

SHIRE OF NARROGIN

Local Planning Scheme No.2

Updated to include AMD 5 GG 15/9/17



Prepared by the
Department of Planning, Lands and Heritage

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SHIRE OF NARROGIN
TOWN PLANNING SCHEME NO. 2

The Narrogin 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.

**SCHEME TEXT
ARRANGEMENT**

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PART I - PRELIMINARY

1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Narrogin 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 Narrogin 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 Narrogin hereinafter called "the Scheme Area".

1.4 REVOCATION

The Shire of Narrogin Town Planning Scheme No. 1 published in the *Government Gazette* of 24 June 1983 and all amendments thereto is hereby revoked.

1.5 CONTENTS OF SCHEME

The Scheme comprises:

- a) this Scheme Text
- b) the Scheme Map (sheets numbers 1 to 4 inclusive)

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 - General Development Requirements
Part 5 - Heritage Precincts And Places Of Cultural Significance
Part 6 - Use And Development Of Land
Part 7 - Non-Conforming Uses
Part 8 - 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) the preservation of places of natural beauty, of historic buildings, and objects of historical and scientific interest; and
- e) to make provision for other matters necessary or incidental to Town Planning and housing.

1.8 INTERPRETATIONS

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

PART III - ZONES

3.1 ZONES

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

RURAL TOWNSITE
INDUSTRIAL
SPECIAL RURAL
FARMING
RURAL ENTERPRISE *AMD 5 GG 15/9/17*

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

3.2 ZONING TABLE

3.2.1 The Zoning Table 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 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 meaning:

"P" means that the use is permitted by the Scheme.

"AA" means that the use is not permitted unless the Council has granted planning approval.

"SA" means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with sub-clause 6.3.

3.2.3 Where no symbol appears in the cross reference of a use against a zone in the Zoning Table that use 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 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 sub-clause 7.2 in considering an application for planning approval.

3.3 SPECIAL USE ZONES

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3.3.1 Schedule 3 sets out -

(a) special use zones for specified land that are in addition to the zones in the zoning table; and

(b) the classes of special use zone that are permissible in that zone; and

(c) the conditions that apply in respect of the Special Uses.

3.3.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

Note: Special Use zones apply to special categories of land uses which do not comfortably sit within any other zone in the Scheme.

TABLE 1 - ZONING TABLE

1. RURAL TOWNSITE
2. INDUSTRIAL
3. SPECIAL RURAL
4. FARMING
5. RURAL ENTERPRISE

| USES | | 1 | 2 | 3 | 4 | 5 |
|------|------------------------------------|----|----|----|-----------------|----|
| 1 | abattoir | | | | SA | |
| 2 | aged or dependent persons dwelling | AA | | | | |
| 3 | ancillary accommodation | AA | | AA | AA | |
| 4 | caretaker's dwelling | AA | AA | | AA | |
| 5 | civic building | AA | | | | |
| 6 | commercial vehicle parking | | P | | | AA |
| 7 | consulting rooms | AA | | | | |
| 8 | dog kennels | | | | SA | |
| 9 | education establishment | AA | | | SA | |
| 10 | fuel depot | AA | P | | AA | |
| 11 | grouped dwelling | P | | | | |
| 12 | home business | | | | | AA |
| 13 | home occupation | AA | | AA | AA | AA |
| 14 | home office | | | | | AA |
| 15 | hotel | AA | | | | |
| 16 | industry - cottage | AA | | AA | AA | AA |
| 17 | industry - extractive | | | | SA | |
| 18 | industry - general | | AA | | | |
| 19 | industry - light | AA | P | | | AA |
| 20 | industry - noxious | | | | SA | |
| 21 | intensive agriculture | | | | AA | |
| 22 | motel | AA | | | | |
| 23 | motor vehicle repair | SA | P | | | AA |
| 24 | Office | AA | SA | | | AA |
| 25 | piggery | | | | SA ¹ | |
| 26 | poultry farm | | | | SA | |
| 27 | public recreation | P | AA | | AA | |
| 28 | residential building | AA | | | | |
| 29 | road house | | AA | | | |
| 30 | rural pursuit/hobby farm | | | AA | P | |
| 31 | service station | AA | AA | | | |
| 32 | shop | AA | | | | |
| 33 | single house | P | | P | P | P |
| 34 | telecommunication infrastructure | | AA | | | |
| 35 | transport depot | | P | | SA | |
| 36 | warehouse/storage | | AA | | | |

NOTES:

- ¹ The Council shall not approve a piggery use on a lot which is located within 3 km of the municipal boundary with the Town of Narrogin.

