 10 m² necessary for service vehicles. The design of such areas shall also require all entry and exit movements from and to the adjoining street or right-of-way system to be in a forward direction.

5.10.4 Group Residential Development in the Town Centre Zone

Group Residential development within the Town Centre Zone may be permitted in accordance with the provisions of the R 50 Code, however will first be determined to be compatible with the Council's overall Town Centre policy or strategy and any adjoining development.

5.10.5 Consideration of Planning Approval

In considering an application for planning approval for a proposed development (including additions and alterations to existing development) in the town centre zone, the Council shall have regard to the following:

a) Any town centre strategy or policy as adopted from Council from time to time that provides guidelines on the manner in which development shall relate to streetscapes and general development precincts identified in such town centre strategies.

b) The colour and texture of external building materials.

c) Building size, height, bulk, and roof pitch.

d) Setback and location of the building on its lot.
e) Architectural style and design details of the building.
f) Function of the building.
g) Relationship to surrounding development.
h) Parking and landscaping requirements.
i) Other characteristics to be considered by Council to be relevant.

5.10.6 Landscaping

In considering an application for planning approval for a proposed development in the Town Centre Zone the Council may impose landscaping requirements to a maximum of 10% of the site area. Such landscaping will be required to compliment any streetscape landscaping that Council has undertaken or is implementing.

5.11 LOCAL CENTRE ZONE

5.11.1 Objective

(a) To provide for commercial and retail development in residential areas remote from the existing town centre in order to cater for local service and shopping needs in the Lakeside and associated residential areas;

(b) to ensure that land uses proposed within the Local Centre zone are consistent with the local residential needs and do not detract from the commercial viability of the existing town centre retail area.

5.11.2 Development Requirements

In considering an application for planning approval for a proposed development, the Council will ensure that the proposed development is consistent with the local residential needs of the immediate residential area and are consistent with the original intentions of any structure planning adopted by Council and approved by the Western Australian Planning Commission for residential development areas and areas contained within overall planning areas.

5.11.3 In considering an application for planning approval for a proposed development within the Local Centre zone the provisions of the Clause 5.10.5 apply with the exception of Clause 5.10.5 (a).

5.11.4 For a lot in the Local Centre zone which abuts a lot in the Residential zone, setbacks shall comply with the Residential Planning Design Code applicable to the abutting lot.

5.12 MIXED BUSINESS ZONE

5.12.1 Objective

(a) To encourage the establishment of predominantly showrooms related to manufacturing on-site and service industry and/or service trades centres;

(b) to only permit the establishment of a caretakers dwelling if such dwelling is considered necessary by Council for operational and security purposes of the business already established on-site.

5.12.2 Consideration of Planning Approval

In considering an application for Planning Approval for a proposed development, the provisions of Clause 5.10.5(b) to (i) shall apply.
5.13 LIGHT INDUSTRY ZONE

5.13.1 Objective

(a) To provide for areas for the establishment of light industrial pursuits such as small scale manufacturing, service industry pursuits, prefabrication and vehicle repairs and storage;

(b) To ensure that residential uses are not established in the area unless the residential use is a caretaker’s dwelling associated with an established industrial use, and that the Council is satisfied that the proposed residential use will not compromise existing industrial activity both on the site and any adjoining site and that it is contained on land zoned Light Industry zone at the date of the gazettal of Town Planning Scheme No. 7.

AMD 7 GG 29/7/03; AMD 13 GG 29/10/04

5.13.2 Development Requirements for Caretaker’s Dwelling

The provisions of this clause are to apply to all applications for caretakers’ dwellings in the Light Industry zone.

a) a caretaker’s dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;

b) only one caretaker’s dwelling is permitted on a lot or parent lot of a strata or a survey strata lot created under the Strata Titles Act 1985;

c) a caravan or park home is not to be permitted as a caretaker’s dwelling for either permanent or temporary occupation;

d) a caretaker’s dwelling is to be screened and/or fenced from the street frontage of the lot to the satisfaction of the local government and whatever possible is to be sited at the rear of other buildings on the lot;

e) a caretaker’s dwelling is to contain 3 bedrooms only within a total floor area that does not exceed 110 square metres measured from the internal face of walls;

f) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100 square metres referred to in paragraph (e).

5.14 RURAL INDUSTRY ZONE

5.14.1 Objective

(a) To create opportunities within the agricultural area for the establishment of industries related to agricultural pursuits and primary production.

5.15 COMPOSITE INDUSTRY ZONE

5.15.1 Objective

a) to provide for the establishment of minor industrial pursuits and single residential development on the same lot with particular regard being given to operating hours, levels of development, and potential impact of the development on adjoining composite industrial zone lots and future rural residential uses in the locality.
5.15.2 Development Requirements

Within a lot situated within the Composite Industry zone a person may only:

a) Develop or establish a light industry where a residence is erected first and forms an integral part of the development.
b) Allow the residence to be occupied by either the owner, manager or employee of the light industry established on the premises.
c) Generally allows family or dependants to be employed in the industrial pursuit.
d) Establish an industry that is of a nature as determined by Council that can operate compatibly with residential living and with minimal impact on adjoining residential uses.
e) Establish an industry that is essentially a single person operation and is not reliant on attracting passing trade or customers.
f) Develop single residential use in accordance with the R15 code.
g) Develop industrial use in accordance with standards specified in Tables 1 and 2 of the Scheme.

5.15.3 Subdivision

Subdivision of land within the zone that is inconsistent with the subdivision layout shown on the Scheme map will not be supported.

5.16 DEVELOPMENT IN THE LIGHT INDUSTRY, RURAL INDUSTRY AND MIXED BUSINESS ZONES

5.16.1 Storage of Materials

No dumping, storage of waste or materials, or construction, servicing or maintenance shall be carried out between the front building line and the street frontage but shall not prohibit the display of finished goods or goods for sale or ready for delivery.

5.16.2 Loading and Unloading

Areas for loading and unloading of vehicles, particularly road trains, carrying goods and commodities to or from premises shall be provided and maintained in accordance with the approved plan and constructed in accordance with requirements as specified by Council.

5.16.3 Vehicle Wrecking

The wrecking or storage of wrecked vehicles or parts thereof shall not be permitted in front of the building setback.

5.16.4 Development Within Front Setback Area

The Council may approve the construction of a carport or pergola or like structure between the building line and the front boundary providing:

(a) that any such structure remains open sided and not in-filled with any material which would ordinarily prevent the free passage of light and air, but may include lattice, battens or mesh as approved by the Council;

(b) that any activity beneath such structure does not include any industrial use and is only used for car parking, landscaping, display purposes or any other uses the Council may deem fit.

5.16.5 Environmental Buffers

The Council, in assessing development applications within these zones, shall have due regard for appropriate buffers as outlined under relevant Environmental
Protection Authority Guidelines and Policies and in any event, Council may impose conditions specifically on a development approval to comply with appropriate conditions in order to prevent pollution impacts on surrounding properties.

5.16.6 Landscaping

The Council may require the first 5 metres of the front setback on any lot to be landscaped to the satisfaction of Council. Where a lot has frontage to two streets, the Council may vary the landscaping requirement only where the setback is reduced, in which case the whole of the setback so reduced shall be landscaped to the satisfaction of Council.

5.17 GENERAL RURAL ZONE

5.17.1 Objectives

(a) to permit the continued use of the land for grazing and agricultural purposes;

(b) to prohibit any industrial or urban development or land use which may adversely affect the above;

5.18 RURAL AGRICULTURE 1 ZONE

5.18.1 Objective

(a) that the land be retained for extensive agriculture and/or horticulture. The land shall be retained in viable farm sized lots to prevent subdivision and subsequent loss of this limited resource.

5.19 RURAL AGRICULTURE 2 ZONE

5.19.1 Objectives

(a) to ensure the adequate supply of land for intensive agricultural and horticultural holdings in localities of adequate water supply and suitable soil types;

(b) To promote the use of these lots for the production of horticultural crops and associated uses. AMD 13 GG 26/10/04

5.20 RURAL LIVING ZONE

5.20.1 Objective

(a) to provide for the provision of land for people wishing to reside on a small rural holding;

(b) to prohibit the use of any land which may be incompatible to or adversely affect the amenity of the surrounding land uses;

(c) to maintain the rural/residential character of the land;

(d) to ensure adequate services are provided to sustain a rural residential community;

5.20.2 Development Requirements For the Rural Living Zone

a) In addition to a building license, the Council’s planning approval is required for development including a single house.
b) Not more than one dwelling per lot shall be erected, but the Council may at its discretion approve ancillary accommodation and other uses in accordance with table No. 1.

c) In order to conserve the rural environment or features of important landscaping, trees shall be retained unless their removal is required for the purposes of access, building development and fire protection.

d) Any person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of Council. In considering an application for planning approval for a proposed development Council may impose conditions relating to the prevention of over stocking, erosion and any other practise detrimental to the amenity of the Rural Living Zone.

e) In considering an application for planning approval for a proposed development, the Council shall have regard to the provision of adequate potable water supply either by ground water or rainwater roof catchment, the need for bushfire protection measures to be introduced and satisfactory details of effluent methodology and drainage management.

5.21 RURAL SMALLHOLDING ZONE AMD 22 GG 18/12/09

5.21.1 Objective:

(a) to provide appropriate land for people wishing to reside on rural lifestyle lots;

(b) to ensure that adjoining agricultural uses are protected with appropriate separation between agricultural and residential development; and

(c) to protect productive agricultural land on site by retaining areas suitable for horticulture in larger lots.

5.21.2 Development Requirements

In considering an application for Planning Approval for a proposed development, the provisions of Clause 5.20.2 a) to e) shall apply to the Rural Smallholding Zone.

5.22 DEVELOPMENT IN THE RURAL AGRICULTURE 1, RURAL AGRICULTURE 2 GENERAL RURAL, RURAL LIVING AND RURAL SMALLHOLDING ZONES AMD 22 GG 18/12/09

5.22.1 Setbacks AMD 18 GG 19/2/10

(a) Setbacks for Agricultural Development

<table>
<thead>
<tr>
<th>Zone</th>
<th>Building Setbacks (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>General Rural</td>
<td>20</td>
</tr>
<tr>
<td>Rural Agriculture 1</td>
<td>20</td>
</tr>
<tr>
<td>Rural Agriculture 2</td>
<td>20</td>
</tr>
<tr>
<td>Rural Living</td>
<td>10</td>
</tr>
<tr>
<td>Rural Smallholding</td>
<td>10</td>
</tr>
</tbody>
</table>

(b) Setbacks for Incidental Development in Rural Agriculture 1 and Rural Agriculture 2 zones
5.22.2 Other Incidental Uses

Council may permit the development and use of the land for the following uses:
- Art and Craft Centre
- Art Gallery
- Bed and Breakfast
- Cabin
- Chalet
- Farm Stay
- Plant Nursery
- Wayside Stall, provided that:

(a) The applicant submit a management plan addressing how potential conflicts, impacts and compatibility with existing and potential agricultural land uses – both internal and external to the site – are to be managed as per the requirements of SPP2.5, and including but not limited to the following:

i. Prior to construction of any units, the applicant shall submit a management plan developed in consultation with the Department of Agriculture and Food Western Australia and other relevant agencies or stakeholders, detailing measures to manage the following impacts:
   a) Dust and noise;
   b) Visual amenity; and
   c) biosecurity

ii. prior to the construction, all promotional information intended to be displayed shall be submitted to Council for approval;

iii. Prior to occupation, relevant officers shall inspect accommodation to ensure biosecurity information is displayed in a prominent place; and

iv. prior to occupation, relevant officers shall inspect procedures to ensure that all workers are made aware of the biosecurity issues and preventative measures prior to take residence with the accommodation.

