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SHIRE OF TAMBELLUP

TOWN PLANNING SCHEME NO. 2

Note: On 1/7/08 the Shires of Tambellup and Broomehill amalgamated to form "Shire of Broomehill-Tambellup"

Updated to include AMD 5 GG 15/06/2012



Prepared by the
Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal
29 August 1997

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

Please advise the Department of Planning, Lands and Heritage of any errors or omissions in this document.

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SHIRE OF TAMBELLUP TPS 2 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
1	28/9/01	28/9/01	DH	Part 7 - deleting clause 7.5 and replace with new clause "7.5 Land Liable to River Flooding".
2	23/8/02	22/8/02	DH	Part 6 - deleting clause 6.1.4 and inserting "6.1.4 Special Application of Residential Planning Codes.
3	19/4/05	20/4/05	DH	Part 3 – renumbering Clause 3.3 as clause 3.4. Part 3 – deleting clause 3.2 and inserting new clause "3.2 Zoning Table". Table 1 – deleting existing zoning table and replacing with new table. Part 8 – inserting in clause 8.1.2 "(f) home office". Part 9 – deleting clause 9.7 and inserting "9.7 Delegation of Functions". Schedule 1 – deleting definitions for "home occupation", "rural pursuit", and "veterinary hospital". Schedule 1 – inserting definitions in alphabetical order "agriculture – extensive", "fast food outlet", "home business", "home occupation", "home office", "rural home business", "rural pursuit", "showroom", "telecommunications infrastructure", "veterinary centre" and "winery". <i>NOTE: No instruction to delete existing definition for "Showroom".</i>
5	15/06/12	09/07/12	NM	Replaced the current interpretation of 'industry'.

SHIRE OF TAMBELLUP

TOWN PLANNING SCHEME NO. 2

The Tambellup Shire Council, under and by virtue of the powers conferred upon it in that behalf by the *Town Planning and Development Act 1928* (as amended), hereby makes the following town planning scheme for the purposes laid down in the act.

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PART I - PRELIMINARY

1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Tambellup Town Planning Scheme No. 2 hereinafter called "the Scheme" and shall come into operation on the publication of the Scheme in the *Government Gazette*.

1.2 RESPONSIBLE AUTHORITY

The Authority responsible for implementing the Scheme is the Council of the Shire of Tambellup hereinafter called "the Council".

1.3 SCHEME AREA

The Scheme applies to the whole of the land within the Municipal District of the Shire of Tambellup hereinafter called "the Scheme Area".

1.4 REVOCATION

The Shire of Tambellup Town Planning Scheme No. 1 published in the *Government Gazette* of 13 November 1970 and all amendments thereto is hereby revoked.

1.5 CONTENTS OF SCHEME

The Scheme comprises:

- (a) this Scheme Text,
- (b) the Scheme Map.

1.6 ARRANGEMENT OF SCHEME TEXT

The Scheme Text is divided into the following parts:

- Part 1 - Preliminary
- Part 2 - Reserves
- Part 3 - Zones
- Part 4 - Non-Conforming Uses
- Part 5 - Heritage - Precincts and Places of Cultural Significance
- Part 6 - Zones - Objectives and Development Requirements
- Part 7 - General Development Requirements
- Part 8 - Planning Approval
- Part 9 - Administration

1.7 SCHEME OBJECTIVES

The objectives of the Scheme are:

- (a) to zone the Scheme Area for the purposes described in the Scheme;
- (b) to secure the amenity health and convenience of the Scheme Area and the residents thereof;
- (c) to make provisions as to the nature and location of buildings and the size of lots when used for certain purposes;
- (d) to make provisions for planning controls in flood prone areas in Tambellup;
- (e) the preservation of heritage places; and
- (f) to make provision for other matters necessary or incidental to Town Planning and housing.

1.8 INTERPRETATIONS

- 1.8.1 Except as provided in sub-clauses 1.8.2 and 1.8.3 the words and expressions of the Scheme have their normal and common meaning.
- 1.8.2 In the Scheme unless the context otherwise requires, or unless it is otherwise provided herein, words and expressions have the respective meanings given to them in Schedule 1 and the Residential Planning Codes.
- 1.8.3 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.

PART II - RESERVES

2.1 SCHEME RESERVES

The land shown as Scheme Reserves on the Scheme Map, hereinafter called "Reserves", are lands reserved under the Scheme for the purposes shown on the Scheme Map and are listed hereunder.

PUBLIC PURPOSE
RECREATION AND OPEN SPACE
RAILWAY
ROAD

2.2 MATTERS TO BE CONSIDERED BY THE COUNCIL

Where an application for planning approval is made with respect to land within a 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.

2.3 COMPENSATION

- 2.3.1 Where the Council refuses planning approval for the development of a reserve on the ground that the land is reserved for local authority purposes or for the purposes shown on the Scheme Map, or grants approval subject to conditions that are unacceptable to the applicant the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.
- 2.3.2 Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing planning approval or granting it subject to conditions that are unacceptable to the applicant.
- 2.3.3 In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price representing the unaffected value of the land at the time of refusal of planning approval or of the grant of approval subject to conditions that are unacceptable to the applicant.

