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SHIRE OF BROOKTON

TOWN PLANNING SCHEME NO. 3

Updated to include Amd 14 gg 09/05/14

DISCLAIMER

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

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Prepared by the Department of Planning

Original Town Planning Scheme Gazettal Date: 25 September 1998

SHIRE OF BROOKTON TPS 3 - TEXT AMENDMENTS

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
1	5/12/00	15/12/00	DH	<p>Table 1 - modifying table by deleting the symbol "P" from use class - Residential (a) Single House, in the Rural Townsite and Farming Zones and replacing with the symbol "AA".</p> <p>Table 1 - adding use Classes "Land Drainage Works" and "Sheds" with the "AA" symbol in all zones in the appropriate alphabetical location in the Table.</p> <p>Table 1 - adding use Class "Intensive Agriculture" with the symbol "AA" in the Rural Townsite and Farming Zones.</p> <p>Appendix 1 - adding interpretation "Land Drainage Works".</p> <p>Appendix 1 - modifying interpretation "Intensive Agriculture".</p> <p>Part 3 - modifying Clause 3.2.6.</p> <p>Part 3 - modifying clause 3.3 Rural Townsite Zone - by adding a new sub-clause 3.3.4.</p> <p>Part 3 - adding new clause "3.5 District Rural Strategy - Policy Areas".</p> <p>Part 3 - modifying existing clause 3.5 - Zoning Table by renumbering to 3.6 - Zoning Table.</p> <p>Table 2 - modifying table so that Zone - Rural now reads "Zone - Farming".</p> <p>Part 5 - modifying Clause 5.5 Special Application of Residential Planning Codes by adding sub-clause 5.5.2.</p>
5	14/9/04	16/9/04	DH	<p>Table 1 - modifying by deleting the symbol "P" from use classes "Lodging House" and "Motel" in the Commercial Zone and replacing these with the symbol "AA".</p> <p>Table 1 - modifying by adding the symbol "AA" to use class "Bed and Breakfast/Farmstay" in the Commercial Zone.</p>
8	21/7/09	28/7/09	DH	<p>Part 7 - inserting Clause "7.9 Amending or Revoking a Planning Approval"</p> <p>Part 8 - inserting Clause "8.9 Delegations of Authority".</p>
11	09/03/12	20/03/12	NM	<p>Removed "Industry – Noxious" from Table 1 – Zoning Table.</p> <p>Removed "Industry – Noxious" from Appendix 1 – Interpretation.</p> <p>Modified "Industry – Rural" within Appendix 1 – Interpretation.</p> <p>Removed the word "Noxious" from the definition of "Industry – General" in Appendix 1 – Interpretation.</p>
9	17/8/12	27/8/12	NM	<p>Removed 'Sheds' from Table 1 – Zoning Table.</p> <p>Inserted Rural Townsite into Table 2 – Development Standards/Requirements.</p> <p>Modified the Front and Side Boundary setbacks for Farming Zone within Table 2 – Development Standards/Requirements.</p>
10	4/9/12	17/9/12	NM	<p>Replaced clause 3.4.</p> <p>Renumbered clause 3.5.2(ii) to 3.4.2.</p> <p>Renumbered clause 3.5.2(iv) to 3.4.3.</p> <p>Renumbered clause 3.5.1 to 3.4.4 and renamed it District Rural Strategy – Policy Area BO1.</p> <p>Removed clause 3.5 District Rural Strategy – Policy Area and all provisions.</p> <p>Inserted clause 3.4.5.</p> <p>Modified clause 5.5.2.</p>
14	09/05/14	27/05/14	ML	<p>Insert Clause 5.3.8</p>

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SHIRE OF BROOKTON
TOWN PLANNING SCHEME NO. 3

The Brookton Shire Council under and by virtue of the powers conferred upon it in that behalf by the Town Planning Development Act 1928 (as amended) hereinafter referred to as 'the Act' hereby makes the following Town Planning Scheme for the purposes laid down in the Act.

PART I - PRELIMINARY

1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Brookton Town Planning Scheme No. 3 hereinafter called 'the Scheme' and shall come into operation on the publication of the Minister's approval thereof and the Scheme text in the Government Gazette.

1.2 RESPONSIBLE AUTHORITY

The Authority responsible for implementing the Scheme in the Council of the Shire of Brookton hereinafter called 'the Council'.

1.3 SCHEME AREA

The Scheme applies to the whole of the land contained within the Shire of Brookton, as shown by the Scheme Area boundary on the Scheme Map.

1.4 CONTENTS OF SCHEME

The Scheme comprises:-

- (a) This Scheme Text.
- (b) The Scheme Map Sheets 1 to 2.

1.5 ARRANGEMENT OF SCHEME TEXT

The Scheme Text is divided into the following parts:-

Part I	-	Preliminary
Part II	-	Reserves
Part III	-	Zones
Part IV	-	Non Conforming Use Of Land
Part V	-	Development Requirements
Part VI	-	Special Controls
Part VII	-	Planning Approval
Part VIII	-	Administration

1.6 SCHEME OBJECTIVES

The objective of the Scheme is to encourage and control:-

- (a) the continued orderly development of the Brookton Townsite and its surrounds; and
- (b) land use proposals within the Farming Zone, which are consistent with the continued viability of agricultural production, as well as the retention of rural character and local amenity.

1.7 REVOCATION OF EXISTING SCHEME

The Shire of Brookton Town Planning Scheme No. 2 (as amended) which came into operation by publication in the Government Gazette on 15 February 1985 is hereby revoked.

1.8 INTERPRETATION

- 1.8.1 Words and expressions used in the Scheme shall have the respective meanings given to them in Appendix No 1 or elsewhere in the Scheme and the Residential Planning Codes.
- 1.8.2 Where a word or term is defined in the Residential Planning 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 Codes.

- 1.8.3 Words and expressions used in the Scheme but not defined in appendix No. 1, elsewhere in the Scheme or in the Residential Planning Codes shall have their normal and common meanings.

PART II - RESERVES

2.1 SCHEME RESERVES

The lands shown as Scheme Reserves on the Scheme map, hereinafter called 'local reserves', are lands reserved under the Scheme for Local Authority purposes or for the purposes shown on the Scheme map.

The five (5) types of "local reserves" located within the Scheme Area are :-

- Conservation
- Recreation
- Public Purposes
- Railway
- Roads

2.2 DEVELOPMENT OF RESERVED LAND

Except as otherwise provided in this part an owner shall not carry out any development of land reserved under this Scheme, other than the erection of a boundary fence, of a specification approved by Council, without first applying and obtaining the planning approval of Council.

2.3 MATTERS TO BE CONSIDERED BY COUNCIL

Where an application for planning approval is made with respect to land within a local reserve, the Council shall have regard to the ultimate purpose 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.

PART III - ZONES

3.1 ZONES

3.1.1 There are hereby created the several zones set out hereunder -

Residential
Rural Residential
Commercial
Industrial
Rural Townsite
Farming

3.1.2 The zones are delineated and depicted on the Scheme map according to the legend thereon.

3.2 RURAL RESIDENTIAL

The following provisions shall apply to all land included in a Rural Residential Zone, in addition to any provisions which are more generally applicable to such land under this Scheme.

3.2.1 Rural Residential Zones laid down under this Scheme have, subject to the provisions of the Scheme, been selected as areas where closer subdivision will be permitted to provide for a variety of land uses of a Rural Residential nature and also to make provision for retention/rehabilitation of the landscape and amenity, in a manner consistent with the proper and orderly planning of such areas.

3.2.2 In addition to the Use Classes specified in Table 1 - Zoning Table, specific provisions for controlling subdivision and development in each individual Rural Residential Zone shall be as laid down in Appendix No. 7 to the Scheme.