(b) The proponent submit an Agriculture Impact Statement, in accordance with the information prescribed in SPP2.5;

(c) The proposed development remains as a subordinate use in scale, scope and intensity to the predominant agricultural nature of the site;

(d) The proposed development is advertised;

(e) A maximum of three (3) accommodation units is permitted on lots in the Rural Agricultural Zone 1, Rural Agricultural Zone 2 and the General Agricultural Zone.

(f) All accommodation units shall:
i. be separated from the nearest residential building on an adjacent property by a minimum of 70 metres; and

ii. comply with the setback provisions in the Scheme;

iii. have screening vegetation planted and maintained to shield the neighbouring property from accommodation units.

5.22.3 Transient Accommodation  

Council may permit the construction and occupation of a transient accommodation on the Rural Agriculture 1 and 2 zones and General Rural Zone lot providing:-

(a) that any occupant is directly employed in the agricultural sector;

(b) that such occupation is of a seasonal nature only relative to the agricultural use of the land and shall not be used for either permanent or short stay residential use.

(c) that such accommodation does not consist of caravans, mobile homes, or transportable buildings unless such transportable buildings are permanently affixed to the site by footings as required by Council.

(d) such accommodation consists of principally bedrooms and communal ablutions and activity areas.

(e) The applicant submit a management plan addressing how potential conflicts, impacts and compatibility with existing and potential agricultural land uses – both internal and external to the site – are to be managed as per the requirements of SPP2.5, and including but not limited to the following.

i. prior to construction of any units, the applicant shall submit a management plan developed in consultation with the Department of Agriculture and Food Western Australia and other relevant agencies or stakeholders, detailing measures to manage the following impacts:

   a) dust and noise;

   b) visual amenity; and

   c) bio-security.

ii. prior to the construction, all promotional information intended to be displayed shall be submitted to Council for approval;

iii. prior to occupation, relevant officers shall inspect accommodation to ensure biosecurity information is displayed in a prominent place; and

iv. prior to occupation, relevant officers shall inspect procedures to ensure that all workers are made aware of the biosecurity issues and preventative measures prior to taking up residence with the accommodation.

5.23 SPECIAL SITE ZONE  

AMD 22 GG 18/12/09; AMD 22 GG 18/12/09

5.23.1 Objective

To reflect those sites specifically established for a particular use.
5.23.2 Development in a Special Site Zone

(a) Land within the Special Sites Zone may be used for the purposes specified on the Scheme Map and the schedule in Appendix No 2 as applicable to that site and for no other purpose except for a use that Council deems is incidental to the predominant use.

(b) Council may apply such development standards to a proposal as it thinks fit providing such standards are not less than pertaining to similar uses permitted under the Scheme.

5.24 TOURIST ZONE

5.24.1 Objective

(a) To encourage tourist accommodation and activity in areas adjacent to attractive natural and man-made features.

(b) To encourage tourist uses on land adjacent to the existing town centre and forming the approach to the town centre of Kununurra.

(f) To encourage a high standard of aesthetic quality, landscaping and presentation.

5.24.2 Residential Use in the Tourist Zone

Council may approve the use of a tourist site in the Tourist Zone for permanent residential purposes to a maximum of 30% of the number of units, rooms or caravans/cabins approved for the site.

5.25 SETTLEMENT ZONE

5.25.1 Objective

The Council’s objective for this Zone is to improve the general health, safety and amenity of Aboriginal communities by supporting the preparation, endorsement and implementation of Community Layout Plans.

5.25.2 Preparation and Endorsement of Community Layout Plans

a) Council’s dealings in regard to communities in the Settlement zone shall be in accordance with Statement of Planning Policy No. 3.2 – Planning for Aboriginal Communities.

b) Community Layout Plans may be prepared for either the whole or part of any land within the Settlement Zone. The plans should be prepared in accordance with the Guidelines for the Preparation of Community Layout Plans for Western Australian Aboriginal Communities and with any other relevant State or Commonwealth Government policy.

c) A Community Layout Plan may provide for a mix of land uses which may include residential, community, administration, rural, and health, and small business activities for the support and benefit of the community, where these are consistent with improving the residential amenity in the locality;

d) The Council shall not consider a layout plan, or any modification to an approved layout plan, unless the affected community has had an opportunity to comment on the contents of the plan or amendments to an approved plan.

e) The Council shall assess the planning merits of the plan and then resolve to either approve, refuse or approve with any modification(s) that Council
considers necessary.

5.25.3 Development Requirements

a) Development in the zone is to be consistent with a Community Layout Plan endorsed by the Community, Council and Western Australian Planning Commission;

b) Where an endorsed Community Layout Plan is not in place, development is to be in assessed using the best information available, which may include draft Community Layout Plans, ‘as constructed’ drawings or advice from relevant servicing agencies or organisations;

c) Essential services and community infrastructure provided in conjunction with development of land within the zone should be consistent with the adopted Community Layout Plan.

5.26 PLANNING POLICIES

In dealing with applications for Amendment to this Scheme, subdivision and/or development, Council is required to pay due regard to the Policy Statements for the Policy Areas within the Scheme.

5.27 SUBDIVISION

Subdivision of land below the recommended minimum size of lots in the policies to accommodate residential land uses in a rural setting will not be supported on land outside the Rural Living Zone.
PART VI - OVERALL PLANNING AREAS

6.1 OBJECTIVE

The Scheme map indicates a number of overall planning areas wherein Council will not support development or subdivision proposals until such time as the requirements pertaining to each particular area, as listed below have been satisfied and a structure plan has been prepared and adopted approved by the Western Australian Planning Commission, in accordance with Part 4 of the deemed provisions, as outlined in Clause 6.7.

6.2 OVERALL PLANNING AREA NO. 1 – EAST CREEK RESIDENTIAL EXPANSION AREA

6.2.1 The area shall be established for residential development providing for a range of residential densities and dwelling types in accordance with a structure plan.

6.2.2 In considering a structure plan for the locality, Council will only support commercial development to a level it considers consistent with the convenience shopping needs of the projected residential population within the Overall Planning Area and surrounding residential areas.

6.2.3 Structure planning shall have specific regard to the need for appropriate interface treatments between Victoria Highway future subdivision area, the adjacent drainage areas to the north of the Overall Planning Area and Mirima National Park.

6.2.4 Structure planning will be prepared in consultation with the Department of Environment and Conservation in relation to the adjoining Mirima National Park, with particular reference to wildlife corridors between the Park and adjoining areas.

6.3 OVERALL PLANNING AREA NO. 2 - WEABER PLAINS ROAD LIGHT INDUSTRIAL AREA

6.3.1 The land will be developed as an extension of the Weaber Plains Road industrial area for light industrial purposes.

6.3.2 In addition to requirements outlined in clause 6.7 set out in Part 4 structure planning for the locality shall have specific regard to:

(a) setback from the steep sandstone ridges;
(b) inclusion of an open space buffer between the eastern boundary and the ridge face;
(c) landscaped buffer strip between Weaber Plains Road and western boundary of development;
(d) strategic access points to the industrial area from Weaber Plains Road;
(e) retention of isolated rock outcrops in open space reserves;
(f) retention of drainage lines in specified reservations;
(g) range of lot sizes providing for varying industrial needs; and
(h) servicing of lots.

6.3.3 Structure planning for the area will also be prepared in consultation with the Department of Conservation and Land Management in relation to the adjoining Mirima National Park and the Structure Plan shall address any concerns raised in relation to the identification and preservation of stands of significant vegetation worthy of retention and the provision of a wildlife corridor linking the National Park to the M1 irrigation channel.
6.4 OVERALL PLANNING AREA NO. 3 - STOCKMAN ROAD RURAL RESIDENTIAL AREA

6.4.1 The area is to be established as a rural-residential subdivision area creating a variety of lot sizes but not less then 2 hectares.

6.4.2 Structure planning where necessary will be required to recognise proximity to drainage areas, existing and future uses and zones and in particular where applicable, the adjacent composite industry zone and special use zone.

6.4.3 Structure planning will need to specifically address the geo-technical suitability of the area for building development, effluent disposal and ground water availability.

6.4.4 Structure planning for the area will also be prepared in consultation with the Department of Conservation and Land Management in relation to the adjoining Mirima National Park and the Structure Plan shall address any concerns raised in relation to the identification and preservation of stands of significant vegetation worthy of retention and the provision of a wildlife corridor linking the National Park to Lake Kununurra.

6.5 OVERALL PLANNING AREA NO. 4 – OLD DARWIN ROAD PRECINCT

6.5.1 The area is to be considered for the purposes of the following:

- Farmstay Tourist Development
- Agricultural Uses
- Subdivision for the purposes of agriculture based on appropriate land capability and agricultural management plans, tourism uses and other uses consistent with approved Structure Plans for the precinct.
- Subdivision for the purpose of providing Rural Smallholding subdivision creating a variety of lot sizes with a minimum of 4 hectares.

6.5.2 Structure planning is specifically required to address the compatibility of proposed uses with existing agricultural and horticultural activity and ensure that the future use of prime agricultural land for agricultural purposes is not compromised.

6.5.3 Structure planning will need to confirm that the proposed uses and/or subdivision framework are compatible with the continued broad acre agricultural pursuits that exist within the overall planning area.

6.5.4 Structure planning shall demonstrate that the ultimate proposed land uses would have no impact on the adjoining Emu Creek wetland areas.

6.5.5 Following the preparation and adoption of a structure plan for this area in accordance with Part 4 of the deemed provisions Clause 6.7 of this Scheme and notwithstanding Clause 6.7.5 and Clause 6.7.6 the development or subdivision of the area will be preceded by an appropriate scheme amendment to rezone the land in accordance with the adopted Structure Plan.

6.6 OVERALL PLANNING AREA NO. 5 – WEERO ROAD RURAL RESIDENTIAL AREA

6.6.1 In accordance with section 6.7 of the scheme A structure plan shall be prepared prior to subdivision in accordance with Part 4 of the deemed provisions will be provided with subdivision application.