PART IV - GENERAL DEVELOPMENT REQUIREMENTS

4.1 RESIDENTIAL DEVELOPMENT - RESIDENTIAL PLANNING CODES

- 4.1.1 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").
- 4.1.2 A copy of the R Codes, as amended, shall be kept and made available for public inspections at the offices of the Council.
- 4.1.3 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.
- 4.1.4 The R Code density applicable to land within the Rural Townsite Zone shall be determined by reference to the R Code density numbers superimposed on the areas within that zone shown in the Scheme Map as being contained within the outer edges of the black borders or, where such an area abuts on another area having an R Code density, as being contained within the centrelines of those borders.

4.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

- 4.2.1 Sub-clause 4.2.2 shall not apply to:
- i) development in respect of which the Residential planning Codes apply under this Scheme, or
 - ii) development on land abutting an unconstructed road, or
 - iii) development on a lot which does not have frontage to a constructed road.
- 4.2.2 Subject to sub-clause 4.2.1, 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.

4.3 ONE DWELLING PER LOT

In all zones unless otherwise permitted in the Zoning Table only one dwelling shall be permitted on each lot excepting that in the Farming zone, where the lot exceeds eight hectares in area, the Council may, at its discretion, approve the erection of an additional dwelling provided it is satisfied that the additional dwelling(s) are required to provide accommodation for agricultural or horticultural worker(s).

4.4 RELOCATED SECOND-HAND BUILDINGS

Notwithstanding anything elsewhere appearing in the Scheme the placement of a relocated second-hand dwelling or building shall not be permitted on any lot unless:

- a) in the opinion of the Council such dwelling or building is in a satisfactory condition and will not detrimentally affect the amenity of the area; and
- b) an applicant for a building licence for such dwelling or building lodges a cash bond and enters into an agreement to the satisfaction of the Council to reinstate the dwelling or building to an acceptable standard of presentation as determined by the Council within 12 months of the issue of a building licence.

4.5 SITE REQUIREMENTS

The site building requirements for land in various zones shall be:

- a) Rural Townsite zone: As per the R Codes.
- b) Industrial zone:
 - i) The front setback shall be not less than 11 metres, the rear setback shall be not less than 10 metres, and the side setbacks shall be not less than 5 metres on one side;
 - ii) Where a lot has frontage to two streets the Council may reduce the minimum setback to one only of those streets to not less than 50% of the distance specified in paragraph (i);
 - iii) The first 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 when the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the Council.
- c) Special Rural zone:

Unless otherwise provided in Schedule 2 the front setback shall be not less than 10 metres, the rear setback shall be not less than 7.5 metres, and the side setbacks shall be not less than 5 metres.
- d) Farming zone:

Except where lot size or dimensions, site conditions, or special conditions apply all development including dwellings, farm buildings and outbuildings shall be set back not less than 20 metres from any lot boundary or projected road alignment or realignment. Minimum setbacks from roads under the control of Main Roads WA shall be 40 metres from existing 20 metre reserves and 30 metres from existing 40 metre reserves.

4.6 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.

4.7 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 shall 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.

4.8 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 that development.

4.9 HOME OCCUPATION

- 4.9.1 A planning 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 planning approval for a home occupation is issued the planning approval is cancelled.
- 4.9.2 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 planning approval.

4.10 RURAL TOWNSITE ZONE

Objectives: This zone will apply within the Highbury townsite.

It is the intention of the Council that a range of uses such as may be found in a small country town may be permitted in the zone.

In considering an application for planning approval the Council will have regard for the impact of the proposed use on local amenities.

The Council will generally not favour commercial or industrial uses in areas where the predominant established use is for residential purposes unless residential areas are buffered from any impacts.

4.11 RURAL ENTERPRISE ZONE

Objectives: to provide a range of lots in a rural environment where people live and may also work on the same property. Council may consider a range of light industrial, cottage and rural industries and home business land uses that are of a scale compatible with maintaining the amenity of a rural environment. Lot sizes shall range from 1ha to 4ha.

In considering an application for development approval Council will consider the need to protect residential amenity and the operation of enterprise through careful lot layout and high quality building design.