PART III - ZONES

3.1 ZONES

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

RESIDENTIAL
TOWN CENTRE
LIGHT INDUSTRIAL
INDUSTRIAL
SPECIAL RURAL
FARMING
SPECIAL USE

3.1.2 The zones are delineated and depicted in the Scheme Map according to the legend thereon.

3.2 ZONING TABLE

AMD 3 GG 19/4/05

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

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

'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;

'AA' means that the use is not permitted unless the Council has exercised its discretion by granting planning approval;

'SA' means that the use is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice in accordance with clause 8.3.1;

'X' means a use that is not permitted by the Scheme.

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

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

Note:

1. *The planning approval of the Council is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*
2. *The Council will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*

3. *In considering an 'AA' or 'SA' use, the Council will have regard to the matters set out in clause 8.5.*
4. *The Council must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.*

3.3 INTERPRETATION OF THE ZONING TABLE

- 3.3.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.
- 3.3.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Council may:
 - a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
 - b) determine that the use may be consistent with the objectives of the particular zone and therefore follow the advertising procedures of clause 8.3 in considering an application for planning approval; or
 - c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

3.4 SPECIAL USE ZONE

AMD 3 GG 19/4/05

No person shall use any land or any building or structure in a Special Use zone, except for the purpose set against that land in Schedule 2 and subject to compliance with any conditions specified in the schedule with respect to the land.

TABLE 1 - ZONING TABLE

AMD 3 GG 19/4/05

USES		RESIDENTIAL	TOWN CENTRE	LIGHT INDUSTRIAL	INDUSTRIAL	SPECIAL RURAL	FARMING
1	aged or dependent persons' dwelling	AA	X	X	X	X	X
2	agriculture-extensive	XX	X	X	X	X	P
3	ancillary accommodation	AA	X	X	X	AA	AA
4	caretaker's dwelling	X	AA	AA	AA	X	AA
5	civic building	AA	AA	AA	X	X	X
6	club premises	X	AA	X	X	X	AA
7	consulting rooms	SA	P	X	X	X	X
8	dwelling	P	AA	X	X	P	P
9	education establishment	SA	AA	X	X	X	AA
10	feedlot	X	X	X	X	X	SA
11	fuel depot	X	X	X	AA	X	X
12	home business	X	SA	X	X	SA	AA
13	home occupation	AA	SA	X	X	AA	AA
14	home office	P	P	X	X	P	P
15	hotel	X	AA	X	X	X	X
16	industry – cottage	SA	SA	X	X	AA	AA
17	industry – extractive	X	X	X	X	X	AA
18	industry – general	X	X	X	AA	X	X
19	industry – light	X	X	P	P	X	X
20	industry – noxious	X	X	X	SA	X	SA
21	industry – rural	X	X	X	X	SA	SA
22	industry – service	X	X	P	P	X	X
23	intensive agriculture	X	X	X	X	X	AA
24	motel	SA	AA	X	X	X	X
25	motor vehicle repair	X	X	P	P	X	X
26	office	X	P	AA	AA	X	X
27	piggery	X	X	X	X	X	SA
28	plant nursery	SA	X	AA	P	SA	AA
29	poultry farm	X	X	X	X	X	SA
30	public recreation	P	P	P	P	P	P
31	public utility	AA	AA	AA	AA	AA	AA
32	residential building	AA	X	X	X	X	SA
33	restaurant	X	P	X	X	X	AA
34	rural home business	X	X	X	X	SA	AA
35	rural pursuit	X	X	X	X	SA	P
36	service station	X	SA	X	P	X	AA
37	shop	X	P	X	SA	X	X
38	short-stay accommodation	SA	AA	X	X	SA	AA
39	tavern	X	AA	X	X	X	X
40	transport depot	X	X	AA	P	X	SA
41	veterinary centre	X	SA	AA	P	AA	AA

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 gazettal date 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 other provisions and requirements contained in the Scheme.

4.3 CHANGE OF NON-CONFORMING USE

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

4.4 DISCONTINUANCE OF NON-CONFORMING USE

- 4.4.1 When a non-conforming use of any land or building has been discontinued for a period of six months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.
- 4.4.2 The Council may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the occupier of that property, and may enter into an agreement with the owner for that purpose.

4.5 DESTRUCTION OF BUILDINGS

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 building shall not be repaired, 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 - HERITAGE - PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE

5.1 PURPOSE AND INTENT

The purpose and intent of the heritage provisions are:

- (a) to facilitate the conservation of places of heritage value;
- (b) to ensure as far as possible that development occurs with due regard to heritage values.

5.2 HERITAGE LIST

- 5.2.1 The Council shall establish and maintain a Heritage List of buildings, objects, structures and places considered by the Council to be of heritage significance and worthy of conservation.
- 5.2.2 For the purposes of this part, the Heritage List is drawn from the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the *Heritage of Western Australia Act 1990* (as amended), or such parts thereof as described in the Municipal Inventory.
- 5.2.3 The Council shall keep copies of the Heritage List with the Scheme documents for public inspection during normal office hours.