3.2.3 Subdivision and/or development in a Rural Residential Zone shall comply with the following requirements:-

- (a) Subdivision of the lots shall be, generally in accord with a Subdivision Guide Plan approved by Council and the Western Australian Planning Commission. Once the land is subdivided in accordance with an approved Subdivision Guide Plan, Council will not support any application for further subdivision. The Subdivision Guide Plan should include the identification of suitable building envelopes and thereafter any application for Planning Approval shall identify the building envelope. All building envelopes shall be sited a minimum of 20m from any lot boundary and, so as to maintain the visual and environmental amenity of the locality. Unless otherwise approved by Council the maximum area of any building envelope is 2000m².
- (b) Council's planning approval to commence development is required for all development, including a single dwelling house and such application shall be made in conformity with the provisions of the Scheme.
- (c) With the objectives of maintaining sustainable land use practices within any individual rural Residential Zone, preventing land degradation and preserving natural remnant vegetation:
 - (i) the keeping of animals shall be in accord with maximum stocking rates laid down by Agriculture W.A. and the subdividing landowner shall make arrangements satisfactory to Council, to ensure that prospective purchasers are advised that they are to seek the advice of that Department prior to stocking their property.

- (ii) Prior to any stocking of land, all areas which include remnant native vegetation, including vegetation along any natural feature, shall be fenced with stock proof fencing to the specification and satisfaction of the Council. All fences are to be maintained in a stock proof condition by the landowner to the satisfaction of Council.
- (iii) The subdividing owner of the land shall make arrangements satisfactory to the Council to ensure that prospective purchasers are advised that they are to seek advice of Agriculture W.A. with regard to suitable cropping regimes taking into consideration the soils, land suitability and capability.
- (iv) The subdividing owner of the land shall make arrangements satisfactory to the Council to ensure that prospective purchasers are advised that:
 - there could be a need to obtain a licence from the Water Corporation prior to construction of a well or bore.
 - all stormwater from structures or hard surfaces will need to be retained on-site; and
 - land uses will not be permitted where such uses will result in a net export of nutrients to the stream lines and or to any underground aquifer.
- (v) Arrangements being made between the subdivider, the Bush fires Board and Local Authority, to ensure that adequate fire prevention and fire suppression measures have been taken by the subdivider to the satisfaction and specification of those Authorities to protect all lots in the subdivision proposed and adjoining property from risk of fire.
- (vi) No remnant native vegetation shall be destroyed or removed, except where the landowner obtains the prior consent in writing of Council, and where such vegetation is dead or diseased, or where the clearing is required for the purpose of a firebreak, development within a building envelope and access to the envelope, or for a fence.
- (vii) Prior to commencement of any development on any lot, Council will require the preparation of a tree planting and maintenance programme with the intent of rehabilitation and revegetating the land.
- (viii) All residential buildings, outbuildings and effluent disposal areas, shall be constructed within the building envelope as defined on any approved Subdivision Guide Plan.

3.2.4 Notwithstanding the provisions of the Scheme and what may be shown on the Subdivision Guide Plan specified in Clauses 3.2.3(a) and 3.2.5(e), the Western Australian Planning Commission may consider a minor variation to the subdivision design proposed after consultation with Council.

3.2.5 Before considering any Amendment to its operative Town Planning Scheme for the creation of a further Rural Residential Zone, Council will require the owner(s) of the land to prepare a limited Rural Strategy for the consideration of the Shire and the Western Australian Planning Commission supporting the creation of the Rural Residential Zone and such submission shall include the following and have been prepared with regard to the Commission's Rural Landuse Planning Policy, associated guidelines and Council's operative District Rural Strategy:-

- (a) A statement as to the purpose or intent for which the zone is being created;
- (b) The reasons for selecting the particular area the subject of the proposed zone with particular reference as to how this relates to the Council's District Rural Strategy;

- (c) A plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, lakes, rivers, creeks, swamps, orchards, wells and significant improvements;
 - (d) Information regarding the method whereby it is proposed to provide a potable water supply to each lot;
 - (e) A Subdivision Guide Plan for the total project area showing:
 - (i) the proposed ultimate subdivision, including lot sizes and dimensions.
 - (ii) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities etc. as may be considered appropriate.
 - (iii) those physical features and natural vegetation it is intended to conserve.
 - (iv) the proposed staging of the subdivision where relevant.
 - (v) a building envelope location on each proposed lot.
 - (f) The proposed staging of the subdivision and development, and the criteria to be met before successive stages are implemented.
- 3.2.6 In considering a recommendation with regard to any application for Subdivision and or an application for Planning Consent within this zone, Council shall in addition to the general provisions of the Scheme pay regard to the appropriate District Rural Strategy Policy Area provisions detailed in clauses 3.4 and 3.5 of the Scheme Text. *AMD 1 GG 5/12/00*

3.3 RURAL TOWNSITE ZONE

- 3.3.1 Within this Zone, which will only be designated within the Brookton Urban Area, it is the intention of Council to consider the issue of its Planning Approval, to the range of typical small country town uses specified in Table 1 - Zoning Table.

In its consideration of any planning approval, Council will generally not favour the location of any Commercial and or Industrial type uses, where the current predominant use in the locality is for residential purposes, unless suitable buffers can be put in place.

- 3.3.2 In considering an application for planning approval, the Council will have regard for the impact of the proposed use on local amenities and adjoining residents.

- 3.3.3 Building envelopes shall be defined and lodged with an application for a new house and any planning approval permitted in the zone. Building envelopes shall not exceed 10% of the total area of an individual lot. Council may apply its discretion as to whether a building envelope is fenced.

Where Council has required a building envelope to be fenced, the fence shall be constructed and maintained in a stock proof condition by the landholder to the specification and satisfaction of Council. Council may permit variation of the location of a building envelope if it is satisfied that such variation is desirable and will not detrimentally affect the objectives of the zone or amenity of the area generally.

Where Council has agreed to the reposition of a building envelope required to be fenced, the surrounding fence shall be erected and maintained in that new position.

- 3.3.4 In considering a recommendation with regard to any application for Subdivision and or applications for Rezoning or Planning Consent within this zone, Council shall in addition to the general provisions of the Scheme, pay regard to the appropriate District Rural Strategy Policy Area provisions detailed in Clauses 3.4 and 3.5 of the Scheme Text.
AMD 1 GG 5/12/00

3.4 FARMING ZONE

AMD 1 GG 5/12/00; AMD 10 GG 4/9/12

3.4.1 OBJECTIVES

- (a) to protect the potential of agricultural land for primary production and to preserve the landscape and character of the rural areas.
- (b) to provide for a range of rural pursuits such as broadacre and diversified farming which are compatible with the capability of the land and retain the rural character and amenity of the locality.
- (c) to retain farming land in large landholdings, to support primary production and prevent the creation of additional lots.
- (d) to consider non-rural uses, such as low key tourism where they can be shown to be of benefit to the district and not detrimental to primary production activity, natural resources or the environment.
- (e) to encourage generally the retention of and/or rehabilitation of remnant vegetation and support improved environmental outcomes in farming areas.
- (f) to prevent development in areas of extreme bush fire risk, and developments that may increase bushfire risk.
- (g) to minimise unplanned rural residential development.

3.4.2 Within the Farming Zone, the Council will not generally support the erection of more than one single dwelling per lot. Council may support additional dwellings in cases where it is clearly demonstrated that the development is required for farm management purposes, the siting of the development is to Council's satisfaction and the total number of dwellings on the lot does not exceed four (4).

3.4.3 Within the Farming Zone any building and other works (including land drainage works) requires the planning approval of the Council.

3.4.4 DISTRICT RURAL STRATEGY - POLICY AREA BO1

Policy Area BO1 provides for the future expansion of the Brookton Townsite Area and Environs in the manner illustrated on map 14 of the District Rural Strategy Report.

Within this Policy Area, subdivision and development will be recommended and promoted by Council provided: -

- Access to the land and servicing of the land is to the satisfaction of Council.
- Landform, landscape and landcare issues are addressed to the satisfaction of Council.
- The proposal will not adversely impact on the amenity and character of the Townsite Area and Environs.
- The proposal complies with the general provisions of Council's Town Planning Scheme and any Town Planning Policies adopted by Council.
- The land is appropriately zoned.

The Council in supporting a proposal may require the preparation of a landscape/landcare/conservation plan for the particular site, including arrangements for the implementation and ongoing management of the plan.

