

SHIRE OF KENT

Town Planning Scheme No. 2

Updated to include AMD 2 GG 05/10/2007



Department of Planning,
Lands and Heritage

Prepared by the
Department of Planning, Lands and Heritage

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SHIRE OF KENT TPS 2 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
2	5/10/07	10/10/07	DH	<p>Part 5 - deleting Rural Residential clauses 5.6.2(a)(v) and 5.6.2(b)(iv). Schedule 1 - incorporate definition "Home Business". Schedule 2 - incorporate use class "Home Business" within the Residential sub section with symbols "SA" in the Residential zone, "AA" in the Commercial, Rural and Rural Residential zone. Part 7 - incorporating MST provisions providing for the delegation of authority to Council Officers by inserting clauses 7.6.1 to 7.6.4. <i>Note: Clause 7.6 already exists and there was no instruction to delete it. Also no heading for new clause was given.</i> Part 5 - inserting new clause "5.12 Unauthorised Existing Developments". Part 5 - in Clause 5.1 delete existing and replace clause 5.1.2(c). Part 5 - replacing Clause 5.9 - Places of Heritage Value and sub-clauses 5.9.1 to 5.9.4. Part 6 - incorporating a new clause "6.1.3 - Additional Material for Heritage Matters".</p>

SHIRE OF KENT

Town Planning Scheme No. 2

The Kent 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), hereinafter referred to as "The Act", hereby makes the following Town Planning Scheme for the purpose 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 Kent 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 Kent hereinafter called "The Council".

1.3 SCHEME AREA

The Scheme applies to the Nyabing and Pingrup townsites as outlined on the Scheme Map.

1.4 CONTENTS OF SCHEME

The Scheme Comprises:

- (a) This Scheme Text;
- (b) The Scheme Maps (sheets 1 and 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 Uses
Part V	-	Development Requirements
Part VI	-	Planning Consent
Part VII	-	Administration
Schedules		

1.6 SCHEME OBJECTIVES

The Scheme objectives are:

- to reserve land for public purposes;
- to set aside land for the various purposes described in the Scheme;
- to guide and control the use and development of land within the Scheme area in such a way as shall promote the general amenity, health, safety, economic and general welfare of its inhabitants.

1.7 REVOCATION OF EXISTING SCHEME

The Shire of Kent Scheme No. 1 (Nyabing) and Shire of Kent Scheme No. I (Pingrup) as amended, which came into operation by publication in the Government Gazette on 10 March 1972 are hereby revoked.

1.8 INTERPRETATION

- 1.8.1 Except as provided in Clause 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:

Parks and Recreation Reserve
Public Purposes Reserve (as marked)
Railways Reserve
Major Roads Reserve

2.2 MATTERS TO BE CONSIDERED BY COUNCIL

Where an application for Planning Consent 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 consent.

2.3 COMPENSATION

- 2.3.1 Where the Council refuses planning consent for the development of a reserve on the grounds that the land is reserved for local authority purposes or for the purposes shown on the Scheme Map, or grants consent 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 consent 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 consent or of the grant of consent 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 Zone
Commercial Zone
Industrial Zone
Rural Residential Zone
Rural Zone
Special Site Zone (as marked)

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

3.2 ZONING TABLE

3.2.1 The zoning table in Schedule 2 indicates, subject to the provisions of the Scheme, the several uses permitted in the Scheme area in the various zones, such uses being 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.

3.2.2 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 and all conditions (if any) imposed by the Council in granting planning consent;

"IP" A use that is not permitted unless such use is incidental to the predominant use of the land as determined by Council;

"AA" Means that the Council may, at its discretion permit the use;

"SA" Means that the Council may, at its discretion, permit the use after notice of application has been given in accordance with Clause 6.2.

3.2.3 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.

3.2.4 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.

3.2.5 If the use of land for a particular purpose is not specifically mentioned in the zoning table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:

a) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted; or

b) determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 6.2 in considering an application for planning consent.

3.3 SPECIAL SITE ZONE

No person shall use land or any building or structure thereon in a special site zone, except for the purpose set against that land in Schedule 3 and subject to compliance with any conditions specified in the Schedule with respect to the land.

PART IV - NON-CONFORMING USE

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 consent 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 consent to the change of use of any land from a non-conforming use to another use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the non-conforming use and is, in the opinion of the Council, closer to the intended uses of the zone or reserve.