4.1.1 GENERAL PROVISIONS: the provision for controlling subdivision and development in the Rural Enterprise zone shall comply with the requirements of Schedule 3 and with the following:

- a) development of a single house shall be in accordance with the R2 density provisions of the Residential Design Codes, with the exception of the minimum lot size area, which is not applicable. No more than one dwelling will be permitted on each lot.
- b) where an enterprise has been established in association with a single house, the house shall only be occupied by the owner/occupier of the business and their family.
- c) no enterprise will be granted development approval for a lot within the zone, unless a

single house exists on the lot, or a single house is to be constructed within the first stage of a development.

- d) all lots shall be connected to a reticulated potable water supply provided by a licensed service provider, in accordance with state government policy.
- e) development approval will be required for all signage located on land.
- f) car parking shall be provided in accordance with the requirements of Clause 4.6 of the Scheme.

If a provision in Schedule 3 conflicts with any other provision of the Scheme, the provision of Schedule 3 shall prevail. *AMD 5 GG 15/9/17*

4.12 SPECIAL RURAL ZONE

Objectives: It is the intention of the Council to consider only those proposals for Special Rural development for land within a 10 kilometre radius of the Narrogin townsite.

Each application for a Special Rural Zone is to be accompanied by a land capability and suitability assessment to the satisfaction of the Council and in accordance with the Commission's Policy and Guidelines.

4.12.1 **General Provisions:** The provisions for controlling subdivision and development in a Special Rural Zone shall comply with the requirements of Schedule 2 and with the following:

- a) subdivision shall generally accord with the plan of subdivision for the specified area referred to in Schedule 2 and such plan of subdivision shall show the minimum lot size for subdivision;
- b) in addition to a building licence, the Council's prior 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 the Scheme.
- c) not more than one dwelling per lot shall be erected; the Council may approve ancillary accommodation in accordance with the R Codes;
- d) 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.
- e) 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.
- f) 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. Where in the opinion of the Council the continued presence of animals is likely to contribute or is contributing to noise, odour, or dust pollution or soil erosion, notice may be served on the owner of the land requiring the removal within the period specified in the notice of those animals specified in the notice for a period specified in the notice.

4.12.2 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:

- a) the colour and texture of external building materials;
- b) building size, height, bulk, roof pitch;

- c) setback and location of the building on its lot;
- d) architectural style and design details of the building;
- e) relationship to surrounding development; and
- f) other characteristics considered by the Council to be relevant.

4.13 FARMING ZONE

Objectives: The Council intends the predominant form of farming activity in the Farming Zone will continue to be based on large farming units. It will generally be opposed to the fragmentation of farming properties through the process of subdivision.

The Council may recommend approval for subdivision in the Farming Zone for use of the land for more intensive forms of rural production but only where the application as submitted to the Commission is accompanied by the following:

- a) identification of soil types, availability and adequacy of water supply, and any areas of salt affected land;
- b) evidence of consultations by the proponent with Agriculture WA on the suitability of the proposed lot(s) and lot size for the intended land use;
- c) the proponent entering into an Agreement with the Council to proceed with the intended land use;
- d) details of stream protection where appropriate; and
- e) such other matters as may be requested by the Council.

The Council shall not recognise precedent resulting from subdivision created in the early days of settlement of the District as a reason for it to support further subdivision in the Farming Zone.

The Council will favourably consider applications for adjustment of lot boundaries where the application if approved will not result in the creation of one or more additional lots.

4.13.1 **Subdivision:** There shall be a general presumption against subdivision in the Farming Zone unless:

- a) the lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a rural 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 land use 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 dwelling houses 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.

4.13.2 **Development:** The Council shall not grant planning approval for any development that will in the opinion of the Council adversely affect the rural landscape or be contrary to the agricultural use of the land.

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 sub-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 VARIATIONS TO SCHEME PROVISIONS

- 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 6.3.3; 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.

PART VI - USE AND DEVELOPMENT OF LAND

6.1 REQUIREMENT FOR PLANNING APPROVAL

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

6.1.2 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;

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

- b) the erection of a single house on a lot, including ancillary outbuildings, in a zone where such use is designated with the symbol "P" in the Zoning Table, unless specific provisions of the Scheme require the express approval of the Council.
- c) the erection of a boundary fence except as otherwise required by 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; or
- f) 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.