3.4.5 PROPERTY RATIONALISATION

- (i) council may support proposals for boundary redistribution to consolidate primary production land into one lot and the creation of smaller balance lots if -
 - (a) No additional lots are created.

- (b) The new lot boundaries reflect good environmental and land management practice and are appropriate for the intended land uses.
 - (c) No additional roads are created unless supported by Council.
 - (d) New vehicle access points onto State roads are minimised.
 - (e) Former road reserves and small remnant portions of lots are not considered to be lots for the purpose of boundary rationalisation.
 - (f) Rural smallholdings-sized lots (4 to 40 hectares) may have notifications or memorials placed on titles advising that the lot is in rural area and may be impacted upon by primary production, including the potential for fire risk, noise, dust and/or odour.
 - (g) Rural smallholding-sized lots are capable of being serviced appropriately and will not be located in areas of extreme bushfire risk.
 - (h) Bushfire risk can be managed in accordance with the most recent Planning for Bushfire Protection Guidelines produced by the Western Australian Planning Commission and the Fire and Emergency Services Authority.
- (ii) Future subdivision of any agricultural lots created through property rationalisation subdivisions will not be supported.

3.6 ZONING TABLE

- 3.6.1 The Zoning Table indicates subject to the provisions of the Scheme the uses permitted in the Scheme area. The uses permitted in each zone are determined by cross reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.
- 3.6.2 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.
 - “AA” Means that the Council may, at its discretion, permit the use; and
 - “SA” Means that the Council may, at its discretion, permit the use after notice of application has been given in accordance with Clause 7.2.
- 3.6.3 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.
- 3.6.4 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.
- 3.6.5 If the use of the 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 categories the Council may:
- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
 - (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the ‘SA’ procedures of Clause 7.2 in considering an application for planning approval; or
 - (c) determine that the use is not consistent with the objectives and purposes of the

particular zone and is therefore not permitted.

TABLE 1 - ZONING TABLE

USE CLASSES	ZONES					
	Residential	Rural Residential	Commercial	Industrial	Rural Townsite	Farming
ABATTOIR						SA
BED AND BREAKFAST/FARMSTAY <i>AMD 5 GG 14/9/04</i>	AA	AA	AA		AA	AA
BETTING AGENCY			P			
BUILDER'S STORAGE YARD	SA		AA	P	AA	AA
CARETAKER'S DWELLING	P		AA	AA		
CIVIC BUILDING	AA		P			
CLUB PREMISES			AA			
CONSULTING ROOMS	AA		AA			
DOG KENNELS					AA	AA
DRY CLEANING PREMISES			P			
FAST FOOD OUTLET			P			
FUEL DEPOT				P	AA	AA
GARDEN CENTRE			P			
HOME OCCUPATION	AA	AA			AA	AA
HOSPITAL	SA		AA		AA	
HOTEL			AA			
INDUSTRY				AA		
INDUSTRY - COTTAGE	AA	AA			AA	
INDUSTRY - EXTRACTIVE				AA		SA
INDUSTRY - GENERAL				AA		
INDUSTRY - HAZARDOUS				SA		
INDUSTRY - LIGHT			AA	P	AA	
INDUSTRY - NOXIOUS	<i>DELETED BY AMD 11 GG 09/03/12</i>					
INDUSTRY - RURAL				AA	AA	AA
INDUSTRY - SERVICE			AA	P		
INTENSIVE AGRICULTURE <i>AMD 1 GG 5/12/00</i>					AA	AA
INTENSIVE PIGGERY						SA
LODGING HOUSE <i>AMD 5 GG 14/9/04</i>	AA		AA		AA	
LAND DRAINAGE WORKS <i>AMD 1 GG 5/12/00</i>	AA	AA	AA	AA	AA	AA
MARINE COLLECTOR'S YARD				P	AA	
MOTEL <i>AMD 5 GG 14/9/04</i>			AA		AA	
MOTOR VEHICLE PREMISES			AA			
MOTOR VEHICLE REPAIR STATION			AA	P		
MOTOR VEHICLE WRECKING PREMISES				P		
NURSERY					P	
OFFICE			P	AA		
PIGGERY						SA

TABLE 1 - ZONING TABLE (CONT'D)

USE CLASSES	ZONES					
	Residential	Rural Residential	Commercial	Industrial	Rural Townsite	Farming
PRODUCE STORE			AA		AA	
RESIDENTIAL - a) Single House <i>AMD 1 GG 5/12/00</i> b) Attached House c) Grouped Dwellings	P AA SA	P	AA	AA	AA AA	AA AA
RESTAURANT		AA	AA			AA
RURAL PURSUIT		AA			P	P
SALVAGE YARD				AA		
SERVICE STATION			AA			
SHEDS <i>AMD 1 GG 5/12/00; DELETED BY AMD 9 GG 17/8/12</i>	AA	AA	AA	AA	AA	AA
SHOP			P			
STABLES		AA			P	P
TAVERN			SA			
TRADE DISPLAY			AA			
TRANSPORT DEPOT				AA	AA	AA
VETERINARY CONSULTING ROOMS			AA		AA	
VETERINARY HOSPITAL		AA			P	AA
WAREHOUSE			AA	P		

PART IV - NON-CONFORMING USES

4.1 NON-CONFORMING USE RIGHTS

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; or
- (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

A person shall not alter or extend a non-conforming use or erect, alter or extend a building 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 provisions and requirements contained in the Scheme.

4.3 CHANGE OF NON-CONFORMING USE

Notwithstanding anything contained in the zoning table, 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, 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 buildings 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 their 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 gazettal date, being used for a non-conforming use, and is subsequently destroyed or damaged to an extent of 75% 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 - 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.

5.1.2 The planning approval of the Council is not required for the following development of land-

(a) The use of land in a local reserve where such land is held by the Council or vested in a Public Authority:-

(i) For the purpose for which the land is reserved under the Scheme; or

(ii) In the case of land vested in a Public Authority for any purpose for which such land may be lawfully used by that authority.

(b) The erection of a boundary fence except as otherwise required by the Scheme.

(c) The erection of a single house on a lot, including ancillary outbuildings, in a zone where such use is designated with the symbol "P" in the Zoning Table, unless specific provisions of the Scheme require the express approval of Council.

(d) 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.

(e) The carrying out of 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.

(f) The carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services.

(g) The use of land which is a permitted ("P") use in the zone in which the land is situated provided it does not involve the carrying out of any building or other works.

5.1.3 Notwithstanding that a single house does not require the prior approval of the Council pursuant to the Scheme, any person who wishes Council to vary any particular provision of the R-Codes relating to the erection of a single house shall, at the time of lodging an application for a building licence or earlier, apply in writing to Council, seeking Council's approval for the variation.

The Council may approve the variation with or without conditions or may refuse to approve the variation. The Council shall, before granting its approval, satisfy itself that:

(a) the variation requested is one which the Council has the power to approve; and

(b) approval of that variation would not compromise the objectives of the R-Codes.

5.1.4 No dwelling shall be constructed in the Scheme Area unless it is connected to the Water Corporation of WA reticulated supply or to an approved supply of potable water or a roof catchment water tank having a capacity of 92,000 litres is incorporated into the approved plan.

5.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

Except for development in respect of which the Residential Planning Codes apply under this Scheme, if a development the subject of an application for planning approval does not comply with a standard prescribed by the Scheme with respect to minimum lot sizes, building height, setbacks, site coverage, car parking, landscaping and related matters, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. 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 the preservation of the amenities of the locality;
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.