4.4 DISCONTINUANCE OF NON-CONFORMING USE

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

4.5 DESTRUCTION OF BUILDINGS

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 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 DEVELOPMENT OF LAND

5.1.1 Subject to Clause 5.1.2 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 consent of the Council.

5.1.2 The planning consent 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) The erection of a boundary fence except as otherwise required by the Scheme.
- c) The erection on a lot of single house including any extension, ancillary outbuildings and swimming pools in a zone where the proposed use is designated with the symbol "P" in the cross-reference to that zone in the zoning table, except where: *AMD 2 GG 5/10/07*
 - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the residential Planning Codes; or
 - (ii) the development is on a site noted in scheduled No. 4 - Heritage List or will be located in a heritage area designated under the Scheme.
- 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.

5.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

5.2.1 If a development, other than a residential development, the subject of an application for planning consent, does not comply with a standard or requirement prescribed by the Scheme with respect to that development, the Council may notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council sees 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; and
- c) the spirit and purpose of the requirement or standard will not be unreasonably departed from thereby.

5.3 RESIDENTIAL DEVELOPMENT - RESIDENTIAL PLANNING CODES

- 5.3.1 For the purpose of this 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.
- 5.3.2 A copy of the Residential Planning Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.
- 5.3.3 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.
- 5.3.4 The Residential Planning Codes shall be in accordance with those shown on the Scheme Map.

5.4 COMMERCIAL DEVELOPMENT

5.4.1 Objectives

The Council's objectives for the Commercial Zone are:

- a) to provide for a mix of commercial, service, administrative and residential uses; and
- b) to encourage the development of a distinctive character and a focal point for the surrounding rural community.

5.4.2 Provisions

The following provisions shall apply to the Commercial zone:

- a) All new development in the Commercial zone shall have regard to the existing character of the general streetscape in terms of scale, height, materials, setbacks, street alignment and design of facades.
- b) Service Industry, Storage Yards and similar uses shall be restricted to low impact uses and shall only be permitted where they are considered compatible with adjoining uses and the character of the existing Commercial Zone.
- c) The storage of bulky and unsightly goods shall be screened to Council's specification and satisfaction.
- d) Where appropriate Council may require rear access to be provided for service deliveries.

5.5 INDUSTRIAL DEVELOPMENT

5.5.1 Objectives

The Council's objective for the Industrial zone is to provide for a diverse range of industries in locations where such uses will not have a detrimental impact on the amenity of nearby uses or the environment.

5.5.2 Provisions

The following provisions shall apply to the Industrial zone:

- a) All sites shall be screened and landscaped to the satisfaction of Council.
- b) Car parking, loading bays and accessways shall be designed to enable all vehicles to enter and leave the site in forward gear.

- c) All effluent and waste products shall be retained within the site and disposed of to the satisfaction of Council.

5.6 RURAL RESIDENTIAL DEVELOPMENT

5.6.1 Objectives

The Council's objective for the Rural Residential zone is to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.

5.6.2 Provisions

- a) Before making provision for a Rural Residential Zone, Council will prepare, or require the owner/s of the land to prepare, a submission supporting the creation of the Rural Residential Zone and such submission shall include:
 - (i) a statement as to the purpose or intent for which the zone is being created;
 - (ii) the reasons for selecting the particular area the subject of the proposed zone;
 - (iii) 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, wells and significant improvements;
 - (iv) information regarding the method whereby it is proposed to provide a potable water supply to each lot; and
 - ~~(v) the proposed staging of the subdivision and development and the criteria to be met before successive stages are implemented.~~
DELETED BY AMD 2 GG 5/10/07
- b) The Scheme provisions for a specific Rural Residential Zone shall include a plan of subdivision showing:
 - (i) the proposed ultimate subdivision including lot size and dimensions;
 - (ii) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities etc. as may be considered appropriate;
 - (iii) those physical features it is intended to conserve.
 - ~~(iv) the proposed staging of the subdivision where relevant.~~
DELETED BY AMD 2 GG 5/10/07
- c) The following provisions shall apply to land zoned Rural Residential in the Scheme Area:
 - (i) In addition to a building licence, the Council's prior planning consent 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 5.1 of the Scheme.
 - (ii) No more than one single house per lot shall be erected.
 - (iii) The minimum lot size shall be 2 hectares.
 - (iv) No building shall be constructed within 15 metres of the front or rear boundary of a lot nor within five metres of a side boundary.