6.1.3 Notwithstanding that a single house does not require the prior approval of the Council pursuant to the Scheme, any person who wishes the Council to vary any particular provision of the R Codes relating to the erection of a single house shall, at the time of lodging an application for a building licence or earlier, apply in writing to the Council, seeking the Council's approval for the variation. The Council may approve the variation with or without conditions or may refuse to approve the variation. The Council shall, before granting its approval, satisfy itself that:

- a) the variation requested is one which the Council has the power to approve; and
- b) approval of that variation would not compromise the objectives of the R Codes.

6.2 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.

6.3 ADVERTISING OF APPLICATIONS

- 6.3.1 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 this clause.
- 6.3.2 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 this clause.
- 6.3.3 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 sub-clause.
- 6.3.4 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.

6.4 CONSULTATIONS WITH OTHER AUTHORITIES

- 6.4.1 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.
- 6.4.2 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.

6.5 MATTERS TO BE CONSIDERED BY THE COUNCIL

- 6.5.1 The Council in considering an application for planning approval shall have due regard to the following:
- a) the provisions of this Scheme and any other relevant town planning scheme operating within the district;
 - b) any relevant proposed new town planning scheme of the Council or amendment insofar as they can be regarded as seriously entertained planning proposals;
 - c) any approved Statement of Planning Policy of the Commission;
 - d) any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
 - e) any planning policy, strategy or plan adopted by the Council under the provisions of sub-clause 8.7 of this Scheme;
 - f) the preservation of any object or place of heritage significance;
 - g) the requirements of orderly and proper planning;

- h) the preservation of the amenities of the locality;
- i) any other planning considerations which the Council considers relevant;
- j) any relevant submissions or objectives received on the application.

6.6 DETERMINATION OF APPLICATIONS

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

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

6.6.2 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 date.

6.6.3 Where the Council grants planning approval, the Council may impose conditions limiting the period of time for which the development is permitted.

6.7 DEEMED REFUSAL

6.7.1 Subject to sub-clause 6.7.2, 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.

6.7.2 An application for planning approval which is subject of a notice under sub-clause 6.3.3 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.

6.7.3 Notwithstanding that an application for planning approval may be deemed to have been refused under sub-clauses 6.7.1 and 6.7.2, 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 clauses, and that decision shall be regarded as being valid.

6.8 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS

6.8.1 Where an application is for a development that includes the carrying out of any building or works, the Council may grant approval subject to matters requiring the subsequent approval of the Council. These matters may include the siting, design, external appearance of the buildings, means of access, or landscaping.

6.8.2 The Council may decline to deal with an application requiring later approval of details or call for further details if it thinks fit.

6.8.3 Where the Council has granted approval subject to matters requiring the later approval of the Council, application for approval of those matters must be made not later than the expiration of two years beginning with the date of the first approval.

6.9 APPROVAL OF EXISTING DEVELOPMENTS

6.9.1 The Council may grant approval to a development already commenced or carried out regardless of when it commenced or was carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out of the development, but provided that the development complies with the

provisions of the Scheme, with or without the exercise of discretion provided in the Scheme, as to all matters other than the provisions requiring Council's approval prior to the commencement of development.

- 6.9.2 The application to the Council for approval under sub-clause 6.9.1 shall be made in accordance with the provisions of sub-clause 6.2.
- 6.9.3 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.
- 6.9.4 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.

PART VII - NON-CONFORMING USES

7.1 NON-CONFORMING USE RIGHTS

Except as otherwise provided in this Part, 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 the time, a permit or permits, lawfully required to authorise the development to be carried out, were duly obtained and are current.

7.2 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.

7.3 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 or reserve.

7.4 DISCONTINUANCE OF NON-CONFORMING USE

- 7.4.1 When a non-conforming use of any land or building has been discontinued for a period of six (6) months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.
- 7.4.2 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.

7.5 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 VIII - ADMINISTRATION

8.1 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 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 observed.

8.2 OFFENCES

8.2.1 A person shall not erect, alter or add to or commence to erect, alter or add to a building or use or change the use of any land, building or part of a building 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.

8.2.2 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.

8.3 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

8.3.1 Twenty eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act for the removal of certain buildings.

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

8.4 COMPENSATION

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

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

decision, claim compensation from the Council for injurious affection.