TABLE 2 - DEVELOPMENT STANDARDS/REQUIREMENTS

ZONE	Minimum Recommended Lot Area (m ²)	Minimum Effective Frontage (m)	Maximum Plot Ratio	Minimum Boundary Setbacks			Minimum Car Parking spaces	Minimum Landscaping (% of site)
				FRONT (m)	REAR (m)	SIDE (m)		
COMMERCIAL	-	5	1.5	Nil	Nil	Nil	1 per 40m ² gross floor area	10
RESIDENTIAL	Refer to Clauses 5.4 and 5.5 - Residential Planning Codes							
INDUSTRIAL	1500	20	0.5	20	10	5	1 per 100m ² gross floor area or display area	20
FARMING AMD 1 GG 5/12/00; AMD 9 GG 17/8/12	-	-	-	35	10	10		
RURAL TOWNSITE AMD 9 GG 17/8/12	Residential development to be in accordance with R2 provisions of the Residential Design Codes with a minimum lot area of 1 hectare.							

5.3 APPEARANCE OF BUILDING

- 5.3.1 A person shall not without the approval of the Council erect or commence to erect a building which by virtue of colour or type of materials, architectural style, height, bulk or ornamental or general appearance has in the opinion of the Council an exterior design which is out of harmony with the exterior designs of existing buildings or is likely to injure the amenity of the locality.
- 5.3.2 The use of secondhand materials to clad the exterior of any building shall only be permitted at the discretion of Council.
- 5.3.3 Notwithstanding Clause 5.3.2 Council will only permit the external cladding of a building to be constructed of secondhand materials if, in the opinion of Council, such will not detrimentally affect the amenity of the area.
- 5.3.4 The use of asbestos building products will not be permitted under any circumstances.
- 5.3.5 Within the Scheme area a dwelling which has been previously constructed and occupied elsewhere may not be placed on a lot and occupied as a dwelling following transportation as a whole or as parts of a building.
- 5.3.6 Notwithstanding Clause 5.3.5, Council may permit a transported building to be placed on a lot and used as a dwelling if, in the opinion of Council, such building is in a satisfactory condition and will not detrimentally affect the amenity of the area, or if such a building has been specifically constructed as a transportable dwelling.
- 5.3.7 An applicant for a building licence for a transported building may be required by Council to enter a contract and provide a bond to reinstate the building to an acceptable standard of presentation within a period of twelve months from the issue of a building licence for such dwelling.
- 5.3.8 Notwithstanding Sections 5.3.1-5.3.7, the placement of relocated second hand buildings shall not be permitted on the following lots within the Brookton Townsite, or any subdivisions thereof: Lots 100-106 Brookton Highway. *AMD 14 GG 09/05/14*

5.4 RESIDENTIAL DEVELOPMENT: RESIDENTIAL PLANNING CODES

- 5.4.1 For the purpose of the Scheme "Residential Planning Codes" means the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No. 1, together with any amendments thereto (hereinafter called the "R Codes").
- 5.4.2 A copy of the Residential Planning Codes shall be kept and made available for public inspection at the offices of the Council.
- 5.4.3 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Planning Codes shall conform to the provisions of those codes and the schedules to those codes.
- 5.4.4 The Residential Planning code density applicable to land within the Scheme Area shall be determined by reference to the Residential Planning Codes density number superimposed on the particular areas shown on the Scheme maps as being contained within the solid black line borders or where such an area abuts another area having a Residential Planning code density, as being contained within the centre-line of those borders.

5.5 SPECIAL APPLICATION OF RESIDENTIAL PLANNING CODES

- 5.5.1 The following variations to the Planning Codes shall apply.

R.10 Code

- a) Minimum number of car spaces per dwelling to be 2.
- b) Minimum setback from street boundaries to be 9 metres.

R12.5 Code

- a) Minimum number of car spaces per dwelling to be 2.

5.5.2 In areas shown on the scheme map with a density code of R10/25 or R12.5/25. The Council will support development and subdivision to the higher code where reticulated sewerage will be connected to the land. *AMD 1 GG 5/12/00*

5.6 DEVELOPMENT OF LOTS ABUTTING UNCONSTRUCTED ROADS

Notwithstanding anything else appearing in the Scheme planning approval is required for development of land abutting an unconstructed road or a lot which does not have frontage to a constructed road. In considering an application for planning approval the Council shall either:-

- (a) refuse the application until the road has been constructed or access by means of constructed road is provided as the case may be; or
- (b) grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof and any other conditions it thinks fit to impose; or
- (c) require such other arrangements are made for permanent access as shall be to the satisfaction of the Council.

5.7 DEVELOPMENT WITHIN THE AVON RIVER SOUTH FLOOD PLAIN

In considering any application for planning approval to commence development, on any land area abutting the Avon River South and or which could be effected by a 100 year flood of the same, as defined by the Water and Rivers Commission, Council will require:

- (a) that any application for planning approval to commence development which is submitted for Council's consideration under the provisions of the Scheme, be referred to the Water and Rivers Commission for consideration and comment, prior to Council's consideration of such application.
- (b) that any development and use of land contained within the Floodway of the Avon River South, as defined by the Water and Rivers Commission be undertaken in a manner which does not constitute an obstruction to flood flows.

5.8 LAND LIABLE TO FLOODING

In any zone laid down under the Scheme, Council may not issue a Planning Approval or Building Licence for any building located on land which is considered by Council, as being liable to flooding or inundation.

5.9 FIRE PROTECTION

All subdivisions and/or development proposals within the defines of this Scheme must meet the standards and specifications as laid down by the Local Authority, Western Australian Planning Commission and State Authority responsible for fire protection.

PART VI - SPECIAL CONTROLS

6.1 HERITAGE - PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE

6.1.1 Purpose and Intent

6.1.1.1 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.

6.1.2 Heritage List

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

6.1.2.2 For the purposes of this Clause, the Heritage List means the Municipal's 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.

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

6.1.3 Designation of Heritage Precincts

6.1.3.1 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.

6.1.3.2 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.

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

6.1.3.4 The procedures 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.

6.1.3.5 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 sub-clause 6.1.3.4 above.

6.1.4 Application for Planning Approval

6.1.4.1 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.

6.1.4.2 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.

6.1.4.3 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.

6.1.4.4 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.

6.1.5 Formalities of Application

6.1.5.1 In addition to the application formalities prescribed in sub-clause 6.1.4 and any formalities or requirements associated with applications for planning approval contained in any other provisions 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 subject to the application, and the location, type and height of all existing structures and 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 Council indicates that it considers relevant.

6.1.6 Variations to Scheme Provisions

6.1.6.1 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 advertising uses pursuant to Clause 7.2; and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

6.1.6.2 In granting variations under sub-clause 6.1.6.1 the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the variation. The agreement may specify the owner's obligations and contain memorials noted on relevant Certificates of Titles.

6.2 CONTROL OF ADVERTISEMENTS

6.2.1 Power to Control Advertisements

6.2.1.1 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. Planning approval is required in addition to any licence pursuant to Council's Signs, Hoarding and Bill Posting By-Laws.

6.2.1.2 Applications for Council's planning approval pursuant to this part shall be submitted in accordance with the provisions of Clause 7.1 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Appendix 5 giving details of the advertisement(s) to be erected, placed or displayed on the land.

6.2.2 Existing Advertisements

6.2.2.1 Advertisements which:

- (a) were lawfully erected, placed or displayed prior to the approval of this Scheme; or
- (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 Clause referred to as 'existing advertisements' may, except as otherwise provided, continue to be displayed or to be erected and displayed in accordance with the licence or approval as appropriate.

6.2.3 Consideration of Applications

- 6.2.3.1 Without limiting the generality of the matters which may be taken into account when making a decision upon an application for planning 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.

6.2.4 Exemptions from the Requirement to Obtain Planning Approval

- 6.2.4.1 Subject to the provisions of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of sub-clause 6.2.1.1, the Council's prior planning approval is not required in respect of those advertisements listed in Appendix 6 which for the purpose of this Clause are referred to as 'exempted advertisements'. The exemptions listed in the Appendix do not apply to land, buildings, objects, structures and places included on the Heritage List or within a heritage precinct established or designated under Clause 6.1 of the Scheme.

6.2.5 Discontinuance

- 6.2.5.1 Notwithstanding the Scheme objectives and sub-clause 6.2.4, where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Clause, 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.

6.2.6 Derelict or Poorly Maintained Signs

- 6.2.6.1 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; or
 - (b) remove the advertisement.