- (v) In order to conserve the rural environment or features of natural beauty no indigenous trees or substantial vegetation shall be felled or removed unless their removal is authorised by the Council except where:
 - (a) trees are dead, diseased or dangerous;
 - (b) the establishment of a firebreak is required under a regulation or by-law;
 - (c) access to and including a building site is required and approved; and
 - (d) an area up to one metre in width for the purpose of erecting and maintaining a fence line is required and approved by Council. In these areas the land shall be slashed with a view to preventing soil erosion.
- (vi) Council may require, as a condition of planning consent or subdivision, that the landowner plant and maintain endemic native trees of species and in locations approved by Council.
- (vii) No dwelling shall be constructed or approved for construction unless a minimum of 92 000 litre water storage tank or a reticulated water supply or an alternative supply of potable water and an approved method of effluent disposal has been incorporated into the approved plans, and no dwelling shall be considered fit for human habitation unless such supply of water and method of effluent disposal has been installed and is operating.
- (viii) With the intention of preventing overstocking, erosion or any other practices, detrimental to the amenity within that zone, intensive agricultural pursuits and the breeding or keeping of animals for commercial gain shall not be permitted, without the approval in writing of Council. The Council may impose limits on stocking or any other conditions as it sees fit and may vary such conditions in the light of prevailing seasonal conditions.
- (ix) The siting, design and external appearance of any building shall be to the satisfaction and approval of the Council.
- (x) Firebreaks shall be maintained as required by Council regulation or by-laws.

5.7 UNTIDY SITES

- 5.7.1 To maintain an acceptable standard of amenity the Council may, by written notice as provided for in Clause 7.3 require the owner, occupier or lessee of that land to undertake such works as may be necessary to restore or upgrade the conditions of that property to a standard commensurate with those generally prevailing in the vicinity.

5.8 TRANSPORTABLE HOMES

- 5.8.1 Council may permit the erection or placement of a transportable or prefabricated home on a lot providing that the design of the building is to the satisfaction of the Council and in its opinion, does not adversely affect the amenity of other properties in the vicinity.

5.9 HERITAGE PROTECTION

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5.9.1 Heritage List

5.9.1.1 The local government is to establish and maintain a Heritage List as Schedule No. 4 which identifies those places within the Scheme Area which are of cultural heritage significance and worthy of conservation under the provisions of this Scheme, together with a description of each place and reasons for its entry.

5.9.1.2 In the preparation of the Heritage List (Schedule No.4), the local government is to -

- (a) have regard to the municipal inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
- (b) include in the Heritage List (Schedule No. 4) such of the entries on the municipal inventory as it considers to be appropriate.

5.9.1.3 In considering a proposal to include a place on the Heritage List (Schedule No. 4), the local government is to -

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 5.9.1.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the date the notice is served;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

5.9.1.4 Where a place is included on the Heritage List (Schedule No. 4), the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

5.9.1.5 The local government is to keep an up to date copy of the Heritage List (Schedule No. 4) with the Scheme documents for public inspection.

5.9.1.6 The local government may remove or modify the entry of a place on the Heritage List (Schedule no. 4) by following the procedures set out in clause 5.9.1.3.

5.9.2 Designation of a Heritage Area

5.9.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, designate that area as a heritage area.

5.9.2.2 The local government is to -

- (a) adopt for each heritage area a Local Planning Policy which is to comprise -
 - (i) a map showing the boundaries of the heritage area;
 - (ii) a record of places of heritage significance; and
 - (iii) objectives and guidelines for the conservation of the heritage area; and

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

5.9.2.3 If a local government proposes to designate an area as a heritage area, the local government is to -

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) advertise the proposal by -
 - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating the Scheme area;
 - (ii) erect a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal; and
- (c) carry out such other consultation as the local government considers appropriate.

5.9.2.4 Notice of a proposal under clause 5.9.2.3. (b) is to specify -

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

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

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

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

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

5.9.2.8 Clauses 5.9.2.3 to 5.9.2.6 apply, with any necessary changes to the amendment of a designation of a heritage area.

5.9.3 Heritage Agreements

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

5.9.4 Heritage Assessment

Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List (Schedule No.4).

5.9.5 Variations to Scheme Provisions for a Place of Heritage Value or Heritage Area

Where desirable to -

- a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List (Schedule No. 4) under clause 5.9.1.1; or
- b) enhance or preserve heritage values in a heritage area designation under clause 5.9.2.1, the local government may vary any site development requirement specified in the Scheme or the Residential Planning Codes by:
 - (i) consulting the affected parties by following one or more of the provisions for advertising uses under clause 6.2; and
 - (ii) having regard to any expressed views prior to making its determination to grant the variation.

5.10 CONTROL OF ADVERTISEMENTS

5.10.1 Power to Control Advertisements

5.10.1.1 For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council.

Such an approval of planning consent is required in addition to any licence pursuant to Council's signs and hoarding and bill posting by-laws.

5.10.1.2 Applications for Council's consent pursuant to this part shall be submitted in accordance with the provisions of clause 6.1.1 of the Scheme and shall be accompanied by a completed additional information sheet in the form set out at Schedule 9 giving details of the advertisement/s to be erected, placed or displayed on the land.