8.5 ELECTION TO PURCHASE AND VALUATION

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

8.6 RIGHTS OF APPEAL

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

8.7 PLANNING POLICIES

- 8.7.1 The Council may prepare a planning policy (hereinafter 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.
- 8.7.2 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) a Policy 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.
- 8.7.3 The Council shall keep a copy of any Policy with the Scheme documents for public inspection during normal office hours.
- 8.7.4 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 8.7.2.
- 8.7.5 A Policy may be rescinded by:
- a) final adoption of a new Policy pursuant to this clause, specifically worded to supersede an existing Policy; or
 - b) publication of a formal notice of rescission by the Council twice in a local newspaper circulating in the Scheme Area.
- 8.7.6 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.
- 8.7.7 Any Policy prepared under this clause shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

8.8 DELEGATION

- 8.8.1 The Council may, either generally or in a particular case or cases, by resolution passed by an absolute majority of the Council, delegate to the following eligible persons the authority to deal with an application for planning approval made under this Scheme:
- a) a member of the Council being the Chairman of the committee required at the direction of Council to consider and report upon all applications for planning approval within its municipal district, and being qualified by experience with the work of any such committee; and/or
 - b) that officer of the Council with overall responsibility for the planning functions of the Council or appointed by the Council to supervise the development control functions of the Council,
- or those persons who from time to time occupy the positions referred to in (a) and (b) above.
- 8.8.2 Any delegation made under sub-clause 8.8.1 shall have effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.
- 8.8.3 A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.
- 8.8.4 A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.
- 8.8.5 The performance of the function by a delegate under sub-clause 8.8.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

- 8.8.6 Without affecting the generality of the provisions of this clause, where in the exercise of any power under this Scheme the Council is required to form any opinion or view or have any state of mind or to consider to have due regard to any matter, then that requirement shall be satisfied if a person exercising delegated authority in respect of that power performs the function.
- 8.8.7 An officer or member exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power by the Council, insofar as such provisions are reasonably applicable.
- 8.8.8 A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.

8.9 AMENDMENTS TO THE SCHEME

- 8.9.1 The Council shall keep the Scheme under constant review and where appropriate carry out investigations and study with a view to maintaining the Scheme as an up-to-date and efficient means for pursuing community objectives regarding development and land use.
- 8.9.2 The Council may, from time to time, initiate an amendment to the Scheme in accordance with the Act and Regulations and shall give consideration to any application to have the Scheme amended.
- 8.9.3 In the case of a proposed amendment to the zoning of land other than requested by the owner, the Council shall, before initiating any amendment to the Scheme, invite comment from the owner of the land concerned.
- 8.9.4 The Council shall take into consideration any comments or submissions received in respect of a proposed amendment to the Scheme and shall only proceed with the amendment where it is satisfied the amendment would be consistent with the objectives of the Scheme and would not be contrary to the public interest.

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.

absolute majority: has the same meaning as given to it in 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.

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.

Commercial vehicle parking: means premises used for parking of one or 2 commercial vehicles but does not include —

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) parking of commercial vehicles incidental to the predominant use of the land;

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 which has been graded and stabilised within a dedicated 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 Narrogin.

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.

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.

Home business: means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m²; and

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

Home office: means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external 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 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, finishing, cleaning, packing, or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;
- c) the generation of electricity or the production of gas;
- d) the manufacture of edible goods,

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

- (i) the carrying out of agriculture,

- (ii) on-site work on buildings or land,
- (iii) in the case of edible goods the preparation of food for retail sale from the premises.

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

intensive agriculture: means the use of land for the purposes of trade, commercial reward or gain, including such buildings and earthworks normally associated with the following:

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

- d) the development of land 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 stallholders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental.

medical centre: means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the 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 this Scheme, but is not in conformity with the provisions of this 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.

road house: means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) short-term accommodation for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;

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

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

but does not include intensive agriculture.

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.