6.6.2 The structure plan will address the compatibility of rural residential uses with existing agricultural and horticultural activity on surrounding lots and will ensure that the future use of prime agricultural land for agricultural purposes is not comprised and shall include the following measures:

a) Residential buildings will be prohibited within 150 metres of the boundary of Lot 20 and all plantings of non-local vegetation will be prohibited within 100 metres of the boundary of abutting Lot 20 and/or Lot 781. The 100 metre buffer will be maintained with intensively planted local vegetation. These restrictions will be
given further protection through the placement of restrictive covenants on certificates of title under section 129BA of the *Transfer of Land Act 1893* (as amended). Such covenants are to prohibit residential development, prohibit the planting of non-local flora and to mandate the retention of a planted buffer within the respective exclusion areas. The advice of the Department of Environment and Conservation is to be sought in relation to appropriate local species for planting.

b) Prior to any certificates of title being issued a 100 metre vegetation buffer shall be planted on all lots abutting Lot 20 and/or Lot 781 which shall be planted in accordance with a vegetation plan approved by the Shire in consultation with the Department of Environment and conservation in relation to appropriate local species.

c) A 300m wide notification area(s) on proposed rural residential lots which are within 300m of the boundary of abutting Lot 20 and/or Lot 781, implemented through the placement of memorials on title under section 165 of the *Planning and Development Act 2005*. Such memorials are to advise that the lots are in close proximity to an existing agricultural operation and may be adversely affected by virtue of odour, noise, dust, light emissions from that land use and/or spray drift from agricultural chemicals.

d) All lots abutting Lot 20 will be a minimum of 40 ha in area.

e) A notation is to be made on the structure plan to advise prospective purchasers of Scheme provisions that apply to the land.

6.6.3 Structure planning will address access to the Kununurra bypass, provide adequate fire separation distances, groundwater and drainage issues, on-site waste disposal, geotechnical suitability, creation of wildfire corridors, preservation of natural features, remnant vegetation and environmental considerations. Consultation in this regard will be required with the Department of Environment and Conservation, Health Department, Main Roads Western Australia, Department of Water and any other relevant agencies.

6.6.4 Structure planning in relation to the foreshore is required to include, but not limited to, the following specific elements:

a) A road interface between the foreshore and rural residential lots;

b) An area in the north western most corner of Lot 21 to be included in the foreshore reserve for the purposes of providing facilities for community use, including car parking, recreational areas and facilities;

c) Confirmation of the existing Special Foreshore Reserve being of sufficient width. This may require resurvey and should be conducted in consultation with the Department of Environment and Conservation; and

d) Setbacks to the foreshore reserve to be sufficient to address any potential flooding and erosion issues.

6.6.5 The area is to be established as a rural residential subdivision area creating a variety of lot sizes, but not less than 1 hectare, in accordance with the local planning strategy endorsed by the Council and the Commission.

6.6.6 Lots below 4 hectares are not required to connect to a reticulated water supply in accordance with regional variation to Statement of Planning Policy 2.5 endorsed by the Commission.

6.7 STRUCTURE PLAN PREPARATION AND ADOPTION

*AMD 3 GG 19/9/06*

6.7.1 Overall Planning Areas

It is a requirement of this scheme that the subdivision and development of land within the Overall Planning Areas as shown on the Scheme Map takes place only after comprehensive planning in accordance with the objectives for each area.

6.7.2 The Council, before supporting or approving any proposal for subdivision or development of any land within the Overall Planning Area, shall require the...
preparation of a Structure Plan for the whole of the area or for any particular part or parts as considered appropriate by the Council.

6.7.3 The Structure Plan shall address:

(a) the topography of the area;
(b) existing road system;
(c) location and standards of any future roads and overall access patterns;
(d) location of shopping, community amenities and recreation areas consistent with the projected needs of the locality;
(e) proposed population and residential densities where appropriate;
(f) existing and proposed services;
(g) staging of the development;
(h) any other information as shall be requested by the Council including specific R Code designations.
(i) geo-technical suitability of the land for development and where necessary for rural-residential development proposals, the availability of ground water;
(j) drainage considerations;
(k) general environmental considerations including flora and fauna impacts, pollution, groundwater quality and any other environmental issues identified by Council.

6.7.4 Upon submission of a structure plan, Council shall thereafter follow the advertising procedures outlined in Clause 11.2 except that the submission period shall be extended to 60 days.

6.7.5 Upon the close of the submission period referred to in clause 6.6.4 the Council shall consider any submissions made, resolve to modify the plan as it sees fit, adopt the plan as the basis for future subdivisional development of the area and refer the structure plan to the WA Planning Commission within 60 days with a request that the Commission endorse the plan as the basis for the future subdivision and development of the subject area.

6.7.6 Upon receipt of the Commission’s endorsement, Council shall adopt the plan including any modifications determined necessary by the Commission as the basis for future subdivision and development of the locality to which the structure plan applies.

6.8 APPEALS

AMD 3 GG 19/9/06

Any decision or conditions made or imposed by Council and/or the Western Australian Planning Commission constitutes an exercise of discretion and therefore enables an appeal right to be exercised as outlined in Clause 12.5.1. of this Scheme.
PART VII - AMENITY CONTROL

7.1 UNTIDY SITES

To maintain an acceptable standard of amenity the Council may, by written notice as provided for in Clause 12.3 require the owner, occupier, or lessee of any land to undertake such works as may be necessary to restore or upgrade the conditions of that property to a standard commensurate with those generally prevailing in the vicinity.

7.2 STORAGE OF CARAVANS, BOATS AND TRAILERS IN RESIDENTIAL AREAS

In the interest of amenity, caravans, boats and trailers in residential areas shall be stored behind the front boundary.

Except as hereinafter provided, no person within any lot zoned Residential or Residential Development may without the written approval of the Council:

(a) allow any commercial vehicle or truck to remain or be parked for a period of more than forty eight hours consecutively including the parking on the verge;
(b) repair, maintain, service or clean a commercial vehicle or truck;
(c) keep, park, repair or store any boat, trailer, caravan or any material not specifically for the immediate use by the occupant in front of the building setback line.

7.3 DERELICT VEHICLES

Council shall not permit the storage and/or wrecking of any vehicle on any street verge or on any lot between the front boundary and the front setback line within any Zone.

7.4 HOME OCCUPATION/COTTAGE INDUSTRIES

7.4.1 The Council may limit the period of validity of an approved Home Occupation or Cottage Industry.

7.4.2 Planning approval granted to a home occupation or cottage industry:

(a) is granted to the applicant;
(b) is not capable of being transferred or assigned to any other person;
(c) does not run with the land in respect of which it is granted.

7.5 REAR ACCESS AND LOADING DOCKS

7.5.1 When considering any application for Planning approval the Council shall have regard to and may require the provision of loading docks and/or rear access. In particular, the Council may impose conditions concerning:

(a) the size of loading docks;
(b) the means of providing rear access of adequate width and design so as to ensure that transport vehicles shall be able to proceed in a forward direction;
(c) the landscaping and/or screening of loading docks and/or rear access.
PART VIII - CAR PARKING - STANDARDS AND PROVISIONS

8.1 CAR PARKING REQUIREMENTS

8.1.1 Car parking shall be provided for each development in accordance with the requirements of the Residential Planning Design Codes and Table 2 of this Scheme.

8.1.2 The minimum internal dimensions of any car bay for non-residential development shall be 5.5m x 2.8 wide provided that:

(a) where a bay abuts a wall or other barrier the minimum width shall be not less than 3.5m;

(b) where a parallel parking bay is provided the minimum length shall be not less than 7.0m.

8.1.3 Car parking requirements shall be calculated by rounding up to the nearest whole number when considering parking requirements outlined in Table 2.

8.1.4 The minimum width of access drives shall be as described in Table 4.

<table>
<thead>
<tr>
<th>Angle of Parking</th>
<th>Driveway Width (m)</th>
<th>Traffic Direction</th>
</tr>
</thead>
<tbody>
<tr>
<td>0° (Parallel)</td>
<td>3.5</td>
<td>1 way</td>
</tr>
<tr>
<td>30°</td>
<td>4.0</td>
<td>1 way</td>
</tr>
<tr>
<td>45°</td>
<td>4.0</td>
<td>1 way</td>
</tr>
<tr>
<td>60°</td>
<td>5.0</td>
<td>1 way</td>
</tr>
<tr>
<td>90° (right angle)</td>
<td>6.5</td>
<td>2 way</td>
</tr>
</tbody>
</table>

8.2 DESIGN OF PARKING AREAS

8.2.1 Parking spaces may, with the approval of the Council, be located within the street setback area, provided that:

(a) Council may require a minimum of 1m width of landscaped area along the length of the car park;

(b) in the Town Centre zone, separate pedestrian access from the street to the premises is provided.

8.2.2 Where the maximum dimension of any open car parking area exceeds 20 metres in length or width, trees and garden planting equivalent in area up to 10 per cent of the parking area shall be provided within the car parking area for the purpose of shade and visual relief.

8.3 CONSTRUCTION AND MAINTENANCE

8.3.1 Parking areas shall be constructed and line marked in accordance with the plan approved by Council and thereafter maintained to the satisfaction of the Council.

8.4 CASH IN LIEU PROVISION OF CAR PARKING SPACES

8.4.1 Where a person who applies for planning approval is required to provide car parking spaces in accordance with the Scheme that person may, if the Council so agrees,
make a cash payment to the Council in lieu of the provision of all or any of the required number of car parking spaces.

8.4.2 The cash-in-lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking spaces required by the Scheme plus the value of that area of the land which would have been occupied by the parking spaces.

8.4.3 The estimated cost of the land referred to in clause 8.4.2 shall be determined by the Valuer General or by a licensed valuer appointed by the Council.

8.4.4 The estimated cost of development of the parking bays referred to in clause 8.4.2 shall be determined by the Council or by a person nominated by the Council who is competent in the field of architecture or engineering.

8.4.5 The moneys received by the Council under clause 8.4.1 shall be paid into a separate car-parking fund and shall only be used for the acquisition or development of land as a public car park or to reimburse the Council any expenses it has incurred including loan repayments, within the locality and shall relate as much as practicable to the development of the land the subject of the payment.

8.4.6 The Council may make or adopt a policy defining the areas within which it considers payment of cash-in-lieu of the provision of car parking spaces to be acceptable.

8.4.7 If the parties cannot agree upon the amount payable, it shall be determined by arbitration in accordance with the Commercial Arbitration Act 1985. The costs of the arbitration shall be borne by the applicant.
PART IX - CONTROL OF ADVERTISING

9.1 POWER TO CONTROL ADVERTISEMENTS

9.1.1 For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Such planning approval is required in addition to any licence pursuant to Council's Signs and Hoarding and Bill Posting Bylaws.

9.1.2 Applications for Council's approval to this Part shall be submitted in accordance with the provisions of Part XI of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Appendix 3 giving details of the advertisement(s) to be erected, placed or displayed on the land.

9.2 EXISTING ADVERTISEMENTS

Advertisements which:

(a) were lawfully erected, placed or displayed prior to the approval of this Scheme,

(b) may be erected, placed or displayed pursuant to a licence or other approval granted by the Council prior to the approval of this Scheme, hereinafter in this Part referred to as existing advertisements;

may, except as otherwise provided, continue to be displayed or be erected and displayed in accordance with the licence or approval as appropriate.