5.10.2 Existing Advertisements

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

5.10.3 Consideration of Applications

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, Council shall examine 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, the amenity of adjacent areas which may be affected and traffic safety.

5.10.4 Exemptions from the Requirement to Obtain Consent

Subject to the provision of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of Clause 5.10.1.1 the Council's prior consent is not required in respect of those advertisements listed in Schedule 5 which for the purpose of this part are referred to as "Exempted Advertisements". The exemptions listed in Schedule 5 do not apply to places, conservation areas or buildings listed by the National Trust and/or the Register of the National Estate, or included in local authority town planning schemes because of their heritage or landscape value.

5.10.5 Discontinuance

Notwithstanding the Scheme objectives and Clause 5.10.4 where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this part, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt, or otherwise modify the advertisement within a period of time specified in the notice.

5.10.6 Derelict or Poorly Maintained Signs

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.

5.10.7 Notices

5.10.7.1 "The Advertiser" shall be interpreted as any one or any group comprised of the landowner, occupier or licensee.

5.10.7.2 Any notice served in exceptional circumstances pursuant to Clause 5.10.5 or pursuant to Clause 5.10.6 shall be served upon the advertiser and shall specify:

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

5.10.7.3 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.

5.10.8 Scheme to Prevail

Where the provisions of this clause are found to be at variance with the provisions of the Council's Signs, Hoarding and Bill Posting by-laws, the provisions of the Scheme shall prevail.

5.10.9 Enforcement and Penalties

The offences and penalties provisions specified in Clause 7.2 apply to the advertiser in this part.

5.11 DEVELOPMENT ON LAND SUBJECT TO DAMPNES OR FLOODING

5.11.1 Where, in the opinion of the Council, the dampness of the site on which a building is proposed to be constructed so warrants, the Council may require that one or all of the following measures shall be carried out:

- a) the subsoil shall be effectively drained;
- b) the surface of the ground beneath the building shall be regraded or filled and provided with adequate outlets to prevent any accumulation of water beneath the building;
- c) the surface of the ground beneath the building shall be covered with an approved damp-resisting material.

5.11.2 A building shall not be constructed upon any land defined by the Council as being liable to flooding or inundation.

5.12 UNAUTHORISED EXISTING DEVELOPMENTS

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

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

PART VI - PLANNING CONSENT

6.1 APPLICATION FOR PLANNING CONSENT

6.1.1 Every application for planning consent shall be made in the form prescribed in Schedule 6 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

6.1.2 Unless Council waives any particular requirement, every application for planning consent shall be accompanied by:

- a) a plan or plans to a scale of not less than 1:500 showing:
 - (i) street names, lot number/s, north point and 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; and
 - (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.

6.1.3 Additional Material for Heritage Matters

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Where an application relates to a place entered on the Heritage List (Schedule No. 4) or within a heritage area, the local government may require an applicant to provide one or more of the following to assist the local government in its determination of the application -

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

6.2 ADVERTISING OF APPLICATIONS

6.2.1 Where an application is made for planning consent to commence or carry out development which involves an 'SA' use, the Council shall not grant consent to that application unless notice of the application is first given in accordance with the provisions of this clause.

- 6.2.2 Where an application is made for planning consent to commence or carry out development which involves an "AA" use, or for any other development which requires the planning consent of the Council, the Council may give notice of the application in accordance with the provisions of this clause.
- 6.2.3 Where the Council is required or decides to give notice of an application for planning consent 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 consent 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.
- 6.2.4 The notice referred to in Clause 6.2.3 a) and b) shall be in the form contained in Schedule 7 with such modification as circumstances require.
- 6.2.5 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.

6.3 DETERMINATION OF APPLICATIONS

- 6.3.1 In determining an application for planning consent the Council may consult with any authority which, in the circumstances, it thinks appropriate.
- 6.3.2 The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality, may refuse to approve any application for planning consent or may grant its approval unconditionally or subject to conditions as it thinks fit.
- 6.3.3 The Council shall issue its decision in respect of an application for planning consent in the form prescribed in Schedule 8 to the Scheme.
- 6.3.4 Where the Council approves an application for planning consent under this Scheme the Council may limit the time for which that consent remains valid.

6.4 DEEMED REFUSAL

- 6.4.1 Where the Council has not, within sixty days of receipt by it of an application for planning consent, either conveyed its decision to the applicant or given notice of the application in accordance with Clause 6.2, the application may be deemed to have been refused.
- 6.4.2 Where the Council has given notice of an application for planning consent in accordance with Clause 6.2 and where the Council has not, within ninety days of receipt by it of the application, conveyed its decision to the applicant, the application may be deemed to have been refused.
- 6.4.3 Notwithstanding that an application for planning consent may be deemed to have been refused under Clauses 6.4.1 or 6.4.2, the Council may issue a decision in respect of the application at any time after the expiry of the sixty day or ninety day period specified in those clauses, as the case may be.

