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SHIRE OF BROOMEHILL

TOWN PLANNING SCHEME NO. 1

Note (On 1/7/2008 the Shires of Broomehill and Tambellup amalgamated to form "Shire of Broomehill-Tambellup")

Updated to include Amd 5 GG 15/6/2012

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Prepared by the Department of Planning

Original Town Planning Scheme Gazettal Date: 29 August, 1997

SHIRE OF BROOMEHILL
TOWN PLANNING SCHEME NO. 1

THE BROOMEHILL SHIRE COUNCIL, UNDER AND BY VIRTUE OF THE POWERS CONFERRED UPON IT IN THAT BEHALF BY THE TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED), HEREBY MAKES THE FOLLOWING TOWN PLANNING SCHEME FOR THE PURPOSES LAID DOWN IN THE ACT.

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PART 1 - PRELIMINARY

1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Broomehill Town Planning Scheme No. 1 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 Broomehill 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 Broomehill hereinafter called "the Scheme Area".

1.4 CONTENTS OF SCHEME

The Scheme comprises:

- a) this Scheme Text
- b) the Scheme Map (sheets numbers 1 to 5 inclusive)

1.5 ARRANGEMENT OF SCHEME TEXT

The Scheme Text is divided into the following parts:

PART 1 - PRELIMINARY
PART 2 - RESERVES
PART 3 - ZONES
PART 4 - NON-CONFORMING USES
PART 5 - DEVELOPMENT REQUIREMENTS
PART 6 - HERITAGE PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE
PART 7 - PLANNING CONSENT
PART 8 - ADMINISTRATION

1.6 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.

1.7 INTERPRETATION

1.7.1 Except as provided in clauses 1.7.2 and 1.7.3 the words and expressions of the Scheme have their normal and common meaning.

- 1.7.2 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.
- 1.7.3 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 2 - RESERVES

2.1 SCHEME RESERVES

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

PUBLIC PURPOSE
RECREATION AND OPEN SPACE
RAILWAY
ROAD

2.2 MATTERS TO BE CONSIDERED BY THE COUNCIL

Where an application for planning 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 ground that the land is reserved for local government 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 3 - ZONES

3.1 ZONES

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

RESIDENTIAL
TOWN CENTRE
INDUSTRIAL
RURAL RESIDENTIAL
FARMING
SPECIAL USE *AMD 1 GG 4/2/03*

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 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.

"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 7.2.

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 clause 7.2 in considering an application for planning consent.

3.3 SPECIAL USE ZONES

AMD 1 GG 4/2/03

3.3.1 Special Use Zones are set out in Schedule 3 and are in addition to the zones in the Zoning Table.

3.3.2 A person must not use any land, or any structure or buildings on land, in a Special Use Zone except for the purpose set out against that land in Schedule 3 and subject to compliance with any conditions set out in Schedule 3 with respect to that land.

Note: Special Use Zones apply to special categories of land use that do not comfortably sit within any other zone in the Scheme.

TABLE 1 - ZONING TABLE

USES	RESIDENTIAL	TOWN CENTRE	INDUSTRIAL	RURAL RESIDENTIAL	FARMING
1 abattoir					SA
2 aged or dependent persons dwelling	AA			AA	
3 caretaker's dwelling		AA	AA		AA
4 civic building	AA	AA	AA		
5 consulting rooms	SA	AA			
6 dwelling	P		AA	P	P
7 education establishment	AA	AA			AA
8 fuel depot			AA		
9 home occupation	AA			AA	AA
10 hotel		SA			
11 industry - cottage	AA		AA	AA	P
12 industry - extractive			AA		SA
13 industry - general			AA		
14 industry - light		AA	P		
15 industry - noxious					SA
16 industry - rural			P		P
17 motel		P			SA
18 motor vehicle repair			P		
19 office			P	AA	
20 piggery					SA
21 poultry farm					SA
22 public recreation	AA	AA	AA		AA
23 public utility	AA	AA	AA	AA	AA
24 residential building	AA				
25 rural pursuit				AA	P
26 service station		AA	P		
27 shop		P			
28 tavern		SA			
29 transport depot			AA		SA
30 worship - place of	AA	AA			AA

PART 4 - NON-CONFORMING USES

4.1 NON-CONFORMING USE RIGHTS

No provision of the Scheme shall prevent:

- a) the continued use of any land or building for the purpose for which it was being lawfully used at the gazettal date of the Scheme; or
- b) the carrying out of any development thereon for which, immediately prior to that time, a permit or permits, lawfully required to authorise the development to be carried out, were duly obtained and are current.

4.2 EXTENSION OF NON-CONFORMING USE

A person shall not alter or extend a non-conforming use or erect alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the planning 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.