9.3 CONSIDERATION OF APPLICATIONS

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for approval to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

9.4 EXEMPTIONS FROM THE REQUIREMENT TO OBTAIN APPROVAL

Subject to the provisions of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of Clause 9.1.1, the Council's prior approval is not required in respect of those advertisements listed in Appendix 7 which for the purpose of this Part are referred to as 'exempted advertisements. The exemptions listed in Appendix 7 do not apply to buildings, conservation areas or landscape protection zones which are either:

(a) listed in the Register of Heritage Places (Heritage Act of WA 1990);

(b) listed on the register of the National Estate;

(c) included in local authority town planning scheme because of their heritage or landscape value.

9.5 DISCONTINUANCE

Notwithstanding the Scheme objectives and Clause 9.4, where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Part, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within a period of time specified in the notice.
9.6 DERELICT OR POORLY MAINTAINED SIGN

Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, Council may by notice in writing require the advertiser to:

(a) repair, repaint or otherwise restore the advertisement to a standard specified by Council in the notice;

(b) remove the advertisement.

9.7 NOTICES

9.7.1 The advertiser shall be interpreted as any one or any group comprised of the owner, occupier, licensee.

Any notice served in exceptional circumstances pursuant to Clause 9.5 or pursuant to Clause 9.6 shall be served upon the advertiser and shall specify:

(a) the advertisement(s) 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;

(c) the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.

Any person upon whom a notice is served pursuant to this Part may, within a period of 60 days from the date of the notice, appeal to the Hon. Minister for Planning or the Town Planning Appeal Tribunal in accordance with Part V of the Act, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

9.8 SCHEME TO PREVAIL

Where the provisions of this Part are found to be at variance with the provisions of the Council’s Signs, Hoarding and Bill Posting Bylaws, the provisions of the Scheme shall prevail.

9.9 ENFORCEMENT AND PENALTIES

The offences and penalties provisions specified in Clause 12.2 of the Scheme apply to the advertiser in this Part.
PART X — CONSERVATION AND PRESERVATION OF PLACES OF HERITAGE VALUE

10.1 HERITAGE - PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE

10.1.1 Purpose and Intent

The purpose and intent of the heritage provisions are:

(a) to facilitate the conservation of places of heritage value;

(b) to ensure as far as possible that development occurs with due regard to heritage values.

10.1.2 Heritage List

The Council shall establish and maintain a Heritage List of places considered by the Council to be of heritage significance.

For the purposes of this Clause, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the Municipal Inventory.

The Council shall keep copies of the Heritage List with the Scheme documents for public inspection during normal office hours.

10.1.3 Designation of Heritage Precincts

The Council may designate an area of land to be a heritage precinct where, in the opinion of the Council, special planning control is needed to conserve and enhance the heritage values and character of the area.

The Council shall adopt for each heritage precinct a policy statement which shall comprise:

(a) a map showing the boundaries of the precinct;

(b) a list of places of heritage significance;

(c) objectives and guidelines for the conservation of the precinct.

The Council shall keep a copy of the policy statement for any designated heritage precinct with the Scheme documents for the public inspection during normal office hours.

The procedure to be followed by the Council in designating a heritage precinct shall be as follows:

(a) the Council shall notify in writing each owner of land affected by the proposal;

(b) the Council shall advertise the proposal by way of a notice in a newspaper circulating in the district, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council consider necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation and where the policy statement which applies to the precinct may be inspected;

(c) the Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to immediately above;
(d) the Council shall carry out such other consultations as it thinks fit;

(e) the Council shall consider any submissions made and resolve to designate the heritage precinct with or without modification or reject the proposal after consideration of submissions;

(f) the Council shall forward notice of its decision to the Heritage Council of WA and Western Australian Planning Commission.

The Council may modify or may cancel a heritage precinct or any policy statement which relates to it by following the procedure set out in above.

10.1.4 Applications for Planning Approval

In dealing with any matters which may affect a heritage precinct or individual entry on the Heritage List, including any application for planning approval, Council shall have regard to any heritage policy of the Council.

The Council may, in considering any application that may affect a heritage precinct or individual entry on the Heritage List, solicit the views of the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.

Notwithstanding any existing assessment on record, Council may require a heritage assessment to be carried out prior to the approval for any development proposed in a heritage precinct or individual entry listed on the Heritage List.

For the purposes of sub-clause 5.1.1 of the Scheme the term 'development' shall have the meaning as set out in the Town Planning and Development Act (as amended) but shall also include, in relation to any place entered in the Heritage List or contained within a heritage precinct, any act or thing that is likely to significantly change the external character of the building, object, structure or place.

10.1.5 Formalities of Application

In addition to the application formalities prescribed in sub-clause 10.1.4 and any formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a heritage precinct, to provide one or more of the following to assist the Council in its determination of the application:

(a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;

(b) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;

(c) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council 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; and

(d) any other information which the Council indicates that it considers relevant.
10.1.6 Variations to Scheme Provisions

Where desirable to facilitate the conservation of a heritage place or to enhance or preserve heritage values, the Council may vary any provision of the Scheme provided that, where in the Council’s opinion the variation of a provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall:

(a) consult the affected parties by following one or more of the provisions dealing with the advertising of uses pursuant to Clause 11.2.3; and

(b) have regard to any expressed views prior to making its decision to grant the variation.

10.1.7 Heritage Agreement

In granting variations under sub-clause 10.1.6 the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 which an owner who would benefit from the variation. The agreement may specify the owner’s obligations and contain memorials noted on relevant Certificates of Title.
PART XI - PLANNING APPROVAL

11.1 APPLICATION FOR PLANNING APPROVAL

11.1.1 Every application for Planning Approval shall be made in the form prescribed in Appendix 4 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

11.1.2 Unless Council waives any particular requirement every application for Planning Approval shall be accompanied by:-

(a) A plan or plans to a scale of not less than 1:500 showing:

(i) street names, lot number(s), north point and the dimensions of the site;

(ii) the location and proposed use of any existing buildings to be retained and the location and use of buildings proposed to be erected on the site;

(iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;

(iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;

(v) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods of commodities to and from the site and the means of access to and from those areas;

(vi) the location, dimensions and design of any landscaped, open storage or trade display area and particulars of the manner in which it is proposed to develop the same;

(vii) the location of any underground services.

(b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;

(c) any other plan or information that the Council may reasonably require to enable the application to be determined.

11.2 ADVERTISING OF APPLICATIONS

11.2.1 Where an application is made for Planning Approval to commence or carry out development which involves an 'SA' use the Council shall not grant approval to that application unless notice of the application is first given in accordance with the provisions of this Clause.

11.2.2 Where an application is made for Planning Approval to commence or carry out development which involves an 'AA' use, or for any other development which requires the Planning Approval of the Council, the Council may give notice of the application in accordance with the provisions of this clause.

11.2.3 Where the Council is required or decides to give notice of an application for Planning Approval which involves an 'SA' use the Council shall cause one or more of the following to be carried out:-

(a) notice of the proposed development to be served on the owners and occupiers of land within an area determined by the Council as likely to be...
affected by the granting of Planning Approval stating that submissions may be made to the Council within twenty-one days of the service of such notice;

(b) notice of the proposed development to be published in a newspaper circulating in the Scheme Area stating that submissions may be made to the Council within twenty-one days from the publication thereof;

(c) a sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph (b) of this clause.

11.2.4 The notice referred to in Clause 11.2.3(a) and 11.2.3(b) shall be in the form contained in Appendix 5 with such modifications as circumstances require.

11.3 DETERMINATION OF APPLICATIONS

11.3.1 In determining an application for Planning Approval the Council may consult with any authority which, in the circumstances, it considers appropriate.

11.3.2 The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality, may refuse to approve any application for Planning Approval or may grant its approval unconditionally or subject to such conditions as it thinks fit.

11.3.3 The Council shall issue its decision in respect of an application for Planning Approval in the form prescribed in Appendix 6 to the Scheme.

11.3.4 DELETED BY AMD 13 GG 26/10/04

11.4 DEEMED REFUSAL

11.4.1 Where the Council has not within sixty days of the receipt by it of an application for Planning Approval conveyed its decision to the applicant, the application may be deemed to have been refused.

11.4.2 Where the Council has given notice of an application for Planning Approval in accordance with Clause 11.2 and where the Council has not within ninety days of receipt by it of the application conveyed its decision to the applicant, the application may be deemed to have been refused.

11.4.3 Notwithstanding that an application for Planning Approval may be deemed to have been refused under Clauses 11.4.1 or 11.4.2 the Council may issue a decision in respect of the application at any time after the expiry of the sixty day or ninety day period specified in those clauses, as the case may be.

11.5 TERM OF PLANNING APPROVAL

11.5.1 Where the local Government grants planning approval for the development of land—

(a) the development approved is to be substantially commenced within two 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.

11.5.2 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 sub clause 11.5.1(a).
11.6  UNAUTHORISED EXISTING DEVELOPMENTS

AMD 13 GG 26/10/04

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

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

Note: 1. Applications for planning approval to an existing development are made under Clause 11.1

2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a break of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.

11.7 AMENDING OR REVOKING A PLANNING APPROVAL

AMD 13 GG 26/10/04

11.7.1 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 the subject of the planning approval.
PART XII – ENFORCEMENT, ADMINISTRATION AND POLICIES

12.1 POWERS OF THE SCHEME

The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers:

(a) the Council may enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme;

(b) the Council may acquire any land or buildings in the district pursuant to the provisions of the Scheme or the Act. The Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with law and for such purpose may make such agreement with other owners as it considers fit;

(c) an officer of the Council, authorised by the Council for the purpose, may at all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being served.

12.2 OFFENCES

12.2.1 A person shall not erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building for any purpose:

(a) otherwise than in accordance with the provisions of the Scheme;

(b) unless all approvals required by the Scheme have been granted and issued;

(c) unless all conditions imposed upon the granting and issue of any approval required by the Scheme have been and continue to be complied with;

(d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that land or building of that part have been and continue to be complied with.

12.2.2 A person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to the penalties prescribed by the Act.

12.3 NOTICES

12.3.1 Twenty eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act.

12.3.2 The Council may recover expenses under Section 10(2) of the Act in a court of competent jurisdiction.

12.4 CLAIMS FOR COMPENSATION

12.4.1 Except where otherwise provided in the Scheme, the time limit for the making of claims for compensation pursuant to Section 11(1) of the Act is six (6) months after the date of publication of the Scheme in the Government Gazette.
12.5 APPEALS

12.5.1 An applicant aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part V of the Act and the rules and regulations made pursuant to the Act.

12.6 LOCAL PLANNING POLICIES

12.6.1 The Council may prepare a Local Planning Policy in respect to 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 a Policy so prepared.

12.6.2 Any Local Planning Policy prepared under this part shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

12.6.3 A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the council shall have due regard to the provisions of any Policy and the objectives with the Policy is designed to achieve before making its decision.

12.6.4 A Local Planning Policy shall become operative only after the following procedures have been completed:

a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submission may be made.

b) The Council may review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.

c) Following final adoption of a Policy, motivation of the final adoption shall be published once in a newspaper circulating within the Scheme area.

d) Where in the opinion of the Council, the provisions of any Policy affects the interest of the Commission, a copy of the policy shall be forwarded to the Commission.

e) The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.

f) Any amendment or addition to a Policy shall follow the procedures set out in a) – d) above.