5.3 DESIGNATION OF HERITAGE PRECINCTS

- 5.3.1 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.
- 5.3.2 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 any buildings, objects, structures or places of heritage significance; and
 - c) objectives and guidelines for the conservation of the precinct.
- 5.3.3 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.
- 5.3.4 The procedure to be followed by the Council in designating a Heritage Precinct shall be as follows:
 - a) the Council shall notify in writing each owner of land affected by the proposal;
 - b) the Council shall advertise the proposal by way of a notice in a newspaper circulating in the district, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council consider necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation and where the policy statement which applies to the precinct may be inspected;
 - c) the Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to in paragraphs a) and b);
 - 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 the Commission.

5.3.5 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 5.3.4.

5.4 APPLICATIONS FOR PLANNING APPROVAL

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

5.4.2 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 those of any other relevant bodies, and take those views into account when determining the application.

5.4.3 Notwithstanding any existing assessment on record, the 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.

5.5 FORMALITIES OF APPLICATION

5.5.1 In addition to the application formalities prescribed in clause 5.4 and any formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a Heritage Precinct, to provide one or more of the following to assist the Council in its determination of the application:

- a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- b) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
- c) a detailed schedule of all finishes, including materials and colours of the proposed development, and unless the Council exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
- d) any other information which the Council indicates that it considers relevant.

5.6 POWER TO DETERMINE APPLICATION

5.6.1 Where desirable to facilitate the conservation of a place, area, building, object or structure of heritage value, or to enhance or preserve heritage values, the Council may vary any provision of the Scheme provided that, where in the opinion of the Council 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 pursuant to sub-clause 8.3.3; and

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

5.6.2 In granting variations under sub-clause 5.6.1 the Council may enter into a heritage agreement under Part 4 of the *Heritage of Western Australia Act 1990* (as amended) 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 Title.

5.7 VARIATIONS TO SCHEME PROVISIONS

The Council may approve any development which involves the conservation of the whole or part of any place of cultural heritage significance or Heritage Precinct or its replacement if accidentally destroyed, notwithstanding the proposed works do not comply with the Residential Planning Codes or any provision, standard or requirement of the Scheme.

5.8 CONSERVATION INCENTIVES

5.8.1 In dealing with any application concerning or affecting a place of cultural heritage significance or a Heritage Precinct, the Council may for the purpose of conserving or enhancing the place or precinct give a special approval, benefit, allowance or incentive, including but not limited to, the granting of density bonuses.

5.8.2 Where in the Council's opinion the granting of a conservation incentive is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the incentive, the Council shall consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to sub-clause 8.3 and shall have regard to any expressed views prior to making its decision to grant the incentive.

5.8.3 In granting a conservation incentive under sub-clause 5.8.1 the Council may enter into a heritage agreement modelled on Part 4 of the *Heritage of Western Australia Act 1990* (as amended) with an owner who would benefit from the incentive. The agreement shall specify the owner's obligations and contain covenants noted on relevant Certificates of Title.

5.8.4 Within a heritage precinct, the Council may permit on a lot in the Residential zone an increase up to 50% of permitted dwelling density which otherwise would not apply on that lot under the Residential Planning Codes. The density bonus shall only be granted where the increased development would not adversely affect the cultural heritage significance or character or amenity of the place, the streetscape or precinct, and if one or more of the following circumstances apply:

- a) provision is made for the preservation of significant landscape features, including significant trees or other vegetation;
- b) provision is made for the carrying out of conservation works approved by the Council on a heritage place; or
- c) an agreement is otherwise entered into for a contribution to be made to the Council's current municipal heritage conservation program.

5.8.5 In a case where the Council has allowed under sub-clause 5.8.4 an increase in the permitted dwelling density, the standards and provisions of the higher density code applicable to that permitted dwelling density shall apply.

5.9 ADVISORY COMMITTEE

5.9.1 The Council may from time to time appoint an Advisory Committee to advise the Council on matters relating to the conservation of a heritage place and/or precinct or heritage matters generally.

- 5.9.2 An Advisory Committee shall consist of:
- a) the President of the Council or a Councillor nominated by the President;
 - b) the Chair of the Committee of the Council which has been appointed by the Council to report on the matters referred to an Advisory Committee; and
 - c) at least three other persons representing the community and one of whom shall be a town planner or conservation architect who in the opinion of the Council has the knowledge and expertise to give proper advice on the matters to be considered by the Committee.
- 5.9.3 The Council may revoke the appointment of a member of an Advisory Committee other than the President or the nominee of the President, and may appoint a person to replace that person whose appointment has been revoked or who resigns or is unable to act. No person who has a direct pecuniary interest in a matter before an Advisory Committee shall act as a member of that Committee.
- 5.9.4 The Council may limit the term of appointment of an Advisory Committee or may appoint an Advisory Committee to report only on a specific matter. The appointment of an Advisory Committee shall lapse at the expiry of a nominated term, or on the resolution of the Council.
- 5.9.5 The Council shall not be bound by a recommendation of an Advisory Committee.

5.10 HERITAGE ADVISER

- 5.10.1 The Council may from time to time appoint a Heritage Adviser to advise the Council on matters relating to the conservation of a heritage place and/or precinct or heritage matters generally. The Heritage Adviser shall be a town planner or architect who in the opinion of Council has the knowledge and expertise to give proper advice on the matters to be considered by the Council.
- 5.10.2 The Council may limit the term of appointment of a Heritage Adviser or may appoint a Heritage Adviser to report only on a specific matter. The appointment of a Heritage Adviser shall lapse at the expiry of a nominated term, or on the resolution of the Council.
- 5.10.3 The Council shall not be bound by a recommendation of a Heritage Adviser.