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.

telecommunication infrastructure: means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

tavern: means land and buildings the subject of a Tavern License granted under the provisions of the *Liquor Licensing Act, 1988* (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 such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles.

veterinary hospital: means a building used in connection with the treatment of sick animals and includes the care and accommodation of animals during or after such treatment.

warehouse/storage: means premises including indoor or outdoor facilities used for —

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

waste disposal facility: means premises used —

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

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 RURAL ZONE

| PARTICULARS OF LAND | REQUIREMENTS OF THE ZONE |
|--|---|
| <p>Portion of Williams Locations 153 and 1437 Narrogin (north) and Lot 4 of Williams Location 153, Great Southern Highway, Narrogin.</p> | <ol style="list-style-type: none"> 1 Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. 2 Notwithstanding anything elsewhere appearing in the Scheme the minimum building setback to the Great Southern Highway and the possible Highway deviation shown on the Plan of Subdivision shall be 30 metres. 3 All lots within the subdivision shall be connected to a reticulated public water supply system as a condition of subdivisional approval. |
| <p>Williams Locations 3473, 5476, 5481, 1688 and 3947 Narrogin Valley Road, Narrogin</p> | <ol style="list-style-type: none"> 1 Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. 2 Notwithstanding anything elsewhere appearing in the Scheme the minimum building setback on any lot shall be 30 metres. 3 No dwelling shall be constructed or approved for construction unless a minimum of 92,000 litres domestic water storage tank or other approved potable water supply and storage facility is established with the dwelling. |
| <p>Lot 3 Portion Dumberning Agricultural Area Lots 151 and 152, Katta Road, Narrogin.</p> | <ol style="list-style-type: none"> 1 Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. 2 No dwelling shall be constructed or approved for construction unless a minimum of 92,000 litres domestic water storage tank or other approved potable water supply and storage facility is established with the dwelling. |
| <p>Portion of Williams Locations 2949,1311, 2731 Narrogin Valley Road, McDougalls Road, and Condon Road, Narrogin.</p> | <ol style="list-style-type: none"> 1 Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. 2 All lots within the subdivision shall be connected to a reticulated public water supply system as a condition of subdivisional approval. 3 Unless otherwise approved by the Council all building development and effluent disposal is to be confined to building envelopes indicated on the Plan of Subdivision. |
| <p>Dumberning Agricultural Area Lot 205, Mokine Road, Narrogin</p> | <ol style="list-style-type: none"> 1 Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. 2 All lots within the subdivision shall be connected to a reticulated public water supply system as a condition of subdivisional approval. 3 Unless otherwise approved by the Council all building development and effluent disposal is to be confined to building envelopes indicated on the Plan of Subdivision. |

SCHEDULE 2 - SPECIAL RURAL ZONE - (CONTINUED)

| PARTICULARS OF LAND | REQUIREMENTS OF THE ZONE |
|--|---|
| Dumberning Agricultural Area Lot 205, Mokine Road, Narrogin (Cont'd) | 4 Fences shall be erected to protect trees from grazing livestock where required by the Council. |
| Dumberning Agricultural Area Lot 81 Mokine Road, Narrogin. | 1 Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. 2 All lots within the subdivision shall be connected to a reticulated public water supply system as a condition of subdivisional approval. 3 The minimum building setback from Mokine Road is to be 100 metres and 10 metres from any other boundary, unless otherwise approved by the Council. 4 Unless otherwise approved by the Council all building development and effluent disposal is to be confined to building envelopes indicated on the Plan of Subdivision. 5 Fences shall be erected to protect trees from grazing livestock where required by the Council. |
| Lot 155 Narrakine Road, Narrogin | 1. Unless otherwise approved by the Council, all building development and effluent disposal is to be confined to building envelopes. 2. Dwellings and outbuildings shall be constructed of materials which blend into the rural landscape. No reflective or second-hand materials to be permitted for visible external cladding. 3. Relocated dwellings shall not be permitted. 4. Fences shall be erected to protect trees from grazing livestock where required by Council. 5. Building envelopes are to be no more than 2,000 square metres in total area and are to be sited at least 300 metres from the boundaries of existing piggeries. |