6.2.7 Notices

- 6.2.7.1 'The advertiser' shall be interpreted as any one person or any group comprised of the landowner, occupier, licensee or other person having an interest in or drawing benefit from the display of the advertisement concerned.
- 6.2.7.2 Any notice served in exceptional circumstances pursuant to sub-clause 6.2.5 or 6.2.6 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.

6.2.7.3 Any person upon whom a notice is served pursuant to this Clause 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.

6.2.8 Scheme to Prevail

6.2.8.1 Where the provisions of this Clause are found to be at variance with the provisions of the Council's Signs, Hoardings and Bill Posting By-Laws, the provisions of the Scheme shall prevail.

6.2.9 Enforcement and Penalties

6.2.9.1 The offences and penalties specified in Clause 8.2 of the Scheme apply to the advertiser in this Clause.

PART VII - PLANNING APPROVAL

7.1 APPLICATION FOR PLANNING APPROVAL

- 7.1.1 Every application for planning approval shall be made in the form prescribed in Appendix No. 2 of the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.
- 7.1.2 Unless Council waives any particular requirements, every application for planning approval shall be accompanied by -
- (a) A plan or plans to a scale of not less 1 is to 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 or commodities to and from the site and the means of access to and from these 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.
 - (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.

7.2 ADVERTISING OF APPLICATION

- 7.2.1 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.
- 7.2.2 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.
- 7.2.3 Where the Council is required or decides to give notice of an application for planning approval 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.

7.2.4 The notice referred to in Clause 7.2.3 (a) and (b) shall be in the form contained in Appendix No. 3 with such modifications as circumstances require.

7.2.5 After the expiration of twenty one days from the serving of notice of the proposed development the publication of notice or the erection of a sign or signs whichever is the later the Council shall consider and determine the application.

7.3 CONSULTATIONS WITH OTHER AUTHORITIES

7.3.1 In determining any application for planning approval the Council may consult with any other statutory, public or planning authority and with any other party it considers appropriate.

7.3.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Council shall consult that authority before making its determination.

7.4 MATTERS TO BE CONSIDERED BY COUNCIL

7.4.1 The Council in considering an application for planning approval shall have due regard to the following:

- (a) the provisions of this Scheme and any other relevant town planning scheme operating within the district;
- (b) any relevant proposed new town planning scheme of the Council or amendment insofar as they can be regarded as seriously entertained planning proposals;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
- (e) any planning policy, strategy or plan adopted by the Council under the provisions of clause 8.7 of this Scheme;
- (f) the preservation of any object or place of heritage significance;
- (g) the requirements of orderly and proper planning;
- (h) the preservation of the amenities of locality;
- (i) any other planning considerations which the Council considers relevant;
- (j) any relevant submissions or objections received on the application.

7.5 DETERMINATION OF APPLICATIONS

7.5.1 In determining an application for planning approval the Council may:

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

7.5.2 The Council shall convey its decision to the applicant in the form prescribed in Appendix No.4 to the Scheme.

- 7.5.3 Where the Council grants planning approval, that approval:
- (a) continues in force for two years, or such other period as specified in the approval, after the date on which the application is approved; and
 - (b) lapses if the development has not substantially commenced before the expiration of that period.
- 7.5.4 Where the Council grants planning approval, the Council may impose conditions limiting the period of time for which the development is permitted.

7.6 DEEMED REFUSAL

- 7.6.1 Subject to sub-clause 7.6.2, an application for planning approval shall be deemed to have been refused where a decision in respect of that application is not conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.
- 7.6.2 An application for planning approval which is subject of a notice under sub-clause 7.6.3 shall be deemed refused where a decision in respect of that application is not conveyed to the applicant by the Council within 90 days of the receipt of it by the Council, or within such further time as agreed between the applicant and the Council.
- 7.6.3 Notwithstanding that an application for planning approval may be deemed to have been refused under sub-clauses 7.6.1 and 7.6.2, the Council may issue a decision in respect of the application at any time after the expiry of the 60 days or 90 day clauses period specified in those clauses and that decision shall be regarded as being valid.

7.7 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS

- 7.7.1 Where an application is for a development that includes the carrying out of any building or works, the Council may grant approval subject to matters requiring the subsequent approval of the Council. These matters may include the siting, design, external appearance of the buildings, means of access or landscaping.
- 7.7.2 The Council may decline to deal with an application requiring later approval of details or call for further details if it thinks fit.
- 7.7.3 Where the Council has granted approval subject to matters requiring the later approval of the Council, application for approval of those matters must be made not later than the expiration of two years beginning with the date of the first approval.

7.8 APPROVAL OF EXISTING DEVELOPMENTS

- 7.8.1 That Council may grant approval to a development already commenced or carried out regardless of when it commenced or was carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out of the development, but provided that the development complies with the provisions of the Scheme, with or without the exercise of a discretion provided in the Scheme, as to all matters other than the provisions requiring Council's approval prior to the commencement of development.
- 7.8.2 The application to the Council for approval under sub-clause 7.8.1 shall be made on the form prescribed in Appendix No.2.
- 7.8.3 A development which was not permissible under this Scheme at the time it was commenced or carried out may be approved if at the time of approval under this clause it is permissible.

7.9 AMENDING OR REVOKING A PLANNING APPROVAL

AMD 8 GG 21/7/09

- 7.9.1 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 subject of the planning approval.

PART VIII - ADMINISTRATION

8.1 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 any 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 within 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 or for such purpose may make such agreements 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 and with such assistance as may be required enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

8.2 OFFENCES

8.2.1 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 or 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 grant 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 or that part have been and continue to be complied with.

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

8.3 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

8.3.1 Twenty eight days written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act.

8.3.2 The Council may recover expenses under Section 10 (2) of the Act for the removal of certain buildings in a court of competent jurisdiction.

8.4 COMPENSATION

8.4.1 Except as otherwise provided, the time limit for the making of claims for compensation for injurious affection pursuant to Section 11 of the Act resultant from the making of, or the making of an amendment to, the Scheme is six (6) months from the date of publication of the Scheme or the Scheme Amendment in the Government Gazette.

- 8.4.2 Where, in respect of any application for planning approval to commence and carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may, within six (6) months of the date of the relevant decision, claim compensation from the Council for injurious affection.

8.5 ELECTION TO PURCHASE AND VALUATION

- 8.5.1 Where compensation for injurious affection is claimed pursuant to either sub-clauses 8.4.1 or 8.4.2, the Council may, at its option elect to acquire the land so affected instead of paying compensation.
- 8.5.2 Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.
- 8.5.3 Where the Council elects to acquire land as provided in sub-clause 8.4.1, if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land as determined in accordance with sub-clause 8.4.4.
- 8.5.4 The value of the land referred to in sub-clause 8.4.3 shall be the value thereof on the date that the Council elects to acquire the land and that value shall be determined:
- (a) by arbitration in accordance with the Commercial Arbitration Act 1985; or
 - (b) by some other method agreed upon by the Council and the owner of the land, and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.
- 8.5.5 That Council may deal with or dispose of land acquired for a Local Reserve or pursuant to the preceding sub-clause 8.5.4 upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

8.6 RIGHTS OF APPEAL

An applicant aggrieved by the 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.

8.7 POWER TO MAKE POLICIES

In order to achieve the objectives of the Scheme, the Council may make Town Planning Scheme policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the control of development.

- 8.7.1 A Town Planning Scheme Policy shall become operative only after the following procedures have been completed:
- (a) the Council having prepared and having resolved to adopt a draft Town Planning Scheme Policy, shall advertise a summary of the draft Policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the draft Policy may be inspected and where, in what form, and during what period (being not less than 21 days) representations may be made to the Council.

- (b) the Council shall review its draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the draft Policy with or without amendment, or not proceed with the draft Policy.
- (c) following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme documents for inspection during normal office hours.

8.7.2 A Town Planning Scheme Policy may only be altered or rescinded by:

- (a) preparation and final adoption of a new policy pursuant to this clause, specifically worded to supersede an existing policy.
- (b) publication of a formal notice of rescission by the Council twice in a newspaper circulating in the area.