PART VI - ZONES - OBJECTIVES AND REQUIREMENTS

6.1 RESIDENTIAL ZONE

6.1.1 Objectives

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

6.1.2 Residential Development: Residential Planning Codes

- 6.1.2.1 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").
- 6.1.2.2 A copy of the R Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.
- 6.1.2.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the R Codes shall conform to the provisions of those Codes.

6.1.3 Site Requirements: In accordance with the R Codes.

6.1.4 Special Application of Residential Planning Codes

AMD 2 GG 23/8/02

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

- a) the local government may permit an increase from R10 up to a maximum of \$30 for land in the Residential zone with dual R10/30 coding where:
 - (i) adequate connection to reticulated sewerage is available;
 - (ii) in the opinion of the local government the lot is suitably located close to services and facilities;
 - (iii) the local government after following the advertising procedures in clause 8.3 is satisfied there will not be adverse impacts on local amenities.
 - (iv) the local government considers the design of the development will enhance the amenity of the area; and
 - (v) the development is compatible with the surrounding land uses and development.

6.2 TOWN CENTRE ZONE

6.2.1 Objectives

- a) to ensure the town centre remains the principal place for business and administration within the District.
- b) to encourage a high standard of development including buildings, landscaping, and car parking.

6.2.2 Site Requirements: At the discretion of the Council which shall be guided by the following:

- a) lot size and frontage should generally be consistent with existing lots in the vicinity and capable of supporting development which complies with provisions of the Scheme;
- b) setbacks are to comply with the Building Code of Australia, and the Council will encourage building to the front boundary where this will be consistent with existing development on adjoining lots fronting the same street.

6.2.3 Development Requirements

6.2.3.1 Development shall not exceed two storeys in height except where the Council considers that particular circumstances may warrant an exception being made and provided such development will not affect local amenity and will enhance the character of the town centre.

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

- i) the colour and texture of external building materials; the Council may require the building facade and side walls to a building depth of three (3) metres to be constructed in masonry;
- ii) building size, height, bulk, roof pitch;
- iii) setback and location of the building on its lot;
- iv) architectural style and design details of the building;
- v) function of the building;
- vi) relationship to surrounding development; and
- vii) other characteristics considered by the Council to be relevant.

6.2.3.3 Landscaping shall complement the appearance of the proposed development and the town centre.

6.2.3.4 The layout of car parking shall have regard for traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining car park.

6.3 **LIGHT INDUSTRIAL ZONE**

6.3.1 Objectives

- a) to provide for the needs of light and service industries, and showroom uses to support the community;
- b) to achieve and maintain a high standard of presentation to the Great Southern Highway;
- c) to ensure appropriate buffers are provided and maintained between the light industrial uses and adjacent uses, so as to avoid land use conflicts.

6.3.2 Site Requirements: The minimum building setbacks shall be:

Front : 7.5m
Rear : 7.5m
Side : 5.0m on one side

6.3.3 Development Requirements

- 6.3.3.1 The first five metres of the front setback on any lot shall be landscaped to the satisfaction of the Council. Where a lot has frontage to two streets the Council may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the Council.
- 6.3.3.2 The whole of any wall or building facing any street shall be constructed in brick, concrete or masonry, provided however, that an owner, builder, or architect may apply to the Council for permission to use materials other than those prescribed and the Council may permit the use of such other materials where it is satisfied that such use will not detract from the amenity of the area.
- 6.3.3.3 Each open yard shall be screened from any street by a closed fence or wall not less than one point eight (1.8) metres in height unless exempted by the Council of the need to comply with this requirement.

6.4 **INDUSTRIAL ZONE**

6.4.1 Objectives

- a) to encourage industrial development with diverse employment opportunities.
- b) to provide for industry to support development in the District.

6.4.2 Site Requirements: The following minimum building setbacks shall apply:

Front : 7.5m
Rear : 7.5m
Side : 5.0m on one side

6.4.3 Development Requirements

- 6.4.3.1 The first five (5) metres of the front setback on any lot shall be landscaped to the satisfaction of the Council. Where a lot has frontage to two streets the Council may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the Council.
- 6.4.3.2 Prior to the issue of planning approval for an industry in the Industrial zone, the Council shall:
- i) have regard to buffer distance guidelines between the proposed industry and properties surrounding the zone;
- ii) consider imposing conditions to control industrial liquid, solid or gaseous wastes in accordance with Environmental Protection Authority guidelines and advice from the Department of Environmental Protection.
- 6.4.3.3 Where a proposed industry would generate industrial liquid, solid, or gaseous wastes, the granting of planning approval shall be subject to such wastes being treated and disposed of in accordance with Department of Environmental Protection advice/guidelines.

6.5 **SPECIAL RURAL ZONES**

6.5.1 Objectives

- a) to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats.

- b) to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.