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 5 - 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 under the Scheme without first having applied for and obtained the planning consent of the Council under the Scheme.
- 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 a single house, including ancillary outbuildings except where the lot on which the single house is proposed does not have frontage to a constructed road in a dedicated road reserve in which case an application for planning consent is required;
 - 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.

5.2 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

- 5.2.1 Sub-clause 5.2.2 shall not apply to:
- a) development in respect of which the Residential Planning Codes apply under the scheme;
 - b) development on land abutting an unconstructed road; or
 - c) development on a lot which does not have frontage to a constructed road.
- 5.2.2 Subject to sub-clause 5.2.1, if a development the subject of an application for planning consent does not comply with a standard prescribed by the Scheme with respect to minimum lot sizes, building height, setbacks, site coverage, car parking, and landscaping, 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.

5.3 RESIDENTIAL DEVELOPMENT - RESIDENTIAL PLANNING CODES

- 5.3.1 For the purpose of the Scheme "Residential Planning Codes" means the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No. 1, together with any amendments thereto (hereinafter called the "R Codes").
- 5.3.2 A copy of the R Codes, as amended, shall be kept and made available for public inspections 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 R Codes shall conform to the provisions of those Codes.
- 5.3.4 The R Code density applicable to land within the Scheme Area shall be determined by reference to the R Code density numbers superimposed on the areas 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.

5.4 SPECIAL APPLICATION OF RESIDENTIAL PLANNING CODES

In areas coded R10 the development of not more than two dwellings on one lot in accordance with the R15 Code, may be permitted at the Council's discretion subject to:

- a) the Council being satisfied as to on-site effluent disposal; and
- b) the proposal being advertised in accordance with the procedures of clause 7.2.

5.5 SITE REQUIREMENTS

The site building requirements for land in various zones shall be as set out in Table 2.

TABLE 2 - SITE REQUIREMENTS - MINIMUM SETBACKS FROM BOUNDARIES

ZONE	STREET	REAR	SIDE
Residential	As in the R Codes		
Town Centre	0m	At the Council's discretion	
Industrial	7.5m	7.5m	5m on one side
Rural Residential	15.0m	10.0m	10.0m
Farming	15.0m	10.0m	10.0m

- 5.5.1 Where a lot has frontage to two streets the Council may reduce the minimum setback from one only of those streets to not less than 50% of the distance specified in Table 2.
- 5.5.2 In the Industrial zone 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.
- 5.5.3 Unless with the approval of the Council a minimum of 10% of the area of all lots within the Broomehill townsite and Broomehill suburban area is to be maintained with indigenous trees.

5.6 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. The cash bond received by the Council shall be deposited in an interest bearing Trust Account and upon completion of necessary works to the satisfaction of the Council such monies owing shall be refunded.

5.7 DEVELOPMENT LIMITED BY LIQUID WASTE DISPOSAL

Notwithstanding anything elsewhere appearing in the Scheme, the Council may refuse to issue planning consent 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.

5.8 SUPPLY OF POTABLE WATER

Each dwelling shall be provided with a supply of potable water either from a reticulated system, or underground bore, or a rainwater-storage system with a minimum capacity of 92,000 litres to the satisfaction of the Council.

5.9 DEVELOPMENT OF LOTS ABUTTING UNCONSTRUCTED ROADS

Notwithstanding anything elsewhere appearing in the Scheme where an application for planning consent is made in respect of land abutting an unconstructed road or a lot which does not have frontage to a constructed road 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.

5.10 HOME OCCUPATION

5.10.1 The Council shall not grant planning consent to a home occupation unless it is satisfied that the use:

- a) will not prejudicially affect the amenity of the neighbourhood by way of emissions of any nature;
- b) will not occupy an area greater than 20 square metres;
- c) 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;
- d) does not entail the retail sale of any goods not produced on the site;
- e) is compatible with the principal uses to which the land in the zone in which 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; and
- f) does not display a sign exceeding 0.2 square metres in area.

5.10.2 A planning consent 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 consent for a home occupation is issued the planning consent is cancelled.

- 5.10.3 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 consent.