8.7.3 A Town Planning Scheme Policy shall not bind the Council in respect of any application for development approval, but the Council shall take into account the provisions of the Policy and the objectives which the Policy was designed to achieve before making its decision.

8.7.4 Any policy prepared under this clause shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

8.8 AMENDMENTS TO THE SCHEME

8.8.1 The Council shall keep the Scheme under constant review and where appropriate carry out investigations and study with a view to maintaining the Scheme as an up-to-date and efficient means for pursuing community objectives regarding development and land use.

8.8.2 The Council may, from time to time, initiate an amendment to the Scheme in accordance with the Act and Regulations and shall give consideration to any application to have the Scheme amended.

8.8.3 In the case of a proposed amendment to the zoning of land other than requested by the owner, the Council shall, before initiating any amendment to the Scheme, invite comment from the owner of the land concerned.

8.8.4 Council shall take into consideration any comments or submissions received in respect of a proposed amendment to the Scheme and shall only proceed with the amendment where it is satisfied the amendment would be consistent with the objectives of the Scheme and would not be contrary to the public interest.

8.9 DELEGATIONS OF AUTHORITY

AMD 8 GG 21/7/09

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

8.9.2 The Chief Executive Officer may delegate to any employee of the local government the exercise of any of the Chief Executive Officer's powers or the discharge of any of the Chief Executive Officer's duties under Clause 8.9.1.

8.9.3 The exercise of the power of delegation under Clause 8.9.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

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

APPENDIX NO. 1 - INTERPRETATION

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

Absolute Majority: shall have the same meaning as is given to it in and for the purposes of the Local Government Act 1960 (as amended).

Act: means the Town Planning and Development Act, 1928 (as amended).

Advertisement: means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements.

Amenity: means the quality of the environment as determined by the character of an area, its appearance and land use which contributes to its pleasantness and harmony and to its better enjoyment.

Amenity Building: means a building or part of a building used by employees or persons otherwise engaged in the conduct of an industry or business on the same site, for their personal comfort, convenience or enjoyment of leisure, but not used or intended for use for the work of the industry or business.

Amusement Facility: 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.

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

Amusement Parlour: means any land or building, open to the public, where the predominant use is amusement by amusement machines and where there are more than two amusement machines operating within the premises.

Ancillary Use: means a use which is incidental to the predominant use of land and buildings.

Appendix: means an appendix to the Scheme.

Aquaculture: means any fish farming operation for which a fish farm licence issued pursuant to the provisions of Part V of the Fisheries Act 1905 (as amended) and the Fisheries Regulations 1938 (as amended) is required.

Auction Mart: 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 by auction of fresh food, fruit, vegetables or livestock.

Authorised Officer: means an officer of the Council, authorised by the Council to exercise all or some of the powers of the Council under this Scheme.

Battle-axe Lot: means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot.

Bed and Breakfast/Farm Stay: means a building in which provision is made for lodging or boarding of not more than four persons exclusive of the family of the keeper, for hire or reward.

Betting Agency: means a building operated in accordance with the Totalisator Agency Betting Board Act 1960 (as amended).

Builder's Storage Yard: means any land or buildings used for the storage of building material, pipes, or other similar items related to any trade; and may include manufacture, assembly and dismantling processes incidental to the predominant use.

Building Code of Australia: means the Building Code of Australia 1988 (as amended).

Building Envelope: means an area of land within a lot marked on a plan within which all buildings on the lot must be contained.

Building Line: means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act.

Building Setback: means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected.

Camping Area: means any land used for the lodging of persons in tents or other temporary shelter.

Canteen: means a shop which provides food and refreshments for the workforce of the surrounding area and which has a maximum gross floor area of 75 m² including any storage and food preparation areas.

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

Caravan Park: means an area of land specifically set aside for the parking of caravans and park homes or for the erection of camps on bays or tent sites allocated for that purpose.

Caretaker's Dwelling: 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 or recreation area carried on or existing on the same site.

Car Park: means any land or buildings used primarily for parking private cars or taxis whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any land or buildings in which cars are displayed for sale.

Cattery: means the use of an approved outbuilding constructed in accordance with the Health Act Model By-Laws Series 'A' Part One - General Sanitary Provisions (as amended) for the purpose of keeping more than three (3) cats over the age of three (3) months for reward or profit.

Child Day Care Centre: means any land or buildings used for the daily or occasional care of children in accordance with the Child Care Regulations 1968 (as amended) but does not include a Child Family Care Centre.

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

Child Family Care Centre: means a Child Minding Centre conducted in a private dwelling where children are received for care but does not include a Child Day Care Centre.

Civic Building: means a building designed, used or intended to be used by a Government Department, an instrumentality of the Crown, or the Council as offices or for administrative or other like purpose.

Civic Use: means land or buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose.

Club Premises: means any land or buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Licensing Act 1988 (as amended) or not and which building or premises are not otherwise classified under the provisions of the Scheme.

Commercial Vehicle: means a vehicle whether licensed or not and which is used in conjunction with a trade or profession and shall include trailers, tractors and their attachments, buses and earthmoving machines whether self propelled or not but shall not include a passenger car derivative as defined by the Vehicle Sales Regulations 1976 (as amended), a van, utility or light truck which is rated by the manufacture as being suitable to carry loads of up to 1.5 tonnes.

Commission: means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985 (as amended).

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.

Conservation: means, in relation to any place or heritage precinct, 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 precinct, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct in accordance with relevant professional standards, and the provision of an appropriate visual setting.

Constructed Road: means a track that has been graded and stabilised within a dedicated road reserve.

Consulting Rooms: means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, podiatrists, and persons ordinarily associated with a practitioner, in the prevention or treatment of physical or mental injuries or ailments, and the two practitioners may be of the one profession or any combination of professions or practices.

Consulting Rooms Group: means a building (other than a hospital or medical centre) used by more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, podiatrists, and persons ordinarily associated with a practitioner, in the prevention, investigation or treatment of physical or mental injuries or ailments, and the practitioners may be of the one profession or any combination of professions or practices.

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

Convenience Store: means any land or buildings used for the retail sale of convenience goods being those 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.

Corner Shop: means a shop used for the sale of daily grocery needs to persons in the immediate locality, with a gross floor area not exceeding 100m², attached to a dwelling in residential zones and which is operated as an additional use thereto by the permanent tenants of the dwelling.

Council: means the executive body of the Shire of Brookton.

Cultural Heritage Significance: means, in relation to a place or heritage precinct, the relative value which that place or precinct has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generations.

Cultural Use: means any use aimed at the improvement or refinement of people by entertainment and/or education.

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

Development: means the use, or development of any land and includes the erection, construction, alteration or carrying out as the case may be, of any building, excavation or other works on any land but shall also include:

"in relation to any building, object structure or place entered in the Heritage List or contained within a heritage precinct, any act or thing that:

- (a) is likely to change the character of the place or the external appearance of any building;
or
- (b) would constitute an irreversible alteration to the fabric of any building".

Display Home Centre: means a group of two or more dwellings which are intended to be open for public inspection.

District: means the municipal district of the Shire of Brookton.

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 where such use is incidental to the predominant use.

Drive In Theatre: means any land or 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 or chemical processes.

Educational Establishment: means a school, college, university, technical institute, academy or other educational centre, but does not include a reformatory.

Effective Frontage: means the width of a lot at the minimum distance from the street alignment at which buildings may be constructed, and shall be calculated as follows:

- (a) where the side boundaries of a lot are parallel to one another, the length of a line drawn at right angles to such boundaries;
- (b) where the side boundaries of a lot are not parallel to one another, the length of a line drawn parallel to the street frontage and intersecting the side boundaries at the minimum distance from the street alignment at which buildings may be constructed;
- (c) where a lot is of such irregular proportions or on such a steep grade that neither of the foregoing methods can reasonably be applied, such length as determined by the Council.

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 group of buildings or structures designed, used or adapted for use as two or more separately occupied production or storage areas.

Farm Supply Centre: means the use of land and buildings for the supply of vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment.