6.5.2 General Provisions

- a) The Council will require the owner(s) of the land to prepare a submission supporting the creation of the Special Rural Zone and such submission shall include:
 - (i) a statement as to the purpose or intent for which the zone is being created and the reasons for selecting the particular area the subject of the proposed zone.
 - (ii) a plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, creeks, wells and significant improvements.
 - (iii) information regarding the method whereby it is proposed to provide a potable water supply to each lot.
 - (iv) in the absence of a Local Rural Strategy, it will be the responsibility of each applicant for rezoning to Special Rural to prepare a land suitability and capability assessment to the satisfaction of both the Council and the Commission.
- b) the Scheme provisions for a specific Special Rural Zone shall include a plan of subdivision, and any subdivision shall generally be in accordance with that plan and the Council may recommend the Commission agree to variations to that plan. The plan can show, amongst other things:
 - (i) the proposed subdivision including lot sizes and dimensions.
 - (ii) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc. as may be considered appropriate.
 - (iii) those physical features it is intended to conserve.
- c) in addition to the plan of subdivision, the Scheme provisions for a specific Special Rural Zone shall specify:
 - (i) any facilities which the purchasers of the lots will be required to provide (eg. their own potable water supply, liquid or solid waste disposal, etc).
 - (ii) proposals for the control of land uses and development which will ensure that the purpose or intent of the zone and the rural environment and amenities are not impaired.
 - (iii) any special provisions appropriate to secure the objectives of the zone.
- d) the provisions for controlling subdivision and development in specific Special Rural Zones shall be as laid down in Schedule 3 and future subdivision will generally accord with the plan of subdivision for the specified area certified by the Chief Executive Officer and approved by the Commission.

6.5.3 Site Requirements: The following minimum building setbacks shall apply:

Front	:	15.0m
Rear	:	10.0m
Side	:	10.0m

6.5.4 Development Requirements

6.5.4.1 Development in a Special Rural Zone shall comply with the following:

- i) in addition to a building licence, the Council's planning approval is required for all development including a single house and such application shall be made in writing to the Council and be subject to the provisions of clause 8.2 of the Scheme.
- ii) not more than one dwelling per lot shall be erected but the Council may, at its discretion, approve ancillary accommodation.
- iii) in order to conserve the rural environment or features of natural beauty all trees shall be retained unless their removal is authorised by the Council.
- iv) in order to enhance the rural amenity of the land in areas the Council considers deficient in tree cover it may require as a condition of any planning approval the planting of such trees and/or groups of trees and species as specified by the Council.
- v) any person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the Council. With the intention of preventing overstocking and any other practice detrimental to the amenity of a special rural zone, the Council may take any action which in the opinion of the Council is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the Council in taking such action shall be recoverable by the Council from the landowner.

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

- i) the colour and texture of external building materials;
- ii) building size, height, bulk, roof pitch;
- iii) setback and location of the building on its lot;
- iv) architectural style and design details of the building;
- v) relationship to surrounding development;
- vi) other characteristics considered by the Council to be relevant; and
- vii) provision to be made for bush fire control in accordance with a Planning Policy adopted by the Council.

6.6 **FARMING ZONE**

6.6.1 Objectives

- a) to ensure the continuation of broad-hectare farming as the principal landuse in the District and encouraging where appropriate the retention and expansion of agricultural activities.
- b) to consider non-rural uses where they can be shown to be of benefit to the District and not detrimental to the natural resources or the environment.

c) to allow for facilities for tourists and travellers, and for recreation uses.

6.6.2 Site Requirements: The following minimum building setbacks shall apply:

Front : 20.0m
Rear : 15.0m
Side : 15.0m

6.6.3 Development Requirements

6.6.3.1 Clearing: Except for:

- i) establishment of a firebreak required to comply with a regulation or by-law, or
- ii) provision of access to a building site, or
- iii) the area of building, or
- iv) cash crops;

not more than 2000m² on any lot shall be cleared of indigenous trees or substantial vegetation. If the Council is satisfied upon receipt of a submission the clearing of an area greater than 2000m² will not adversely affect the amenity, character and landscape qualities of the locality it may approve such land to be cleared subject to conditions as may be required by the Council.

6.6.3.2 Feedlots: In considering an application for development of a feedlot in the Scheme Area the Council shall have regard to Guidelines for Environmental Protection as set out in the "Natural Guidelines for Beef Cattle Feedlots in Australia" published by the Standing Committee on Agriculture Report No. 47 and shall determine an application in accordance with the Scheme.

6.6.4 Subdivision: Having regard to the prime agricultural importance of land in the zone the Council will only support further subdivision of existing lots where:

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

6.7 SPECIAL USE ZONES

Statement of Intent: Special Use zones will apply where the Council wants to have specific landuse control and/or development requirements. This may be on land where a mix of landuses is appropriate but which are not readily captured by the terms of a specific zone.

Site Requirements and Development Requirements are to be as determined by the Council and included in Schedule 2.

PART VII - GENERAL DEVELOPMENT REQUIREMENTS

7.1 CAR PARKING REQUIREMENTS

A person shall not develop or use any land or erect use or adapt any building unless car parking spaces specified by the Council are provided and such spaces are constructed and maintained in accordance with the requirements of the Council.

7.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

7.2.1 Sub-clause 7.2.2 shall not apply to:

- a) development in respect of which the Residential Planning Codes apply under this Scheme, or
- b) development on land abutting an unconstructed road, or
- c) development on a lot which does not have frontage to a constructed road.