SCHEDULE 3 - SPECIAL USE ZONES IN THE SCHEME AREA

| No. | Description of Land | Special Use | Conditions |
|-----|---|---|--|
| 1. | <p>Lot 31 Great Southern Highway, Dumberning.</p> <p>AMD 5 GG 15/9/17</p> | <p>Composite uses comprising uses permissible in the 'Special Rural', 'Rural Enterprise' and 'Industrial zone with the exception of the use 'Industry - General'.</p> | <p>1. Development of the land shall be in accordance with a Local Development Plan (LDP) approved by the local government. The LDP should provide sufficient information to address the requirements of the Scheme and the following:</p> <ul style="list-style-type: none"> (i) The provision of portable reticulated water and onsite wastewater disposal. (ii) Revegetation and the introduction of separation distances and buffers from sensitive land uses. (iii) Bushfire risk. (iv) The spatial extent of precincts that encompass the 'Industrial', 'Rural Enterprise' and 'Special Rural' uses. (v) The spatial extent and location of residential building envelopes in the 'Special Rural' precinct. (vi) The spatial extent and location of residential building envelopes and enterprise envelopes in the 'Rural Enterprise' precinct. (vii) The staging of infrastructure. (viii) The transition between 'Industrial' uses and 'Residential' uses, including bulk and scale and separation distances. (ix) The size of lots in the 'Industrial' precinct having consideration to separation distances and land use buffers. (x) Areas of low capability for on-site effluent disposal. (xi) Access and traffic management; and (xii) Waste management including bin disposal areas in the 'Rural Enterprise' and 'Industrial' precincts. <p>2. Prior to subdivision or development, a Local Water Management Strategy (LWMS) shall be prepared and approved</p> |

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| | | | <p>by the local government on the advice of the Department of Water. Stormwater drainage shall be contained on-site to the satisfaction of the local government.</p> <p>3. Prior to subdivision or development a revegetation plan shall be prepared. The revegetation plan should include native species to the specification of the local government.</p> <p>4. Prior to subdivision or development a bushfire management plan is to be prepared and approved.</p> <p>5. Development on the site being provided with an onsite effluent disposal system to the satisfaction of the local government and the Department of Health.</p> <p>6. Development requirements set out in Clause 4.5 of the Scheme shall be applied to the 'Industrial' precinct.</p> <p>7. Residential building envelopes within the 'Special Rural' precinct shall be limited to a maximum size of 1200m² and setback 10 metres from the primary street and side/rear boundaries.</p> <p>8. Notwithstanding anything elsewhere appearing in the Scheme, the minimum building setback to Great Southern Highway in the 'Special Rural' precinct shall be 30 metres.</p> <p>9. Residential building envelopes and enterprise envelopes within the 'Rural Enterprise' precinct shall be located behind the main residential building line, setback 10 metres from side boundaries and screened accordingly.</p> <p>10. Enterprise envelopes within the 'Rural Enterprise' precinct shall be located behind the main residential building line, setback 10 metres from side boundaries and screened accordingly.</p> <p>11. Development shall be confined to either a residential</p> |
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| | | | <p>building envelope or enterprise envelope in the 'Special Rural' and 'Rural Enterprise' precinct, as depicted on an approved LDP.</p> <p>12. Buildings within a nominated enterprise envelope in the 'Rural Enterprise' precinct shall be limited to a maximum total floor space of 900m², unless otherwise approved by the local government.</p> <p>13. At subdivision or development stage lots in the 'Special Rural' precinct shall be subject to a notification on title to advise landowners of the potential impact from nearby agricultural and light industrial land uses.</p> <p>14. Development approval shall be required for all development including signage.</p> <p>15. Minimum lot size in the 'industrial' precinct should average 4 hectares and consider on-site separation distances.</p> <p>16. No lot shall have direct access onto Great Southern Highway or Wanerie Road. Access shall be restricted to local access roads.</p> <p>17. Access points shall be designed, approved and constructed to Main Roads Western Australia specifications.</p> <p>18. Built form is to be consistent with a predominant theme for the site, in terms of scale, colour and use of materials. The use of colorbond and/or non-reflective materials may be required.</p> <p>19. Use of land or buildings for any form of human habitation is prohibited within nominated enterprise envelopes in the 'Rural Enterprise' precinct.</p> <p>20. Stockings rates for rural pursuit/hobby farm apply to 'Special Rural' uses, as guided by the local government.</p> |
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ADOPTION

Adopted by Resolution of the Council of the Shire of Narrogin at the meeting of the Council held on the 23rd day of April 1996.

.....
DARRELL L. WIESE
PRESIDENT

.....
G MCKEOWN
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

- 1 Adopted by Resolution of the Council of the Shire of Narrogin at the meeting of the Council held on the 22nd day of August 1997 and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of:

.....
DARRELL L. WIESE
PRESIDENT

.....
G MCKEOWN
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**

.....
EUGENE FERRARO
for CHAIRPERSON OF THE WESTERN
AUSTRALIAN PLANNING COMMISSION

.....
DATED:

3 **FINAL APPROVAL GRANTED**

.....
G KIERATH
HON MINISTER FOR PLANNING

.....
DATED: 15/9/97