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

Floor Area: shall have the same meaning given to it in and for the purposes of the Building Code of Australia 1988 (as amended).

Frontage: means the boundary line or lines between a site and the street or streets upon which the site abuts.

Fuel Depot: means any land or building used for the storage and sale in bulk of solid or liquid 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 or buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation.

Garden Centre: means any land or 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 prefabricated garden buildings.

Gazetted Date: means the date on which notice of the Minister's approval on this Scheme is published in the Government Gazette.

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

Gross Leasable Area: means, in relation to a building, the area of all floors capable of being occupied by a tenant for his 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.

Harbour Installations: means any land or buildings used for and incidental to the purposes of loading, unloading and maintaining ships.

Health Centre: means any buildings used as a maternity or x-ray centre, a district clinic, a masseur's establishment, or a medical clinic and can include ancillary services such as pathologists, radiologists and paramedical.

Health Studio: means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.

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 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 Precinct: means a precinct of heritage value having a distinctive nature, which may contain elements of only minor individual significance but heightened collective significance, and within whose boundaries controls may be necessary to retain and enhance its character.

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 Heritage List.

Hobby Farm: means the use of land for the agistment of horses, the growing of vegetables, fruit and flowers and the keeping of domestic poultry for private use only and not for commercial purposes or sale and shall include any buildings normally associated therewith.

Home Occupation: means a business or activity carried out within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that:

- (a) entails the conduct of a business, office, a workshop only, and does not entail the retail sale or display of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) does not entail employment of any person not a member of the occupier's household;
- (e) does not occupy an area greater than 20m²;
- (f) does not display a sign exceeding 0.2m² in area.
- (g) in the opinion of the Council is compatible with the principal uses to which land in the zone in which it is located may be put;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not entail the presence, parking and garaging of a vehicle of more than two (2) tonnes tare weight;

Hospital: means a building in which persons are received and lodged for medical treatment or care and includes a maternity hospital.

Hospital Special Purposes: means a building used or designed for use wholly or principally for the purpose of a hospital or sanatorium for the treatment of infectious or contagious diseases, or hospital for the treatment of the mentally ill or similar use.

Hotel: means any land or buildings providing accommodation for the public the subject of a hotel licence granted under the provisions of the Liquor Licensing Act 1988 and may include a betting agency operated in accordance with the Totalisator Agency Betting Board Act 1960, but does not include a motel, tavern or lodging house the subject of a limited hotel licence or other licence granted under that Act.

Industry: means the carrying out for any process in the course of trade or business for gain, for and incidental to one or more of the following:

- (a) the winning, processing or treatment of minerals;
- (b) the making, altering, repairing or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;
- (c) the generation of electricity or the production of gas;
- (d) the manufacture of edible goods;

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include :

- (i) the carrying out of agriculture;
- (ii) on-site work on buildings or land; and
- (iii) in the case of edible goods the preparation of goods for retail sale from the premises.

Industry - Cottage: means a business, professional service, trade or light industry producing arts and craft goods which cannot be carried out under the provisions relating to a "home occupation" and which, in the opinion of Council:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (b) where operated in a Residential Zone, does not entail the employment of any person other than a member of the occupier's household;
- (c) is conducted in an out-building which is compatible within the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50m²;
- (e) does not display a sign exceeding 0.2m² in area.

Industry - Extractive: means an industry which involves:

- (a) the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land and also includes the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products;
- (b) the production of salt by the evaporation of salt water.

Industry - General: means an industry other than cottage, extractive, hazardous, light, rural or service industry. AMD 11 GG 09/03/12

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 the 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 service industries.

Industry - Light: mean an industry;

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not, or the conduct of which does not impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

Industry - Noxious: means an industry which is subject to licensing as "Prescribed Premises" under the Environmental Protection Act 1986 (as amended). DELETED BY AMD 11 GG 09/03/12

Industry - Rural: means –
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- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes.

Industry - Service: means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced.

Intensive Agriculture: means the use of land for the purposes of trade, commercial reward or gain,

including such buildings and earthworks, normally associated with the following:

- (a) the production of grapes, vegetables, flowers, exotic and native plants, fruit and nuts;
- (b) the establishment and operation of plant and fruit nurseries;
- (c) the development of land for irrigated fodder production and irrigated pasture (including turf farms);
- (d) the development of land irrigated tree production;
- (e) the development of land for the keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat, or fur production), and other livestock in feedlots;
- (f) dairy milking sheds;
- (g) the development of land for the keeping, rearing or fattening of other livestock above those stocking rates recommended by Agriculture Western Australia in consultation with surrounding farmers for the applicable pasture type;
- (h) aquaculture.

Kindergarten: means any land or buildings used as a school for young children.

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

Land Drainage Works: means all work undertaken, on lots/locations which have any potential for significant off-site impacts, in the interest of altering contours, directing land or storing stormwater and/or natural water runoff, through or on any property, via landfill or construction such as contour banks, dams or any on-site building stormwater runoff system.

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.

Liquor Store: means any land or buildings the subject of a Store Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended).

Lodging House: shall have the same meaning as is given to the term in and for the purposes of the Health Act 1911 (as amended).

Lot: shall have the same meaning given to the term in and for the purposes of the Act, and "allotment" has the same meaning.

Lunch Bar: means a building or part of a building used for the sale of take-away sandwiches and similar foodstuffs between the hours of 9 a.m. and 4 p.m. within industrial and commercial areas, in a form ready to be consumed without further preparation off the premises but does not include a take-away food outlet.

Marine Collector's Yard: means land and buildings used for the storage of marine stores under the provisions of the Marine Stores Act, 1902 (as amended) and Marine Dealer's Yard and Marine Store have the same meaning.

Market: means any land or buildings used for a fair, a farmer's or producer's market or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stallholders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental.

Medical Centre: means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the interpretations of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists.

Milk Depot: means any land or buildings to which milk is delivered for distribution to consumers but in

which milk is not processed or pasteurised.

Minister: means the Minister for Planning or the Minister of the Western Australian Government responsible for town planning.

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 special provision is made for the accommodation of patrons with motor vehicles and to which a licence under the Liquor Licensing Act 1988 has been granted.

Motor Vehicles and Marine Sales Premises: means any land or buildings used for the display and sale of new or second hand motor cycles, 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: means any land or 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: means any land or buildings used for the mechanical repair and overhaul of motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis reshaping.

Motor Vehicle Wash: means any land or buildings where vehicles are washed and cleaned by or primarily by mechanical means.

Motor Vehicle Wrecking: 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.

Museum: means any land or buildings used for storing and exhibiting objects and artefacts illustrative of history, natural history, art, nature and culture.

Net Lettable Area (nla): means the area of all floors confined within the finished surfaces of permanent walls but excludes the following areas :

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

Night Club: means any land or buildings used for the entertainment and/or eating facilities and to which a licence under the provisions of the Liquor Licensing Act 1988 has been granted.

Non Conforming Use: means any use of land or building which, was lawful immediately prior to the coming into operation of this Scheme, but is not in conformity with the provisions of this Scheme.

Nursing Home: means any building used for the medical treatment or care of sick persons, whether resident or not, but does not include consulting rooms.

Office: means a building or part of a building used for the conduct of administration, the practise of a profession, the carrying on of agencies, a post office, bank, building society, insurance office, estate agency, typist and secretarial services, or services of a similar nature, and where not conducted on the site thereof, the administration of or the accounting in connection with a commercial or industrial undertaking.

Open Air Display: means the use of land as a site 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: means a movable dwelling, not being a vehicle as defined under the Road Traffic Act 1974 (as amended), but constructed and maintained on its own chassis and wheels and capable of mobility at all times although stabilised by jacks and provided with skirtings and being so designed and constructed as to permit independent occupancy for dwelling purposes.

Park Home Park: means an area of land set aside exclusively for the parking of park homes occupied for residential purposes, whether short or long stay purposes, but includes the provision of buildings and uses incidental to the predominant use of the land including ablution blocks, recreation areas, office and storage space and, as approved by Council, a shop or kiosk and refuelling facilities but the term shall be interpreted to exclude the parking of caravans, camper trailers and the erection of tents or camps.