7.2.2 Subject to sub-clause 7.2.1, 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.

7.3 DEVELOPMENT LIMITED BY LIQUID WASTE DISPOSAL

Notwithstanding anything elsewhere appearing in the Scheme, the Council may refuse to issue planning approval for any development if in the opinion of the Council adequate provision is not made or cannot reasonably be made for the disposal of liquid wastes from the development.

7.4 SUPPLY OF POTABLE WATER

As a condition of the issue of a building licence each dwelling shall be provided with a supply of potable water to the satisfaction of the Council.

7.5 LAND LIABLE TO RIVER FLOODING

Despite anything appearing elsewhere in the Scheme the development of land in the Tambellup townsite and on the flood plain identified in the "Gordon River (Tambellup) Flood Study" (the "Flood Study") prepared by Sinclair Knight & Partners January 1983 is to be subject to this clause. Flood levels are shown in the Flood Study:

- (a) The Council's planning approval is required for development including a single house and such application is to be made in accordance with the provisions of the Scheme.
- (b) Roads, bridges, buildings, structures, fences other than open post and rail or post and wire fencing, and the filling of land is not to be constructed or undertaken without the approval of the Council having regard for advice from the Water & Rivers Commission.

- (c) A plan of subdivision is not to be approved for land on the floodplain in the Residential zone unless that part of the land behind the minimum setbacks from street and rear boundaries is not less than 300mm above the 1982 flood level.
- (d) A plan of subdivision is not to be approved for land on the floodplain in the Special Rural zone unless part of the land on each lot has an area of not less than 2000 square metres at or above the 1982 flood level and is suitable for the erection of a dwelling in accordance with the provisions of the Scheme.
- (e) Floor levels for habitable rooms in buildings on land on the floodplain are to be a minimum of 150mm above the estimated 1 in 100 year flood level for all existing subdivisions, and 500mm above the estimated 1 in 100 year flood level for new subdivisions.
- (f) Dwellings within the flood plain for which a current building licence was issued before the gazettal date of this amendment may be extended subject to the floor level of any habitable room so created being above the flood level.

7.6 TRANSPORTED DWELLINGS

- 7.6.1 Within the Scheme area a building shall not be placed on a lot and occupied as a dwelling following transportation as a whole or as parts of a building unless in the opinion of the Council, such building is in a satisfactory condition and will not detrimentally affect the amenity of the area; or the building has been specifically constructed as a transportable dwelling.
- 7.6.2 An applicant for a building licence for a transported dwelling may be required by the Council to enter into 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 a dwelling.

7.7 DEVELOPMENT OF LOTS ABUTTING UNCONSTRUCTED ROADS

Notwithstanding anything elsewhere 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 such an application the Council may either:

- (a) refuse the application until the road has been constructed or access by means of a 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.

7.8 HOME OCCUPATION

- 7.8.1 An approval to conduct a home occupation is issued to a specific occupier of a particular parcel of land, it shall not be transferred or assigned to any other person, and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier of the land in respect of which a home occupation approval is issued the approval is cancelled.
- 7.8.2 If, in the opinion of the Council, a home occupation is causing a nuisance or annoyance to owners or occupiers of land in the locality the Council may rescind the approval.

PART VIII - PLANNING APPROVAL

8.1 DEVELOPMENT OF LAND

- 8.1.1 Subject to sub-clause 8.1.2 a person shall not commence or carry out development of any land zoned or reserved under the Scheme without first having applied for and obtained the planning approval of the Council under the Scheme.
- 8.1.2 The planning approval of the Council is not required for the following development of land:
- a) the use of land in a reserve, where such land is held by the Council or vested in a public authority;
 - (i) for the purpose for which the land 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) except as otherwise provided in the Scheme;
 - (i) the use of land which is a permitted ("P") use in the zone in which that land is situated provided it does not involve the carrying out of any building or other works;
 - (ii) the erection on a lot of a single house including ancillary outbuildings in a zone where the use is a permitted ("P") use in the zone in which that land is situated;
 - (iii) the erection of a boundary fence.
 - c) 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.
 - d) 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.
 - e) the carrying out of works urgently necessary for public safety or for the safety or security of plant or equipment or for the maintenance of essential services.
 - (f) home office. *AMD 3 GG 19/4/05*

8.2 APPLICATION FOR PLANNING APPROVAL

Every application for planning approval shall be made in the form prescribed by the Council and in accordance with the directions thereon.

8.3 ADVERTISING OF APPLICATIONS

- 8.3.1 Where an application is made for planning approval to commence or carry out development which involves an "SA" use the Council shall not grant planning approval to that application unless notice of the application is first given in accordance with the provisions of sub-clause 8.3.3.
- 8.3.2 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 sub-clause 8.3.3.

8.3.3 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.

8.3.4 After 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.

8.4 CONSULTATIONS WITH OTHER AUTHORITIES

8.4.1 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.

8.4.2 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.

8.5 MATTERS TO BE CONSIDERED BY THE COUNCIL

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

- (a) the provisions of the 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 9.6 of the 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;
- (k) the purpose of an adjoining Reserve.