PART VII - ADMINISTRATION

7.1 POWERS OF THE SCHEME

The Council, in implementing the Scheme, has in addition to all other powers invested 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 and 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 enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

7.2 OFFENCES

7.2.1 A person shall not erect, alter or add to or commence or 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 consents required by the Scheme have been granted and issued;
- c) unless all conditions imposed upon the grant and issue of any consent 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.

7.2.2 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.

7.3 NOTICES

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

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

7.4 CLAIMS FOR COMPENSATION

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

7.5 APPEALS

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.

7.6 POWER TO MAKE POLICIES

- 7.6.1 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.
- 7.6.2 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 Scheme 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.
- 7.6.3 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.
- 7.6.4 A town planning scheme policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve before making its decision.
- 7.6 7.6.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power delegation. *AMD 2 GG 5/10/07*
- 7.6.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 7.6.1. *AMD 2 GG 5/10/07*
- 7.6.3 The exercise of the power of delegation under clause 7.6.1 requires a decision of an absolute majority as if the power has been exercised under the *Local Government Act 1995*. *AMD 2 GG 5/10/07*
- 7.6.4 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. *AMD 2 GG 5/10/07*

SCHEDULES

SCHEDULE I - INTERPRETATIONS

“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.

“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.

“Boarding House” means a building in which provision is made for lodging or boarding more than four persons, exclusive of the family of the keeper, for hire or reward, but does not include:

- (a) premises the subject of an hotel, limited hotel or tavern licence granted under the provisions of the *Liquor Act 1970* (as amended);
- (b) premises used as a boarding school approved under the *Education Act 1928* (as amended);
- (c) a single house, grouped or multiple dwelling; or
- (d) any building that is the subject of a Strata Title issued under the provisions of the *Strata Titles Act 1985* (as amended).

“Builder’s Storage Yard” means land and 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” shall have the same meaning as is given to it in and for the purposes of the Residential Planning Codes.

“Building Envelope” means an area of land within a lot marked on a plan forming part of the Scheme outside which building development is not permitted.

“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 land used for the lodging of persons in tents or other temporary shelter.

“Caravan” means a vehicle as defined under the *Road Traffic Act 1974-82* 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 land and buildings used for the parking of caravans under the By-Laws of the Council or the *Caravan Parks and Camping Grounds Regulations 1974* (as amended) made pursuant to the provisions of the *Health Act 1911-1979* (as amended).

“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 land and 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.

“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 the administrative or other like purposes.

“Civic Use” means land and buildings used by a Government Department, an instrumentality of the Crown, 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 Act 1970* (as amended) or not, and which building or premises are not otherwise classified under the provisions of the Scheme.

“Commission” means the State Planning Commission constituted under the *State Planning Commission Act 1985*.

“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, chiropractors, 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.

“Day Care Centre” means land and buildings used for the daily or occasional care of children in accordance with the *Child Welfare (Care Centres) Regulations 1968* (as amended).

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

“District” means the Municipal District of the Shire of Kent.

“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.

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

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

“Fast Food Outlet” means land and 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 fish shop.

“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 and for the purposes of The Building Code of Australia 1988 (as amended).

“Fuel Depot” means land and buildings used for the storage and sale in bulk of solid or liquid gaseous fuel, but does not include a service station.

“Funeral Parlour” means land and buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation.

“Gazettal Date” means the date on which this Scheme is published in the *Government Gazette*.

“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.

“Holiday Accommodation” means accommodation comprising two or more cabins, apartments, chalets, cottages or flats which, by way of trade or business, or for the purpose of any trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor.

“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 - AMD 2 GG 5/10/07

- (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, will not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone.

“Home Occupation” means a business or activity carried on with the written permission of the Council within a dwelling or the curtilage of a dwelling by a person resident therein or within a domestic outbuilding by a person resident in the dwelling to which it is appurtenant that:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the emission of light, noise, vibration, electrical interference, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, liquid wastes or waste products or the unsightly appearance of the dwelling or domestic outbuilding on or the land on which the business is conducted;
- (b) does not entail employment of any person not a member of the occupier's family;
- (c) does not occupy an area greater than twenty square metres;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located;
- (e) does not display a sign exceeding 0.2m² in area;
- (f) in the opinion of the Council, it is compatible with the principal uses to which land in the zone it is located, may be put and will not, in the opinion of the Council, generate a volume of traffic that would prejudice the amenity of the area;
- (g) does not entail the presence, use or calling of a vehicle of more than two tonnes tare weight;
- (h) does not entail the presence of more than one commercial vehicle and does not include provision for the fuelling or repairing of motor vehicles within the curtilage of the dwelling or domestic outbuilding;
- (i) does not entail the offering for sale or display of motor vehicles, machinery or goods (other than goods manufactured or serviced on the premises); and
- (j) does not entail a source of power other than an electric motor of not more than 0.373 kilowatts (0.5HP).