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

Piggery: shall have the same meaning given to it in and for the purposes of the Health Act 1911 (as amended).

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 decor.

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

Potable Water: means water in which level of physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in "International Standards for Drinking Water" published by the World Health Organisation.

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 - 1990 (as amended).

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

Private Hotel: means any land or buildings used for residential purposes the subject of a Limited Hotel Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended).

Produce Store: means any land or buildings wherein fodders, fertilisers and grain are displayed and offered for sale.

Public Amusement: means any land or 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 Exhibition: means any building or land used for the display of materials, for promotion of artistic, cultural or educational purposes.

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

Public Parking Station: means any land or building or part of a building open to the public generally for the parking of vehicles for which payment of a fee or charge may be required, and includes the use of the land or building for that purpose.

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

Public Worship - Place Of: means any land or buildings used primarily for religious activities but does not include an institution for primary, secondary, or higher education, or a residential training institution.

Radio and TV Installation: means any land or 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.

Reception Centre: means any land or buildings used by parties for functions on formal or ceremonial occasions, but not for unhosted use for general entertainment 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.

Reformatory: means land or buildings used for the confinement or detention in custody of juvenile offenders against the law with a view to their rehabilitation.

Reserve: means any land reserved for a public purpose.

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

Restaurant: means a building wherein food is prepared for sale and consumption on the premises and the expression shall include a licensed restaurant.

Restricted Premises: means any land or building, part or parts thereof, used or designed to be used primarily for the sale of retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or deliver of:

- (a) publications that are classified as restricted publications pursuant to the Indecent Publications and Articles Act 1902 (as amended); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity.

Retail: means the sale or hire of products, goods or services to the public generally in small quantities and from a shop, showroom or fast food outlet.

Retirement Village: means a development containing accommodation for aged persons together with ancillary facilities.

Roadhouse: means land and buildings used for the predominant purpose of a service station but incidentally including a cafe, restaurant and/or shop.

Rural Pursuit: means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:

- (a) the rearing or agistment of goats, sheep, cattle or beasts of burden;
- (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;

(d) the sale of produce grown solely on the lot;

but does not include intensive agriculture.

Salvage Yard: means any land or 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 limited 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 but does not include a joinery works.

Service Station: means any land or buildings used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking.

Shop: means any building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food outlet or any other premises specifically defined elsewhere in this part.

Showroom: means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature but does not include the sale by retail of foodstuffs, liquor or beverages, items or clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.

Sign: means a notice, message or display by means of a freestanding or fixed sign or hoarding.

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 Purpose Licence within the meaning of the Liquor Licensing Act.

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

Stockyards: means any land, building or other structure used for holding and/or sale of animal stock.

Storage Yard: means any land used for the storage of goods.

Take-Away Food Outlet: means any land or buildings used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises.

Tavern: means any land or buildings the subject of a Tavern Licence granted under the provisions of the Liquor Licensing Act 1988.

Trade Display: means any land and/or buildings used for the display of trade goods and equipment for the purposes of advertisement.

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 for hire or reward or for any consideration, 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.

Veterinary Clinic: means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight, and may include a dispensary of medications incidental thereto.

Veterinary Hospital: means a building used in connection with the treatment of animal injuries and ailments, and includes the care and accommodation of animals during or after such treatment.

Warehouse: means a buildings wherein goods are stored and may be offered for sale by wholesale.

Wholesale: means the sale of any goods to any person or persons other than the ultimate consumer of those goods by a person or his trustee, registered as a 'wholesale merchant' for Sales Tax purposes under the provisions of the Sales Tax Assessment Act No. 1 1930 (as amended).

Wine House: means any land or buildings the subject of a Wine House Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended).

Zone: means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching or edging for the purpose of indicating the restrictions imposed by the Scheme on the erection and use of buildings or for the use of land, but does not include reserved land.

Zoological Gardens: means any land or buildings used for the keeping, breeding or display of fauna and the term includes zoo but does not include kennels or keeping, breeding or showing of domestic pets.

APPENDIX NO. 2 - APPLICATION FOR PLANNING APPROVAL

SHIRE OF BROOKTON

TOWN PLANNING SCHEME NO. 3

APPLICATION FOR PLANNING APPROVAL

Name of owner of land on which development is proposed: Surname:
Given Names:

Address in full

Submitted by:

Address for correspondence:

Locality of Development:

Description of Land: Lot No

Street : Location No

Plan or Diagram: Certificate of Title Volume

Folio.....

Development Proposed:.....

Approximate Cost of Proposed Development:

Estimated Time of Completion:

Signature of Applicant:

Date:.....

Signature of Owner (if not the Applicant):

Date:.....

This form is to be submitted in duplicate with three copies of the site plan.
This is not an application for a building licence, for which a separate application is required.

APPENDIX NO. 3 - NOTICE OF PROPOSED DEVELOPMENT

SHIRE OF BROOKTON

TOWN PLANNING SCHEME NO. 3

NOTICE OF PROPOSED DEVELOPMENT

It is hereby notified for public information and comment that the Council has received an application to develop land for the purpose described hereunder:-

Land Description: Lot NoHouse No.

Street:.....

Proposal:

.....

Details of the proposal are available for inspection at the Council Office.

Comments on the proposal may be submitted to Council in writing on or before

.....

.....
CHIEF EXECUTIVE OFFICER

.....
DATE

APPENDIX NO. 4 - NOTICE OF PLANNING APPROVAL/REFUSAL TO COMMENCE DEVELOPMENT

SHIRE OF BROOKTON

TOWN PLANNING SCHEME NO. 3

NOTICE OF PLANNING APPROVAL/REFUSAL TO COMMENCE DEVELOPMENT

Name and Address of Applicant:.....
.....

Name and Address of Owner (if not Applicant):.....
.....

Description of Land:
.....
.....

Approval to commence development in accordance with an application dated the day of 19 and the plans attached thereto is granted subject to the following conditions/refused upon the following grounds:

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

This approval is valid for a period of months from the date hereof.

If development is not commenced within that period a fresh application must be made.

.....
CHIEF EXECUTIVE OFFICER

Date:

NOTE:

- (1) Any Council decision to grant Planning Approval is only valid for a period of two (2) years from the date shown on the decision, unless otherwise stated in the decision.
- (2) It is the responsibility of the Owner/Developer to ensure that the provisions of the Aboriginal Heritage Act 1972/80 are complied with, prior to the commencement of any development.
- (3) This is not a building licence, for which a separate application is necessary.

APPENDIX NO. 5 - CONTROL OF ADVERTISEMENTS

ADDITIONAL INFORMATION SHEET FOR ADVERTISEMENT APPROVAL (to be completed in addition to Application for Planning Approval)

Name of Advertiser (if different from owner):

Address in full:

.....

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

.....

.....

.....

Details of Proposed Sign:

Height:..... Width:..... Depth:

Colours to be used:

Height above ground level - (to top of advertisement):

(to underside):.....

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:

.....

State period of time for which advertisement is required:

.....

Details of signs, if any, to be removed if this application is approved:

.....

.....

.....

.....

NB. 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 above.

APPENDIX NO. 6 - EXEMPTED ADVERTISEMENTS

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

APPENDIX NO. 7 - RURAL RESIDENTIAL ZONES

SPECIFIED AREA

SPECIAL PROVISIONS

ADOPTION

Adopted by resolution of the Council of the Shire of Brookton at the Ordinary Meeting of the Council held on the First day of May 1995.

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for final approval by resolution of the Shire of Brookton at the Ordinary Meeting of the Council held on the Twentieth day of August 1998

The Common Seal of the Shire of Brookton was hereunto affixed by authority of a resolution of the Council in the presence of:

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for

.....
CHAIRPERSON OF THE WESTERN
AUSTRALIAN PLANNING
COMMISSION

Final Approval

.....
DATE

Final Approval Granted

.....
MINISTER FOR PLANNING

.....
DATE 8/9/98