12.6.5 A Local Planning Policy may be rescinded by:

a) the preparation or final adoption of a new Policy pursuant to Clause 12.6.1 specifically worded to supersede an existing Policy; and

b) publication of a formal notice of rescission by the Council twice in a local newspaper circulating in the local government district.

12.7 DELEGATION

12.7.1 The Council may delegate to an officer or to a Committee of the Council all or any part of the powers conferred on the Council by virtue of the Scheme.
12.7.2 A delegation of power pursuant to the provisions of this clause has effect and may be exercised according to its tenor but is revocable at the will of the Council and does not preclude the Council from exercising the power the subject of the delegation.

12.7.3 The performance of the function by a delegate under clause 12.7.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

12.7.4 A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.

12.7.5 A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.
## APPENDIX 1 - DEFINITIONS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abattoir</td>
<td>means any land or buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.</td>
</tr>
<tr>
<td>Absolute Majority</td>
<td>shall have the same meanings as given to the term in and for the purposes of the Local Government Act, 1995.</td>
</tr>
<tr>
<td>Act</td>
<td>means the Town Planning &amp; Development Act, 1928.</td>
</tr>
<tr>
<td>Administration Office</td>
<td>means any land or buildings used for office purposes of an administrative nature including financial, secretarial and advertising services.</td>
</tr>
<tr>
<td>Advertisement</td>
<td>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.</td>
</tr>
<tr>
<td>Advertising Device</td>
<td>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 of 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.</td>
</tr>
<tr>
<td>Aged Persons Hostel</td>
<td>means any land or buildings used for the accommodation of aged persons in independent units and where meals and other facilities are provided.</td>
</tr>
<tr>
<td>Agriculture</td>
<td>means any land or buildings used for the raising of stock or crops but excludes intensive agriculture, piggeries, poultry farms and animal husbandry.</td>
</tr>
<tr>
<td>Agroforestry</td>
<td>means land used commercially for tree production and agriculture where trees are planted in blocks of more than one hectare;</td>
</tr>
<tr>
<td>Airfield</td>
<td>means land and buildings used in connection with the operation of aeroplanes, including a passenger terminal, offices, parking and servicing of aircraft, and car parking, and includes occasional or seasonal use of temporary facilities for purposes associated with agriculture.</td>
</tr>
<tr>
<td>Amenity</td>
<td>means all those factors which combine to form the character of the area to residents and passers-by and shall include the present and likely future amenity.</td>
</tr>
<tr>
<td>Ambulance Depot</td>
<td>means any land or buildings used for the parking and maintenance of ambulances.</td>
</tr>
<tr>
<td>Definition</td>
<td>Description</td>
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<tr>
<td>Amusement Facility</td>
<td>means any land or buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use.</td>
</tr>
<tr>
<td>Amusement Machine</td>
<td>means any machine, game, device or games table, whether mechanical, electronic or computer powered, or a combination of these, operated by one or more players for amusement and recreation.</td>
</tr>
<tr>
<td>Amusement Parlour</td>
<td>means land and building, open to the public, where the predominant use is amusement by means of amusement machines and where there are more than two amusement machines operating within the premises.</td>
</tr>
<tr>
<td>Ancillary Use</td>
<td>means a use which is incidental to the predominant use of land and buildings.</td>
</tr>
<tr>
<td>Animal Boarding</td>
<td>means any land or building used to board domestic pets.</td>
</tr>
<tr>
<td>Animal Establishment</td>
<td>means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry – intensive or veterinary centre;</td>
</tr>
<tr>
<td>Animal Husbandry</td>
<td>means any land or buildings used for the breeding, keeping or rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat, or fur production), and other livestock in feedlots.</td>
</tr>
<tr>
<td>Appendix</td>
<td>means an appendix to the Scheme.</td>
</tr>
<tr>
<td>Aquaculture</td>
<td>shall have the same meaning as given to the term in and for the purposes of the Fish Resources Management Act 1994.</td>
</tr>
<tr>
<td>Art and Craft Centre</td>
<td>means any land or buildings used to manufacture, display, and sell, works of art or craft.</td>
</tr>
<tr>
<td>Art Gallery</td>
<td>means any land or buildings used to display art.</td>
</tr>
<tr>
<td>Auction Mart</td>
<td>means any land or building on or in which goods are exposed or offered for sale by auction, but does not include a place used for the sale of auction of fresh food, fruit, vegetables or livestock.</td>
</tr>
<tr>
<td>Bakery - Retail</td>
<td>means any land or buildings used for the baking of bread and/or pastry and/or cake products and the retail sale of these products from the premises.</td>
</tr>
<tr>
<td>Bakery – Wholesale</td>
<td>means any land or buildings used for the baking of bread and/or pastry and/or cake products but does not include the retail sale of these products from the premises.</td>
</tr>
<tr>
<td>Bank</td>
<td>means any land or building used for banking purposes.</td>
</tr>
<tr>
<td>Battle-axe Lot</td>
<td>means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot.</td>
</tr>
<tr>
<td>Beauty Therapist</td>
<td>means any land or buildings used for beauty therapy purposes.</td>
</tr>
<tr>
<td>Bed and Breakfast</td>
<td>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;</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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</tr>
<tr>
<td>Betting Agency</td>
<td>means a building operated in accordance with the Totalisator Agency Betting Board Act 1960.</td>
</tr>
<tr>
<td>Boarding House</td>
<td>means a building in which provision is made for lodging or boarding more than four persons (but not the travelling public), exclusive of the family of the keeper, for hire or reward.</td>
</tr>
<tr>
<td>Boat Building Facility</td>
<td>means any land or buildings used for the construction of boats.</td>
</tr>
<tr>
<td>Boat Launching Facility</td>
<td>means any land or building used to launch or retrieve boats into and from the water and may include a boat ramp or slip way.</td>
</tr>
<tr>
<td>Brewery AMD 14 GG 13/6/06</td>
<td>means any land or buildings used for brewing or distilling of beverages (alcoholic or non-alcoholic).</td>
</tr>
<tr>
<td>Building</td>
<td>means any structure or appurtenance thereto whether fixed or movable, temporary or permanent, placed or erected upon land, and the term shall include dwellings and buildings appurtenant to dwellings such as carports, garages, verandahs and retaining walls, but shall exclude a boundary fence, pergolas, garden sheds and the like, and swimming pools where no part is more than 600mm above surrounding ground level.</td>
</tr>
<tr>
<td>Building Envelope</td>
<td>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.</td>
</tr>
<tr>
<td>Building Setback</td>
<td>means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected.</td>
</tr>
<tr>
<td>Business College</td>
<td>means any land or buildings used for business education.</td>
</tr>
<tr>
<td>Cabin AMD 18 GG 19/2/10</td>
<td>Means an individual self contained similar to a chalet but may lack en-suite facilities and may only comprise one room and is designed for short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of three (3) months in any twelve (12) month period.</td>
</tr>
<tr>
<td>Cafe</td>
<td>means restaurant.</td>
</tr>
<tr>
<td>Camping Area</td>
<td>means any land used for the lodging of persons in tents.</td>
</tr>
<tr>
<td>Camping and Caravan Park</td>
<td>means any land used to allow accommodation in caravans, cabins and tents.</td>
</tr>
<tr>
<td>Caretaker's Dwelling</td>
<td>means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office, rural activity or recreation area carried on or existing on the same site.</td>
</tr>
<tr>
<td>Car Park</td>
<td>means land and buildings used primarily for parking vehicles 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 land or buildings in which cars are displayed for sale, and does not include car parking areas provided in compliance with development approvals.</td>
</tr>
<tr>
<td>Cattery</td>
<td>means the use of an approved out-building constructed in accordance with the Health Act Model By-laws Series 'A' Part One - General Sanitary Provisions 1927 (as amended) for the</td>
</tr>
</tbody>
</table>
purpose of keeping more than three (3) cats over the age of three (3) months.

**Chalet**
*AMD 18 GG 19/2/10*

Means an individual self contained unit usually comprising cooking facilities, en-suite, living area, and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of three (3) months in any twelve (12) month period.

**Child Care Centre**

means any land or buildings used for the care of children.

**Child Day Care Centre**

means any land or buildings used for the daily or occasional care of children in accordance with the Child Care Act 1972 but does not include a child family-care centre.

**Child Family Care Centre**

means a child care facility conducted in a private dwelling where children are received for care in accordance with the Child Care Act 1972 but does not include a child day care centre.

**Cinema/Theatre**

means any land or building where the public may view a motion picture or theatrical production.

**Civic Building**

means any land or buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose, and includes a hall or library, or a centre for cultural recreational, social or other community purpose.

**Club Premises**

means any land or buildings used by a legally constituted club or association or other body of persons united by a common interest and which building or premises are not otherwise classified under the provisions of the Scheme.

**College**

means any land or buildings used for post school academic studies but excludes a university.

**Commercial Vehicle**

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

**Commission**

means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985.

**Communication antennae-domestic**

means any mast, antennae, aerial, satellite dish or other associated equipment used for the reception or transmission of television or radio signals or for other electronic communications where such device is consistent with the predominant style and size of other such devices in the locality, and provided that neither its vertical nor horizontal dimensions exceed one metre.

**Communication antennae-commercial**

means any mast, antennae, aerial, satellite dish or other associated equipment used for the reception or transmission of television or radio signals or for other electronic communications where its vertical or horizontal dimensions exceed one metre but
does not include telecommunications infrastructure.

**Community Purpose**
means the use of land or buildings designed or adapted primarily for the provision of educational, social and recreational facilities and services by organisations involved in activities for community benefit.

**Community Home**
means a building used primarily for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care and managed by a constituted community based organisation, a recognised voluntary charitable or religious organisation, a Government Department or instrumentality of the Crown.

**Community Service Depot**
means land and buildings used for the garaging of vehicles and equipment used to provide a community service such as a fire brigade, ambulance and the like.

**Conservation**
means, in relation to any place on the Heritage List or a designated Heritage Area, the management of that place or precinct in a manner that will:

(a) enable the cultural heritage significance of that place or precinct to be retained; and

(b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or area, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or area in accordance with relevant professional standard, and the provision of an appropriate visual setting.

**Consulting Room(s)**
*AMD 13 GG 26/10/04*
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;

**Consulting Room(s) Home**
means any land or buildings ancillary to a residence used by no more than one health consultant for the investigation or treatment of human injuries or ailments and for general patient care.

**Contractor’s Yard**
means any land or buildings used for the storage of contractor’s plant and equipment, including prefabricated or transportable buildings and materials.

**Convenience Store**
means land and or buildings used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300m² gross leasable area.

**Corrective Institution**
*AMD 13 GG 26/10/04*
means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;

**Council**
shall have the same meaning as given to the term in and for the purposes of the Local Government Act 1995.

**Cultural Heritage Significance**
means, in relation to any place on the Heritage List or a designated Heritage Area, the relative value which that place or area has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generations.
Day Care Centre means land and buildings used for the daily or occasional care of children in accordance with the Child Welfare (Care Centres) Regulations, 1968 (as amended).