8.6 DETERMINATION OF APPLICATIONS

- 8.6.1 In determining an application for planning approval the Council may:
- a) grant its approval with or without conditions;
 - b) refuse to grant its approval.
- 8.6.2 The Council shall convey its decision to the applicant in the form prescribed by the Council from time to time.
- 8.6.3 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.
- 8.6.4 Where the Council grants planning approval, the Council may impose conditions limiting the period of time for which the development is permitted.

8.7 APPROVAL OF EXISTING DEVELOPMENTS

- 8.7.1 The Council may give approval of 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 as to all matters other than the provisions requiring the Council's approval prior to the commencement of development.
- 8.7.2 The application to the Council for approval under sub-clause 8.7.1 shall be made in accordance with the provisions of clause 8.2.
- 8.7.3 A development which was not permissible under the 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.
- 8.7.4 The approval by the Council of an existing development shall not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement of the development without approval.

8.8 DEEMED REFUSAL

- 8.8.1 Subject to sub-clause 8.8.2, 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.
- 8.8.2 An application for planning approval which is subject of a notice under sub-clause 8.3.3 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.
- 8.8.3 Notwithstanding that an application for planning approval may be deemed to have been refused under sub-clauses 8.8.1 and 8.8.2, the Council may issue a decision in respect of the application at any time after the expiry of the 60 days or 90 day period specified in those sub-clauses, and that decision shall be regarded as being valid.

PART IX - ADMINISTRATION

9.1 POWERS OF THE SCHEME

In implementing the Scheme the Council 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.
- (c) the Council may deal with or dispose of any land which it has acquired pursuant to the Scheme or the Act in accordance with law and for such purpose may make such agreements with other owners as it considers fit.
- (d) an officer of the Council, authorised by the Council for the purpose, may at all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being served.
- (e) the Council may require a proponent for planning approval to pay the costs of the advertising of the proposal under clause 8.3 of the Scheme.

9.2 OFFENCES

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

- a) otherwise than in accordance with the provisions of the Scheme;
- b) unless all approvals required by the Scheme have been granted and issued;
- c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with; and
- 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 part have been and continue to be complied with.

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

9.3 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

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

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

9.4 COMPENSATION

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

9.5 RIGHTS OF APPEAL

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

9.6 PLANNING POLICIES

9.6.1 The Council may prepare a planning policy (herein after called “a Policy”) which may make a provision for any matter related to the planning or development of the Scheme Area and which may be prepared so as to apply:

- a) generally or in a particular class of matter or in particular classes of matters; and
- b) throughout the Scheme Area or in one or more parts of the Scheme Area;

and may amend or add to or rescind a Policy so prepared.

9.6.2 A Policy shall become operative only after the following procedures have been completed:

- a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, and in what form and during what period (being not less than 21 days) submissions may be made.
- b) Policies which the Council considers may be inconsistent with other provisions of the Scheme or with State and regional planning policies are to be submitted to the Commission for consideration and advice.
- c) The Council shall review the draft Policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.
- d) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.

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

9.6.4 An amendment or addition to a Policy may be made after the Policy has become operative and shall be made in the same manner as provided for the making of a Policy in sub-clause 9.6.2.

9.6.5 A Policy may be rescinded by:

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

9.6.6 A Policy shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its decision.

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

9.7 DELEGATION OF FUNCTIONS
AMD 3 GG 19/4/05

- 9.7.1 The Council may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
- 9.7.2 The CEO may delegate to any employee of the Council the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 9.7.1.
- 9.7.3 The exercise of the power of delegation under clause 9.7.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.
- 9.7.4 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.

SCHEDULES

SCHEDULE 1 - INTERPRETATIONS

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

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.

agriculture – extensive: means land or buildings used for the raising of stock or crops but does not include intensive agriculture or rural pursuit; *AMD 3 GG 19/4/05*

amusement facility: means land and 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.

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.

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.

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

camping area: means land used for the lodging of persons in tents or other temporary shelter.

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.

civic building: means a building designed, used or intended to be used by a public authority or the Council as offices or for administrative or other like purpose.

civic use: means land and buildings used by a public authority or the Council, for administrative, recreational or other purpose.

club premises: means land and 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.

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

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 gazetted road reserve.

consulting rooms: means a building (other than a hospital or medical centre) used by practitioners who are legally qualified medical practitioners or dentists, physiotherapists, chiropractors or persons ordinarily associated with a practitioner in the prevention 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.

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.

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

District: means the Municipal District of the Shire of Tambellup.

dog kennels: means land and 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.

education establishment: means a school or other educational centre, but does not include a reformatory.

fast food outlet: means 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, but does not include a lunch bar;

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

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

gazetted date: means the date of which notice of the Minister's approval of this Scheme is published in the *Government Gazette*.

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

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

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

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

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

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

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

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

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

Incidental to any of these industrial operations.

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 the 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 outbuilding 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 greater than 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 the storage, treatment, or manufacture of products from 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 a cottage, extractive, hazardous, light, noxious, rural, or service industry.

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

industry - light: means an industry:

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises 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, wastewater 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 projected service for the supply or provision of water, 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)*.

industry - rural: means an industry handling, treating, processing, or packing primary products grown, reared, or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality.