“Hospital” means a building in which persons are received and lodged for medical treatments or care and includes a maternity hospital.

“Hotel” means land and buildings providing accommodation for the public and subject of an hotel licence granted under the provisions of the *Liquor Act 1970* (as amended).

“Industry” means the carrying out of 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, fishing, 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 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) site work on buildings, work or land;
- (iii) in the case of edible goods the preparation of food for sale from the premises; and
- (iv) panel beating, spray painting or motor vehicle wrecking.

“Industry-Cottage” means an industry which produces arts and craft goods which cannot be carried out under the provisions relating to a "Home Occupation" and that:

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;
- (b) where operated in a Residential zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;
- (c) is conducted in an outbuilding which is compatible to the zone and its amenity and does not occupy an area in excess of 55m²;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located; and
- (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 substances from the land, and also the storage, treatment or manufacture of products from those materials on the land from which any of those materials is extracted or on land adjacent thereto; or
- (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 by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

“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, 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 projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

“Industry-Noxious” means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act 1911-1979 (as amended) but does not include a fish shop, dry cleaning premises, marine collectors yard, laundromat, piggery or poultry farm.

“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.

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

“Land” shall have the same meaning given to it in and for the purposes of the Act.

“Laundromat” means a building open to the public, in which coin operated or other washing machines, with or without the provision for drying clothes, are available for use.

“Lodging House” shall have the same meaning as is given to it in and for the purposes of the *Health Act 1911-1979* (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.

“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.

“Motel” means land and buildings used or intended to be used to accommodate patrons in a manner similar to an hotel or boarding house but in which special provision is made for the accommodation of patrons with motor vehicles.

“Motor Vehicle and Machine Sales Premises” means land and buildings used for the display and sale of new or secondhand motorcycles, cars, trucks, tractors, farm machinery, caravans and boats or any one or more of them and may include, the servicing of motor vehicles sold from the site.

“Museum” means land and buildings used for storing and exhibiting objects illustrative of antiquities, natural history, art, nature and curiosities.

“Non-Conforming Use” means a use of land which, though lawful immediately prior to the coming into operation of this Scheme, is not in conformity with the Scheme.

“Nursery” means land and buildings used for the propagation, rearing and sale of products associated with horticultural and garden decor.

“Office” means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typists and secretarial services, and services of a similar nature.

“Piggery” shall have the same meaning given to it in and for the purposes of the *Health Act 1911-1979* (as amended).

“Potable Water” means water in which levels of physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in "International Standards for Drinking Water-Third Edition, World Health Organisation-1971".

“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.

“Public Amusement” means land and buildings used for the amusement or entertainment of the public with or without charge.

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

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

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

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

“Reception Centre” means land and buildings used by parties for functions on formal or ceremonious occasions, but not for unhosted use for general entertainment purposes.

“Restaurant” means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside is not the principal part of the business.

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

- (a) the growing of vegetables, fruit, cereals or food crops;
- (b) the rearing or agistment of goats, sheep, cattle or beasts of burden;
- (c) the stabling, agistment or training of horses;
- (d) the growing of trees, plants, shrubs, or flowers for replanting in domestic, commercial or industrial gardens;
- (e) the sale of produce grown solely on the lot;

but does not include the following except as approved by the Council:

- (i) the keeping of pigs;
- (ii) poultry farming;
- (iii) the processing, treatment or packing of produce; and
- (iv) the breeding, rearing or boarding of domestic pets.

“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 repairs or wrecking.

“Shop” means a building wherein goods are kept, exposed or offered for sale by retail, but does not include a bank, fuel depot, market, service station, milk depot, marine collector's yard, timber yard or land and buildings used for sale of vehicles or for any purpose falling within the definition of industry.

“Showrooms” 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.

“Tavern” means land and buildings the subject of a tavern licence granted under the provisions of the **Liquor Act 1970** (as amended).

“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.

“Warehouse” means a building 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 their trustee, registered as a "wholesale merchant" for sales tax purposes under the provisions of the *Sales Tax Assessment Act No 1 of 1930* (as amended).

“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 or the use of land, but does not include reserved land.