Detention Centre shall have the same meaning as given to the term in and for the purposes of the Young Offenders Act 1994.

Development shall have the same meaning given to it in and for the purposes of the Act.

Display Home means a dwelling intended to be open for public inspection as an example of a dwelling design.

District shall have the meaning as given to the term in and for the purposes of the Local Government Act 1995.

Dog Kennels means any land or buildings used for the boarding and breeding of dogs where such premises are registered or required to be registered by the Council, and may include the sale of dogs.

Drive-In Cinema means land and buildings used to make provision for an audience to view the entertainment while seated in motor vehicles.

Dry Cleaning Premises means any land or buildings used for the cleaning of garments and other fabrics by chemical processes.

Education Centre means any land or buildings used for the purpose of education.

Educational Establishment means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;

Electoral Office means any land or buildings used for electoral purposes.

Entertainment Centre means any land or buildings used for the purposes of entertainment.

Equestrian Activity means any land and buildings used for the showing, competition or training of horses and includes a riding school.

Exhibition Centre means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;

Facade means the exposed faces of a building towards roads or open space or the frontal outward appearance of the building.

Factory Unit Building means a building or structure, or a group of buildings or structures on one lot, in which are carried on two or more separate industries or storage areas not owned or managed by the same person, or in which provision is made for the carrying on of two or more separate industries or storage areas not owned or managed by the same person.

Family Care Centre means land and buildings used for the purposes of a Family Care Centre as defined in the Child Welfare (Care Centres) Regulations, 1968 (as amended).

Farm Stay means land and buildings utilised for short stay tourist accommodation comprising a maximum of two self contained two bedroom cottages located no further than 30 metres from the
external wall of an existing residential dwelling and such cottages will not exceed 80m² internal floor area.

**Farm Supply Centre**

means any land or buildings used for the sale of farm supplies, including vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment.

**Fast Food Outlet**

*AMD 13 GG 26/10/04*

means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a fish shop or lunch bar;

**Fire Brigade Depot**

means any land or buildings used for the parking and maintenance of fire engines and trucks.

**Fish Shop**

means a building where wet fish and similar foods are displayed and offered for sale.

*AMD 14 GG 13/6/06*

**Floor Area**

*AMD 13 GG 26/10/04*

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

**Frontage**

*AMD 13 GG 26/10/04*

when used in relation to a building that is used for –

(a) residential purposes, has the same meaning as in the Residential Planning Design Codes; and

(b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;

**Fuel Depot**

means any land or building used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final users vehicle of such fuel from the premises.

**Funeral Parlour**

means any land and buildings used to prepare and store bodies for burial or cremation and may include facilities to conduct memorial services.

**Garden Centre**

means land and buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of pre-fabricated garden buildings.

**Gazettal Date**

means the date on which this Scheme came into force, being the date on which notice of the Minister’s approval of the Scheme is published in the Government Gazette.

**Gross Floor Area**

shall have the same meaning as Floor Area in the Building Code of Australia 1990.

**Gross Leaseable Area**

means in relation to a building, the area of all floors capable of being occupied for exclusive use, which area is measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas.

**Hairdresser Premises**

means any land or buildings used for hairdressing purposes.

**Harbour Installations**

means any land or buildings used for and incidental to the purposes of loading, unloading and maintaining ships.
Health Club
means any land or buildings used for physical exercise and associated activities.

Health Consultant
means a person practising in the investigation or treatment of human injuries or ailments or for general patient care.

Height
when used in relation to a building that is used for:
(a) residential purposes, has the same meaning given to it in and for the purpose of the Residential Planning-Design Codes; or
(b) purposes other than residential purposes, means the measurement taken from the natural ground level immediately in front of the centre of the face of the building to a level of the top of the eaves, parapet or flat roof, whichever is the highest.

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

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

Hire Service
means land and buildings used for the storage and or hire of machinery and other bulky equipment.

Hobby Farm
means any land or buildings used for the keeping of farm animals or the growing of vegetables, fruit or flowers for non commercial purposes or sale.

Home Business
means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -
(a) does not employ more than 2 people not members of the occupier’s household;
(b) will not cause injury to or adversely affect the amenity of the neighbourhood;
(c) does not occupy an area greater than 20 square metres;
(d) does not involve the retail sale, display or hire of goods of any nature;
(e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
(f) does not involve the use of an essential service of greater capacity than normally required in the zone;

Home Occupation
means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -
(a) does not employ any person not a member of the occupier’s household;

(b) will not cause injury to or adversely affect the amenity of the neighbourhood;

(c) does not occupy an area greater than 20 square metres;

(d) does not display a sign exceeding 0.2 square metres;

(e) does not involve the retail sale, display or hire of goods of any nature;

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

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

**Home Office**  
*AMD 13 GG 26/10/04*

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**  
*AMD 13 GG 26/10/04*

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**  
*AMD 13 GG 26/10/04*

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

**Hotel**  
*AMD 13 GG 26/10/04*

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

**Incidental Use**  
*AMD 13 GG 26/10/04*

means a use of premises which is ancillary and subordinate to the predominant use;

**Industry**  
*AMD 13 GG 26/10/04*

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

(a) the storage of goods;

(b) the work of administration or accounting;

(c) the selling of goods by wholesale or retail; or

(d) the provision of amenities for employees, incidental to any of those industrial operations;

**Industry – Cottage**

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

(a) does not cause injury to or adversely affect the amenity of the neighbourhood;

(b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;

(c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;

(d) does not occupy an area in excess of 50 square metres; and

(e) does not display a sign exceeding 0.2 square metres in area.

Industry – Extractive

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

Industry – General

means an industry other than a cottage, extractive, light, mining, rural or service industry;

Industry - Hazardous

means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or services industries.

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 - Noxious

means an industry which is subject to licensing as "Prescribed Premises" under the Environmental Protection Act 1986.

Industry – Rural

means -

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

**Industry – Service**

*AMD 13 GG 26/10/04*

means -

(a) an industry – light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or

(b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

**Intensive Agriculture**

*AMD 13 GG 26/10/04*

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 fruits 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;

**Kindergarten**

means land and buildings used as a school for developing the intelligence of young children by object lessons, toys, games, singing and similar methods.

**Land**

shall have the same meaning given to the term in and for the purposes of the Act.

**Landscape Supplies**

means any land or buildings used for the storage and sale of items such as woodchips, logs, rocks, sand stone and other such materials.

**Laundromat**

means any land or building, open to the public in which washing machines, with or without provision for drying clothes, are available for use.

**Library**

means any land or buildings or part thereof used for the storage and distribution on loan of books and other resource or reference material.

**Liquor Store**

means any land or buildings the subject of a liquor store licence granted under the provisions of the Liquor Licensing Act 1988.

**Local Government**

*AMD 13 GG 26/10/04*

means the Shire of Wyndham-East Kimberley;

**Local Planning Strategy**

*AMD 13 GG 26/10/04*

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;

**Lodging House**

shall have the same meaning as is given to the term in and for the purposes of the Health Act 1911.

**Lot**

*AMD 13 GG 26/10/04*

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

**Lunch Bar**

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

Marina
means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings appurtenant thereto and all offices and storerooms used in connection therewith.

Marine Filling Station
means any land or buildings used for the storage and supply of liquid fuels and lubricants for marine craft, but in which no industry is carried on; but does not include a service station.

Market
means any land or buildings used for the display and sale of goods from stalls by independent vendors.

Market Garden
means any land used for marking gardening purposes.

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);

Metropolitan Region Scheme
means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 published in the Government Gazette of August 9, 1963 and as amended from time to time.

Metropolitan Region Scheme Reserve
means land reserved under the Metropolitan Region Scheme.

Milk Depot
means any land or buildings to which milk and by products are delivered for distribution by vendors to consumers but in which milk is not processed or pasteurised.

Minerals
has the same meaning as in the Mining Act 1978;

Minister
means Minister for Planning and Infrastructure;

Mobile Home
means any vehicle or similar relocatable structure having been manufactured with wheels and having no footings other than wheels and corner jacks, and so designed or constructed as to permit independent occupancy for continuous dwelling purposes incorporating its own facilities including bathroom and toilet facilities.

Mobile Home Park
means land upon which two or more mobile homes, occupied for dwelling purposes, are located regardless of whether or not a charge is made for such accommodation.

Motel
means any land or buildings used or intended to be 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 to which a licence under the Liquor Licensing Act 1988 may have been granted.

Motor Vehicle and Marine Sales Premises
means land and buildings used for the display and sale of new or second hand motorcycles, cars, trucks, caravans and boats or any one or more of them and may include, the servicing of motor
vehicles sold from the site;

**Motor Vehicle Hire Station** means land and buildings used for the hiring out of motor vehicles and when conducted on the same site, the storage and cleaning of motor vehicles for hire but does not include mechanical repair or servicing of such vehicles.

**Motor Vehicle Repair Station** means any land or buildings used for or in connection with the electrical and mechanical repairs and overhauls to motor vehicles. The term includes repairs to tyres but does not include recapping or retreading of tyres, panel beating, spray painting and chassis reshaping.

**Motor Vehicle Wash Station** means any land or buildings where in the primary use is the washing of motor vehicles.

**Motor Vehicle Wrecking Premises** means any land or buildings used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second hand motor vehicle accessories and spare parts.

**Multiple Occupancy** means the use and occupation of a rural holding at a residential density higher than normally associated with traditional rural living and which may be characterised by the following:

(a) an approved agreement for management of and responsibility for the whole or parts of the holding;

(b) more than one separate dwelling unit for use by families or unrelated groups of persons;

(c) a defined area for separate occupation for residential and ancillary uses.

**Museum** means any land or buildings used to exhibit cultural or historical artefacts.

**Net Lettable Area** means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas:

(a) all stairs, toilets, cleaners’ cupboards, life shafts and motor rooms, escalators, tea rooms and plant rooms, and other services areas;

(b) lobbies between lifts facing other lifts serving the same floor;

(c) areas set aside for the provision of facilities or services to the floor or building; and

(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.

**Night Club** means premises –

(a) used for entertainment with or without eating facilities; and

(b) licensed under the *Liquor Licensing Act 1988*.

**Non-Conforming Use** means any use of land or building which was lawful immediately prior to the coming into operation of the Scheme, but is not now in conformity with the provisions of the Scheme.
Nursing Home means a hospital in which patients reside.

Office
AMD 13 GG 26/10/04 means premises used for administration, clerical, technical, professional or other like business activities;

Open Air Display means the use of a site external to a building for the display and/or sale of goods and equipment.

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; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or

(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 thereof, whether as a beneficial owner, trustee, mortgagee in possession, or otherwise.

Park Home shall have the same meaning as given to the term in and for the purposes of the Caravan Parks and Camping Grounds Act 1995.

Park Home Park
AMD 13 GG 26/10/04 has the same meaning as in the Caravan Parks and Camping Grounds Regulations 1997;

Petrol Filling Station means land and buildings used for the supply of petroleum products and motor vehicle accessories.

Piggery shall have the same meaning given to the term in and for the purposes of the Health Act, 1911.