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 fruit nurseries;
- (c) the development of land for irrigated fodder production and irrigated pasture (including turf farms);
- (d) the development of land for the keeping, rearing or fattening of rabbits (for either meat, or fur production), and other livestock in feedlots;
- (e) dairy milking sheds;
- (f) the development of land for the keeping, rearing or fattening of other livestock above those stocking rates recommended by the Department of Agriculture in consultation with surrounding farmers for the applicable pasture type;
- (g) aquaculture.

land: shall have the same meaning given to it in and for the purpose of the Act.

local shop: means a building or part of a building wherein the only goods offered for sales are foodstuffs, toiletries, stationery or goods of a similar domestic nature intended for day to day consumption or use by persons living or working in the locality of the shop.

lodging house: shall have the same meaning as is given to it in and for the purposes of the *Health Act, 1911 (as amended)*.

lot: shall have the same meaning given to it in and for the purposes of the Act and "allotment" has the same meaning.

market: means land and buildings used for a fair, a farmer's or producers' market, or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stall-holders 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 interpretation of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists.

motel: means land and buildings used or intended to be used to accommodate patrons in a manner similar to a hotel or boarding house 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 (as amended)* has been granted.

motor vehicle and marine sales: means land and buildings used for the display and sale or hire of new or second-hand motorcycles, cars, trucks, caravans, and boats or any one or more of them and may include the servicing of motor vehicles sold from the site.

motor vehicle repair: means land and buildings used for the mechanical repair and overhaul of motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis re-shaping.

nett lettable area (NLA): means the area of all floors confined within the internal 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.

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

office: means a building or part of a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, a post office, bank, building society, insurance office, estate agency, typist and secretarial service, 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.

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.

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

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

- (a) an area of land situated in the bed of any watercourse or lake;
- (b) any works or buildings situated there, their contents relevant to the purpose of the Scheme, and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation.

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.

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

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 (as amended)*.

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

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

public amusement: means land and buildings used for the amusement or entertainment of the public, with or without charge.

public authority: shall have the same meaning given to it in and for the purposes of the Act.

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

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

public worship: means land and buildings used for the religious activities of a church but does not include an institution for primary, secondary, or higher education, or a residential training institution.

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

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

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

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

rural pursuit: means any land or buildings used for:

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- (a) the rearing or agistment of animals;
- (b) the stabling, agistment or training of horses;
- (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (d) the sale of produce grown solely on the lot, but does not include agriculture – extensive or 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 limiting the generality of the foregoing) buildings, machinery, vehicles, and boats.

schedule: means a schedule to the Scheme.

service station: means land and buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use; but does not include transport depot, panel beating, spray painting, major repair to motor vehicles, or wrecking of vehicles.

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 the Scheme.

short-stay accommodation: means the occupation of a chalet, caravan, camp, or any other form of accommodation approved by the Council, by persons for a period of not more than a total of three months in any one twelve month period.

showroom: means land or buildings uses to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature; AMD 3 GG 19/4/005

showroom: means a building wherein goods are displayed and may be offered for sale by wholesale and/or by retail, excluding the sale by retail of: foodstuffs, liquor or beverages; items of clothing or apparel, magazines, books or paper products; medical or pharmaceutical products; china, glassware or domestic hardware; and items of personal adornment.

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

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

tavern: means land and buildings the subject of a Tavern Licence granted under the provisions of the *Liquor Licensing Act, 1988 (as amended)*.

telecommunications infrastructure: means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network; AMD 3 GG 19/4/005

transport depot: means land and 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 such motor vehicle to another of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles.

veterinary centre: means land or buildings used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders; AMD 3 GG 19/4/005

veterinary hospital: DELETED BY AMD 3 GG 19/4/05

winery: means land or buildings used for the production of viticultural produce and may include sale of the produce;

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zone: means a portion of the Scheme area shown on the Scheme 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.

SCHEDULE 2 - SPECIAL USE ZONES

PARTICULARS OF LAND	SPECIAL USE
Lots 3 to 6 inclusive Crowden Street; Lot 19 Taylor Street; and right-of-way off Taylor Street adjacent to Lots 5, 6 and 19; Tambellup	Private club including private recreation

SCHEDULE 3 - SPECIAL RURAL ZONES

PARTICULARS OF LAND	REQUIREMENTS OF THE ZONE
Lot 84 Russell Street; Lots bounded by the Gordon River, Rourke Street, Diprose Avenue, Brown Street, Graham Street, Crown Reserve 14036, Lovegrove Street, Oriana Street; Tambellup	The Council will not recommend lot sizes less than 1.0 hectare where reticulated water is to be provided. The Council may recommend that the Commission approve minor variations. The Council will require drainage and on-site effluent disposal to be provided to its satisfaction.

ADOPTION

Adopted by Resolution of the Council of the Shire of Tambellup at the meeting of the Council held on the 16th day of November 1995.

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

1 Adopted by Resolution of the Council of the Shire of Tambellup at the meeting of the Council held on the 24th day of September 1997 and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of:

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

This Scheme Text is to be read in conjunction with the approved maps of the Scheme described in clause 1.5 of the Scheme and to which formal approval was given by the Minister for Planning on the date shown below.

2 RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

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

.....
DATE

3 FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

.....
DATE 18/12/1997