SCHEDULE II - ZONING TABLE

KEY TO COLUMNS

- | | |
|----------------|----------------------|
| 1. RESIDENTIAL | 4. RURAL |
| 2. COMMERCIAL | 5. RURAL RESIDENTIAL |
| 3. INDUSTRIAL | 6. SPECIAL SITE |

USE CLASSES	1	2	3	4	5	6
RESIDENTIAL						
Caretakers Dwelling		IP	IP	IP		*
Grouped Dwelling	AA	AA				*
Home Business <i>AMD 2 GG 5/10/07</i>	SA	AA		AA	AA	*
Residential Building	AA	AA		AA		*
Single House	P	AA		P	P	*
Boarding House	AA	AA		AA	AA	*
Lodging House	AA	AA		AA	AA	*
COMMERCIAL						
Builders Storage Yard		SA	P			*
Car Park		P	P			*
Caravan Park/Camping Area				AA		*
Dog Kennels				AA	SA	*
Fast Food Outlet		P				*
Holiday Accommodation	AA	AA		AA	AA	*
Home Occupation	AA	AA		AA	AA	*
Hotel/Tavern		SA		SA		*
Liquor Store		SA				*
Motel		SA		SA		*
Museum		P		AA		*
Nursery		AA	AA	AA	AA	
Office		P	IP			*
Restaurant		P				*
Service Station		AA	P			*
Shop		P	IP			*
Vehicle/Machinery Sales		SA	P			*
INDUSTRY						
Cottage Industry	SA	AA	P	SA	SA	*
Extractive Industry				SA		*
Fuel Depot			P			*
General Industry			P			*
Light Industry			P			*
Noxious Industry			SA			*
Rural Industry		SA	P	P	AA	*

SCHEDULE II - ZONING TABLE (Continued)

KEY TO COLUMNS

- | | |
|----------------|----------------------|
| 1. RESIDENTIAL | 4. RURAL |
| 2. COMMERCIAL | 5. RURAL RESIDENTIAL |
| 3. INDUSTRIAL | 6. SPECIAL SITE |

USE CLASSES	1	2	3	4	5	6
INDUSTRY (continued)						
Rural Pursuit				P	AA	*
Service Industry		SA	P			*
Showroom		AA	AA			*
Transport Depot			P			*
Warehouse		AA	P			*
COMMUNITY						
Civic Buildings		AA		AA		*
Club Premises		AA		AA		*
Consulting Rooms	AA	P				*
Day Care Centre/Kindergarten	AA	P		AA		*
Educational Establishment	AA	AA		AA		*
Hospital		AA		SA		*
Public Utility			P	AA		*
Public Worship	SA	AA		SA	SA	*
Radio and Television Installation	SA		AA	AA	SA	*

* Uses as determined by Council as per Schedule 3 and the Scheme Map

SCHEDULE III - SPECIAL SITE ZONE

NO	LAND PARTICULARS	PERMITTED USES	DEVELOPMENT STANDARDS/CONDITIONS
1	Lots 60, 61 and 68 Sanderson Street, Pingrup	Caravan Park, Museum, Reception Centre and associated tourist uses.	All development shall be designed and landscaped to Council's specification and satisfaction.

SCHEDULE IV - PLACES OF HERITAGE VALUE (CLAUSE 5.9)

NAME	LOCATION	DESCRIPTION
Old Wheat Silo	Reserve 40279 Lot 68 Sanderson Street, Pingrup	An early example of a corrugated iron wheat silo.
Nyabing Soak	Reserve 9446 Lot 50 Bin Road, Nyabing	Site of the original soak, officially discovered in 1904.
Tree	Nyabing Car Park, Richmond Street, Nyabing	Large Salmon Gum

SCHEDULE V - EXEMPTED ADVERTISEMENTS PURSUANT TO CLAUSE 5.10.4

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (all non-illuminated 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, 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.	Not applicable
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5 metres in height above ground level.	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 sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	Not applicable
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 (b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the council of a municipality; and (c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	Not applicable Not applicable Not applicable
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m ² in area.

SCHEDULE V - EXEMPTED ADVERTISEMENTS PURSUANT TO CLAUSE 5.10.4 (CONTINUED)