Place means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes:

(a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;

(b) any works or buildings situated there, their contents relevant to the purpose of this Scheme, and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and

(c) as much of the land beneath the place as is required for the purposes of its conservation.

Place of Assembly means any land or buildings where people assemble for a public, religious or cultural activity.

Place of Worship
AMD 13 GG 26/10/04 means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;
Plantation  
*AMD 13 GG 26/10/04*  
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;

Plant Nursery  
means any land or buildings used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden activities.

Plot Ratio  
shall have the same meaning given to the term in the Building Code of Australia 1990 except for the residential dwellings where the term shall have the same meaning given to it in the Residential Planning Design Codes.

Post Office  
means any land or buildings used to conduct a post office.

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

Poultry Farm  
means any land or buildings used for hatching, rearing or keeping of poultry for either egg or meat production which does not constitute an offensive trade within the meaning of the Health Act 1911.

Precinct  
*AMD 13 GG 26/10/04*  
means a definable area where particular planning policies, guidelines or standards apply;

Predominant Use  
*AMD 13 GG 26/10/04*  
means a definable area where particular planning policies, guidelines or standards apply;

Premises  
*AMD 13 GG 26/10/04*  
means land or buildings;

Pre-School  
means any land or buildings used to educate pre-school children.

Prison  
shall have the same meaning given to it in and for the purposes of the Prisons Act, 1981 (as amended).

Private Hotel  
means land and buildings used for the residential purposes the subject of a Limited Hotel Licence granted under the provisions of the Liquor Act, 1970 (as amended).

Private Recreation  
means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not normally open to the public without charge.

Private Tree Plantation  
means any land used for growing timber for commercial purposes.

Professional Office  
means a building used for the purposes of his profession by an accountant, architect, author, barrister, chiropodist, consular official, dentist, doctor, engineer, masseur, nurse, physiotherapist, quantity surveyor, solicitor, surveyor, teacher (other than a dancing teacher or a music teacher), town planner, or valuer, or a person having an occupation of a similar nature, and Professional Person has a corresponding interpretation.

Public Amusement  
means land and buildings used for the amusement or entertainment of the public, with or without charge.
Public Authority shall have the same meaning given to it in and for the purposes of the Act.

Public Recreation means land used for a public park, public gardens, foreshore reserve, playground or other grounds for recreation which are normally open to the public without charge.

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

Public Mall means any public street or right-of-way designed especially for pedestrians who shall have right-of-way, and vehicle access shall be restricted to service vehicles at times specified by the council and emergency vehicles.

Public Worship - Place of means land and buildings used for the religious activities of a church but does not include an institution for primary, secondary, or higher education, or a residential training institution.

Radio and TV Installation means land and buildings used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers.

Real Estate Agency means any land or buildings used to conduct a real estate office.

Reception Centre means any land or buildings used for functions on formal or ceremonious occasions, but not for unhoused use for general entertainment purposes.

Recreation and Leisure means any land or buildings used for recreation, sport or leisure purposes.

Recreation - Indoor means any buildings used for sports including swimming, ice skating, ten pin bowling, cricket, tennis, squash, soccer, billiards and similar activities.

Recreation - Outdoor means any land used for outdoor recreation purposes.

Recreation - Private means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not usually open to the public without charge.

Recreation - Public means land used for a public park, public gardens, foreshore reserve, playground or other grounds for recreation which are usually open to the public without charge.

Recreation Vehicle means a vehicle designed or used primarily for recreational or sporting activities or purposes, but also includes all types of caravans, trailers, camping vehicles, horse floats and off-road vehicles.

Research Centre means any land or buildings used to undertake research.

Research Laboratory means any land or buildings used to undertake research in a laboratory.

Reserve means any land reserved for a public purpose.
Residential Building

AMD 13 GG 26/10/04

has the same meaning as in the Residential Planning Design Codes;

Residential Planning Codes

means the Residential Planning Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1.

Resort

means any land or buildings used for the overnight or holiday accommodation of patrons in self-contained units or apartments and may include incidental on-site recreational facilities such as golf, swimming, bike riding, tennis, bowls, fishing, and may also include restaurants, shops and entertainment facilities.

Restaurant

AMD 13 GG 26/10/04

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;

Restoration

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

Restricted Premises

AMD 13 GG 26/10/04

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

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

(b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;

Retail

AMD 13 GG 26/10/04

means the sale or hire of goods or services to the public;

Retail Premises - shop

means any land or buildings wherein the predominant use is for the display of sale by retail or hire of goods but excludes a retail premises - restricted.

Retail Premises - Restricted

means any land or buildings used to sell or hire goods not permitted under retail premises - shop.

Retirement Village

means any land or buildings used to accommodate retirees together with ancillary facilities.

Rural Pursuit

AMD 13 GG 26/10/04

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;
**Roadhouse**
Means any land or buildings used for the predominant purpose of a service station but incidentally including a cafe, restaurant and/or shop.

**Salvage Yard**
means land and buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

**Sawmill**
means any land or buildings where logs or large pieces of timber are sawn.

**Schedule**
means a schedule to the Scheme.

**School**
means any land or buildings used to educate children.

**Service Station**
**AMD 13 GG 26/10/04**
means premises used for -

(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and

(b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

**Shop**
**AMD 13 GG 26/10/04**
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**
**AMD 13 GG 26/10/04**
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;

**Single Dwelling**
means an independently constructed dwelling standing wholly on its own lot created pursuant to the Town Planning and Development Act.

**Special Facility**
means a facility established for purposes in section 46(5) of the Liquor Licensing Act 1988 or for another purpose in respect of which the relevant Liquor Licensing Authority in Western Australia grants a special facility licence within the meaning of the Liquor Licensing Act.

**Sports Ground**
means any land used for any sport, but does not include land within the curtilage of a dwelling, if not used commercially.

**Stable**
means any land, building or structure used for the housing, keeping and feeding of horses, assess and mules and associated incidental activities.

**Stall - General**
means a place, stand, vehicle or other thing where goods are exposed or offered for sale by retail, and being distinguished from a shop in that it is not permanently housed in a place that is structurally part of a building and of which the stallholder has exclusive possession.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stall - Wayside</td>
<td>means a place, stand, vehicle or other thing which offers for sale to the general public, produce or any commodity which is grown or manufactured on the land or site, upon which the stall is located.</td>
</tr>
<tr>
<td>Stock Yards</td>
<td>means any land, building or other structure used for holding and/or sale of animal stock.</td>
</tr>
<tr>
<td>Storage</td>
<td>means premises used for the storage of goods, equipment, plant or materials;</td>
</tr>
<tr>
<td>Storage Yard</td>
<td>means any land or buildings used for the storage of goods, equipment, plant or materials related to a particular trade.</td>
</tr>
<tr>
<td>Storey</td>
<td>means for other than residential development, that portion of a building which is situated between the top of the floor next above it: and if there is no floor above it, that portion between the top of the floor and the ceiling above it.</td>
</tr>
<tr>
<td>Structure Plan</td>
<td>means a plan which indicates broad land use options for the subdivision and development of an area and provides a policy framework for such future subdivision and development.</td>
</tr>
<tr>
<td>Substantial Commencement</td>
<td>means that work or development the subject of the planning approval has been begun by the performance of some substantial part of that work or development.</td>
</tr>
<tr>
<td>Substantially Commenced</td>
<td>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;</td>
</tr>
<tr>
<td>Take-away Food Outlet</td>
<td>means any land or buildings used primarily for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation.</td>
</tr>
<tr>
<td>Tavern</td>
<td>means premises licensed as a tavern under the <em>Liquor Licensing Act 1988</em> and used to sell liquor for consumption on the premises;</td>
</tr>
<tr>
<td>Telecommunications Infrastructure</td>
<td>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 or in connection with, a telecommunications network;</td>
</tr>
<tr>
<td>Tourist Accommodation</td>
<td>means a building or group of buildings substantially used for the temporary accommodation of tourists, visitors and travellers which may have facilities for the convenience of patrons such as restaurants, convention areas, and the like, and includes backpackers accommodation, chalets and guest houses, but does not include a building or place elsewhere specifically defined in this schedule or a building or place used for a purpose elsewhere specifically defined in this schedule.</td>
</tr>
<tr>
<td>Town Planning Act</td>
<td>means the <em>Town Planning and Development Act 1928</em>;</td>
</tr>
<tr>
<td>Trade Display</td>
<td>means land and buildings used for the display of trade goods and equipment for the purposes of advertisement.</td>
</tr>
</tbody>
</table>
Transient Accommodation
AMD 18 GG 19/2/10
means any habitable building permanently affixed to the ground
by footings as required by Council and includes any caravan,
transportable dwelling or any structure used for habitation for the
purposes of accommodation and not occupied by the same
tenant for a continuous period for more than 6 months in any 12
month period.

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

Transportable Home
means any structure designed for human habitation that is partly
or wholly prefabricated at any place other than on the lot upon
which it is to be erected.

Travel Agency
means any land or buildings used to conduct a travel agency
business.

Twenty Three Hour Recovery Care Centre
means any building used for the recovery and care of patients
for a maximum period of twenty three hours following surgical or
other treatment performed on the premises.

Vehicle, Boat and Caravan Sales and Hire Premises
means any land or buildings used for the display, sale or hire of
new or second hand vehicles, motor-cycles, boats, caravans or
recreation vehicles, or any one or more of them and may include
the servicing of such goods sold from the site.

Veterinary Centre
AMD 13 GG 26/10/04
means premises used to diagnose animal diseases or disorders,
to surgically or medically treat animals, or for the prevention of
animal diseases or disorders;

Veterinary Hospital
means the use of any land or buildings for the treatment of minor
ailments of animals, and includes the accommodation of animals
for periods longer than overnight.

Video Shop
means any land or buildings used for the sale or hire of video
cassettes or video recorders.

Warehouse
AMD 13 GG 26/10/04
means premises used to store or display goods and may include
sale by wholesale;

Waterway
shall have the same meaning given to it in and for the purposes
of the Act.

Wholesale
AMD 13 GG 26/10/04
means the sale of goods or materials to be sold by others;

Winery
AMD 13 GG 26/10/04
means premises used for the production of viticultural produce
and may include sale of the produce.

Zoological Gardens
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.
Zone
AMD 13 GG 26/10/04

means any land or buildings used for the keeping, breeding or display of animals and the terms includes Zoo but does not include dog kennels or a cattery, animal husbandry or animal keeping.

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.
### APPENDIX 2 - SPECIAL SITE SCHEDULE

*AMD 13 GG 26/10/04*

(Refer Clause 5.22)

<table>
<thead>
<tr>
<th>DESCRIPTION OF LAND</th>
<th>SPECIAL SITE USE</th>
<th>CONDITIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970 Hibiscus Drive</td>
<td>Church</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>1970 Hibiscus Drive</td>
<td>Service Station</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>2257 Stockman Road</td>
<td>Roadhouse/ Truck Stop</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>Reserve 27138 Leichhardt Street</td>
<td>Church</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>Reserve 27656 Leichhardt Street</td>
<td>Church Purposes</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>Reserve 28413 Ironwood Drive</td>
<td>Church</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>Reserve 28651 Coolibah Drive</td>
<td>School &amp; Church Purposes</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>Reserve 32881 Weaber Plains Road</td>
<td>Housing/Christian Sanctuary</td>
<td>As determined by Council</td>
</tr>
<tr>
<td>King Location 327 Victoria Highway</td>
<td>Airport</td>
<td>As determined by Council</td>
</tr>
<tr>
<td><strong>AMD 13 GG 26/10/04</strong></td>
<td><strong>Other uses may be permitted by</strong></td>
<td><strong>Council provided that they are incidental to</strong></td>
</tr>
<tr>
<td></td>
<td><strong>the predominant use of the</strong></td>
<td><strong>land and/or deemed to be dependent on the</strong></td>
</tr>
<tr>
<td></td>
<td><strong>function of the Airport.</strong></td>
<td><strong>As determined by Council</strong></td>
</tr>
</tbody>
</table>
## APPENDIX 2A - ADDITIONAL USES SCHEDULE

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Additional Uses(s)</th>
<th>Conditions</th>
</tr>
</thead>
</table>
| A1  | Lot 2 of King Location 438, Old Darwin Road, Kununurra.  
*AMD 6 GG 13/6/03* | Tourist Accommodation. | 1. Additional Use restricted to 3.5 hectares, in the southwestern corner of the land. |
| A2  | King Loc 579 Packsaddle Road, Kununurra  
*AMD 12 GG 26/10/04* | Residential Accommodation and educational facilities associated with agricultural training and religious broadcasting facility purposes | i) No more than 8 single dwellings to be permitted on the site.  
ii) Only one residential building to be permitted on the site.  
iii) Transient accommodation to be limited to a maximum of twelve habitable dwellings.  
iv) All development to occur in accordance with a Development Guide Plan approved by Council. |
| A3  | Lot 505 and a portion of Lot 501 Coolibah Drive, Kununurra  
*AMD 31 GG 19/3/10* | Single Dwelling | 1. Prior to development being approved for the site, a Development Guide Plan is to be prepared and approved. This plan shall be advertised in accordance with Clause 11.2 of the Scheme, and shall address site specific planning development and design matters, including:  
i) Prescribed specific dwelling yields for each lot;  
ii) Identification of all lots that shall be used only for residential uses; and  
iii) Prescribed setbacks. |
<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A3</td>
<td>3.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lot 505 and a portion of Lot 501 Coolibah Drive, Kununurra (Cont'd)</td>
<td>AMD 31 GG 19/3/10</td>
</tr>
</tbody>
</table>

2. Design Guidelines are to be prepared and adopted for the site as a Local Planning Policy pursuant to the requirements of the Scheme, addressing, but not limited to, the following matters:

   i) Development of a high level of aesthetic quality and ESD principles;

   ii) Application of CPTED principles.

3. Detailed Area Plans are to be prepared and adopted for those lots that have a common boundary with community facilities and those lots facing Chestnut Avenue as a Local Planning Policy pursuant to the requirements of the Scheme, addressing the following matters:

   i) The interface between residential development and community use;

   ii) Management of land use, access and parking between commercial, community and residential.
APPENDIX 3 — ADDITIONAL INFORMATION FOR ADVERTISEMENTS

AMD 13 GG 26/10/04

Note: to be completed in addition to Application for Approval form

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

2. Details of Proposed Sign:
(a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall-mounted, other): ..............................................................................................................
..............................................................................................................................................
(b) Height:.....................................Width:..................................Depth:.................................
(c) Colours to be used .............................................................................................................
(d) Height above ground level —
   • (to top of Advertisement): ..........................................................................
   • (to underside): .............................................................................................
(e) Materials to be used:
..............................................................................................................................................
..............................................................................................................................................
Illuminated: Yes/No
   If Yes, state whether steady, moving, flashing alternating, digital, animated or scintillating and state intensity of light source:

3. Period of time for which advertisement is required:
..............................................................................................................................................

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

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

Signature of Advertiser(s): ...............................................
(if different from land owner(s): ............................................

Date: ......................................................................................
APPENDIX 4 - FORM OF APPLICATION FOR PLANNING APPROVAL

APPLICATION FOR PLANNING APPROVAL

OWNER DETAILS -
Name ......................................................................................................................................................
Address ................................................................................................................................................
Phone (work) .................................. (home) ................. Fax ................. E-mail ..................................
Contact Person ........................................................................................................................................
Signature ........................................ .................................... ....................... Date ......................................
Signature ........................................ .................................... ....................... Date ......................................
The signature of the owner(s) is required on all applications. This application will not proceed without
that signature.

APPLICANT DETAILS -
Name ......................................................................................................................................................
Address ................................................................................................................................................
Phone (work) .................................. (home) ................. Fax ................. E-mail ..................................
Contact Person for correspondence ........................................................................................................
Signature ........................................ .................................... ....................... Date ......................................

PROPERTY DETAILS -
Lot No ........................................... House/Street No ................. Location No ........................................
Diagram or Plan No ......................... Certificate of Title Vol. No ......................... Folio .........................
Diagram or Plan No ......................... Certificate of Title Vol. No ......................... Folio .........................
Title Encumbrances (eg, easements, restrictive covenants) ............................................................... 
Street Name .................................. ....................................Suburb ......................................................
Nearest Street Intersection ........................................... .................................... ....................... 
Existing Building/Land Use ....................................................................................................................
Description of proposed development and/or use ..................................................................................
Nature of any existing buildings and/or use ............................................................................................... 
Approximate cost of proposed development ....................................................................................... 
Estimated time of completion .................................................................................................................. 

OFFICE USE ONLY
Acceptance Officer’s Initials ................................................... Date Received ........................................
local government Reference No ........................................
APPENDIX 5—NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

TOWN PLANNING ACT 1928
Shire Of Wyndham-East Kimberley

NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

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

LOT NO .................................................................... STREET ...........................................................................
SUBURB ............................................................................................................................................................
PROPOSAL: ...........................................................................................................................................................
..............................................................................................................................................................................
..............................................................................................................................................................................
..............................................................................................................................................................................

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

Signed ........................................................................... Dated

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

for and on behalf of the Shire of Wyndham – East Kimberley
APPENDIX 6 – NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

TOWN PLANNING ACT 1928
Shire Of Wyndham-East Kimberley

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 reasons(s):

CONDITIONS/REASONS FOR REFUSAL –
................................................................................................................................................................
................................................................................................................................................................
................................................................................................................................................................

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

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

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

Signed .............................................................................................................................. Dated
........................................................................................................................................

Shire of Wyndham-East Kimberley TPS 7 Page No. 82
## APPENDIX 7 - EXEMPTED ADVERTISEMENTS (PURSUANT TO CLAUSE 9.4)

### LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT

<table>
<thead>
<tr>
<th>EXEMPTED SIGN TYPE AND NUMBER (All illuminated unless otherwise stated)</th>
<th>MAXIMUM AREA OF EXEMPTED SIGN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings</td>
<td>One professional name-plate as appropriate.</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>One advertisement describing the nature of the home occupation.</td>
</tr>
<tr>
<td>Places of Worship, Meeting halls and Places of Public Assembly</td>
<td>One advertisement detailing the function and/or the activities of the institution concerned.</td>
</tr>
<tr>
<td>Cinemas, Theatres and Drive-in Theatres</td>
<td>Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.</td>
</tr>
<tr>
<td>Shops, Showrooms and other uses appropriate to a Shopping Area.</td>
<td>All advertisement affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs, Hoarding and Bill Posting Bylaws.</td>
</tr>
<tr>
<td>Industrial and Warehouse Premises.</td>
<td>A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding the signs projecting from a building whether or not those signs are connected to a pole, wall or other building. Total area of any such advertisements shall not exceed 15m².</td>
</tr>
<tr>
<td>Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes.</td>
<td>All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.</td>
</tr>
<tr>
<td>LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT</td>
<td>EXEMPTED SIGN TYPE AND NUMBER (All illuminated unless otherwise stated)</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Public Places and Reserves</td>
<td>(a) Advertisement signs (illuminated or non-illuminated) relating to the functions of Government, a public authority or council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and</td>
</tr>
<tr>
<td></td>
<td>(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the council of a municipality; and</td>
</tr>
<tr>
<td></td>
<td>(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified herein.</td>
</tr>
<tr>
<td>Railway Property and Reserves.</td>
<td>Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.</td>
</tr>
<tr>
<td>Advertisements within Buildings</td>
<td>All advertisement placed or displayed within building which cannot ordinarily be seen by a person outside of those buildings.</td>
</tr>
<tr>
<td>All classes of buildings other than single family dwellings.</td>
<td>One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.</td>
</tr>
<tr>
<td>TEMPORARY SIGNS</td>
<td>EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Building Construction Sites (advertisement signs displayed only for the duration of the construction) as follows:</td>
<td></td>
</tr>
<tr>
<td>(i) Dwellings</td>
<td>One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.</td>
</tr>
<tr>
<td>(ii) Multiple Dwellings, Shops Commercial and Industrial Projects.</td>
<td>One signs as for (i) above.</td>
</tr>
<tr>
<td>(iii) Large development or re-development projects involving shopping centres, office or other buildings exceeding 3 storeys in height.</td>
<td>One sign as for (i) above.</td>
</tr>
<tr>
<td></td>
<td>One additional sign showing the name of the project builder.</td>
</tr>
<tr>
<td>Sales of Goods or Livestock.</td>
<td>One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.</td>
</tr>
<tr>
<td>Property Transactions.</td>
<td>Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows:</td>
</tr>
<tr>
<td>(a) Dwellings</td>
<td>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</td>
</tr>
<tr>
<td>(b) Multiple dwellings, shops Commercial and Industrial Properties.</td>
<td>One sign as for (a) above.</td>
</tr>
<tr>
<td>(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha.</td>
<td>One sign as for (a) above.</td>
</tr>
<tr>
<td>TEMPORARY SIGNS</td>
<td>EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Display Homes.</td>
<td>(i) One sign for each dwelling on display.</td>
</tr>
<tr>
<td></td>
<td>(ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.</td>
</tr>
</tbody>
</table>

Advertisement signs displayed for the period over which homes are on display for public inspection.
ADOPTION

Adoption Regulation 13 (1)  Adopted by Resolution of Council of the Shire of Wyndham-East Kimberley at the Ordinary meeting of the Council held on the 15th day of October, 1998.

SHIRE PRESIDENT

A/CHIEF EXECUTIVE OFFICER

Final Approval Regulation 21(2), 22(1) & (2)  Adopted for Final Approval by Resolution of the Shire of Wyndham-East Kimberley at the Ordinary meeting of Council held on the 26th day of October 2000, and the Seal of the municipality was, pursuant to that Resolution, hereunto affixed in the presence of

SHIRE PRESIDENT

A/CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval

FOR CHAIRPERSON OF THE WESTERN AUSTRALIAN PLANNING COMMISSION

Date: ________________

Final Approval Granted

MINISTER FOR PLANNING

Date: 3/1/01