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (all non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	Not applicable
All classes of buildings other than single family dwelling	One advertisement sign containing the name, number and address of the building, the purpose of which the building is used or the name and address of the managing agent thereof.	0.2m ²
<p>Building Construction sites (advertisement signs displayed only for the duration of the construction) as follows:</p> <p>(1) Dwellings</p> <p>(2) Multiple dwellings, shops, commercial and industrial projects.</p> <p>(3) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.</p>	<p>One advertisement per street frontage containing details of the project and professional consultants and the contractors undertaking the construction work.</p> <p>One sign as for (1) above</p> <p>One sign as for (1) above</p> <p>One additional sign showing the name of the project builder.</p>	<p>2m²</p> <p>5m²</p> <p>10m²</p> <p>5m²</p>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m ²
<p>Property Transactions Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple dwellings, shops, commercial and industrial properties</p> <p>(c) Large properties comprised of shopping centres, buildings in excess of 4 storeys and rural properties in excess of 5ha</p>	<p>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for (a) above</p> <p>One sign as for (a) above</p>	<p>Each sign shall not exceed an area of 2m².</p> <p>Each sign shall not exceed an area of 5m².</p> <p>Each sign shall not exceed an area of 10m²</p>
<p>Display Homes Advertising signs displayed for the period over which the homes are on display for public inspection</p>	<p>(1) One sign for each dwelling on display.</p> <p>(2) In addition to (1) above, one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.</p>	<p>2m²</p> <p>5m²</p>

SCHEDULE VI - APPLICATION FOR PLANNING CONSENT

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

Shire of Kent

Town Planning Scheme No 2

APPLICATION FOR PLANNING CONSENT

1. Surname of Applicant: Given Name(s):
- Full Address:
2. Surname of Landowner Given Name(s):
- (if different from above)
3. Submitted by:
4. Address for Correspondence:
5. Locality of Development:
6. Title Details of Land:
7. Name of Road Serving Property:
8. State Type of Development:
- Nature and Size of All Buildings Proposed:
-
- Materials to be Used on External Surfaces of Buildings:
-
- General Treatment of Open Portions of the Site:
-
- Details of Car Parking and Landscaping Proposals:
-
- Approximate Cost of Proposed Development:
- Estimated Time for Construction:

.....
Signature of Owner

.....
Signature of Applicant or Agent

(Both signatures are required if applicant is not the owner.)

Date:

Date:

NOTE: This form should be completed and forwarded to the Council together with 2 COPIES of the detailed plans showing complete details of the development including a site plan showing the relationship of the land to the area generally. In areas where close development exists, or is in the course of construction, plans shall show the siting of buildings and uses on lots immediately adjoining the subject land.

SCHEDULE VII - NOTICE OF PUBLIC ADVERTISEMENT OF DEVELOPMENT PROPOSAL

Shire of Kent

Town Planning Scheme No 2

NOTICE OF PUBLIC ADVERTISEMENT OF DEVELOPMENT PROPOSAL

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 No:Street.....

Proposal:

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

Details of the proposal are available for inspection at the Council office. Comments on the proposal may be submitted to the Council in writing on or before the day of 19 .

.....
SHIRE CLERK

.....
DATE

SCHEDULE VIII - DECISION ON APPLICATION FOR PLANNING CONSENT

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

Shire of Kent

Town Planning Scheme No 2

DECISION ON APPLICATION FOR PLANNING CONSENT

The Council having considered the application

Dated.....

Submitted by:

On behalf of:

.....
.....

hereby advises that it has decided to:

- REFUSE/GRANT - PLANNING CONSENT
- APPROVAL TO DISPLAY AN ADVERTISEMENT

subject to the following conditions/for the following reasons.

Shire Clerk:.....

Date:.....

SCHEDULE IX - ADDITIONAL INFORMATION SHEET FOR ADVERTISEMENT APPROVAL

Shire of Kent

Town Planning Scheme No 2

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

1. Name of Advertiser
(if different from owner)
2. Address in Full
3. Description of Property upon which advertisement is to be displayed, including full details of its proposed position within that property:
.....
.....
.....
4. 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, scintillating etc:
.....
If yes, state intensity of light source:
5. State period of time for which advertisement is required:
.....
6. Details of signs, if any, to be removed if this application is approved:
.....
.....
.....

NOTE: Application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 6 above.

Signature of Advertiser(s):
(if different from owners)

Date:

ADOPTION

Adopted by Resolution of the Council of the Shire of Kent at the Ordinary meeting of the Council held on the 16th day of September, 1992.

Dated 8 October 1992

A G ADDIS, President

Dated 6 September 1993

B E JONES, Shire Clerk

FINAL APPROVAL

1. Adopted by Resolution of the Council of the Shire of Kent at the Ordinary meeting of the Council held on the 19th day of May 1993 and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of:

B J MORRELL, President

B E JONES, Shire Clerk

This Scheme Text is to be read in conjunction with the approved maps of the Scheme described in Clause 1.4 of this Scheme and to which formal approval was given by the Minister for Planning on the date shown below.

2. Recommended/submitted for the Final Approval by the State Planning Commission.

PETER DRISCOLL, for the Chairman, State Planning Commission

Dated 29th September, 1993

3. Final Approval granted

RICHARD LEWIS, Hon Minister for Planning

Dated 3rd October, 1993