5.11 INDUSTRIAL ZONE

- 5.11.1 Prior to the issue of planning consent for an industry in the Industrial Zone, the Council will ascertain the appropriate buffer for that industry, and such industry may only be granted planning consent if the relevant buffer can be accommodated wholly within the zone.
- 5.11.2 Prior to making recommendations to the Commission on subdivisional proposals for the Industrial Zone the Council shall require the preparation and adoption of a Development Guide Plan for the land. The Development Guide Plan should show graduating buffer distances from the perimeter of the zone, anticipated major roads, creek lines, wetlands and associated areas, remnant vegetation and other areas worthy of protection together with the interface between the industrial and other land uses including the provision of landscaping.
- 5.11.3 Following receipt of a Development Guide Plan prepared in accordance with clause 5.11.2, the Council shall cause the plan to be advertised in accordance with the Scheme requirements.
- 5.11.4 A proposed Development Guide Plan shall be deemed refused by the Council where a decision on the proposal has not been determined by the Council within three (3) months of the Council's receipt of the proposal or within such further time as may be agreed in writing between the applicant and the Council.
- 5.11.5 Where the Council rejects the Development Guide Plan, or attaches conditions or requires modification which the applicant considers unreasonable, the applicant shall have a right of appeal pursuant to Part V of the Act.
- 5.11.6 Notwithstanding clause 5.11.5 the applicant shall prior to exercising any right of appeal pursuant to Part V of the Act, submit the Development Guide Plan and Council's resolution to the Commission and request the Commission make a determination.
- 5.11.7 All development shall be landscaped at the perimeter of the zone.
- 5.11.8 In considering proposals for industries which would generate industrial liquid, solid, or gaseous wastes the Council may refer such proposals to the Department of Environmental Protection, and the granting of planning consent for such industries shall be subject to wastes being treated and disposed of in accordance with advice/guidelines received.

5.12 RURAL RESIDENTIAL ZONES

Objectives:

- a) An objective of the Rural Residential Zone is to select areas wherein closer subdivision will be permitted into lots one hectare and above to provide for such uses as hobby farms, horse breeding and rural-residential retreats, and to make provision for the retention or improvement of the rural landscape and environment.
- b) It is the intention of the Council to consider only those proposals for Rural Residential development for land within a 10 kilometre radius of the Broomehill townsite.
- c) Each application for a Rural Residential Zone is to be accompanied by a land suitability assessment prepared at the proponents' cost and to the satisfaction of the Commission and the Council.

5.12.1 General Provisions:

Before making provision for a Rural Residential Zone, the Council will require a

submission supporting the creation of the zone and such submission shall include:

- a) a plan showing the location of the area proposed to be included in the zone (herein called the "subject land") together with the area surrounding the subject land which is likely to be affected by the proposed zone having regard to the nature and purpose of the proposed subdivision and the uses proposed in respect thereof.
- b) a statement as to the purpose or intent for which the zone is proposed.
- c) the reasons for selecting the particular area the subject of the proposed zone with particular reference to the location and land characteristics which support use of the subject land for the intended purpose.
- d) a plan or plans of the subject and surrounding land showing contours at such intervals as to adequately depict the landform of the area, land uses and physical features such as existing roads, buildings, crops and other improvements, soil and vegetation types, rivers, creeks, swamps, and rock outcrops.
- e) brief details of the proposed lot sizes and land uses proposed on the subject land.
- f) information regarding the method whereby it is proposed to provide water supply to each lot and the proposed method of effluent disposal.

5.12.2 If the Council resolves to initiate an amendment to the Scheme to include land in the Rural Residential Zone the applicant shall prepare and submit to the Council draft Scheme Amendment documents comprised of a Scheme Amendment Report and the Scheme Text provisions necessary to control the use and management of the land.

5.12.3 The Scheme Amendment Report shall include information and plans which address the following matters:

- a) purpose/intent;
- b) demand for the lots proposed;
- c) physical characteristics of the subject land;
- d) land capability and suitability of the subject land;
- e) landscape/heritage/amenity values;
- f) infrastructure requirements;
- g) water supply and effluent disposal;
- h) fire hazard assessment and fire protection requirements
- i) measures proposed to be undertaken in order to:
 - i) protect broad-hectare farmland;
 - ii) prevent conflict with adjoining land uses;
 - iii) protect vegetation, water courses and mineral resources;
 - iv) revegetate any denuded areas;
 - v) protect landscape, heritage and amenity values;
 - vi) eliminate any adverse affects of flooding; and
 - vii) address any other issues that the Council considers need to be addressed.

5.12.4 The provisions for controlling subdivision and development in a Rural Residential Zone shall comply with the requirements laid down in Schedule 2 and shall include a Subdivision Guide Plan which shows:

- a) the proposed ultimate subdivision including lot sizes and dimensions.
- b) the proposed public road access to be provided to each new lot.
- c) where appropriate, building envelopes.
- d) all significant improvements on the land including dwellings, farm buildings, crops, fences, bores, pumps, dams, and wells.
- e) the extent of natural and other vegetation on the land.
- f) watercourses, swamps, lakes, etc.
- g) those physical features it is intended to conserve (eg. landscape features and areas of vegetation and watercourses to be protected by fencing).
- h) areas to be revegetated.
- i) land to be set aside for public open space, community purpose sites, pedestrian accessways, horse trails, etc.
- j) fire protection measures (ie. fire fighting facilities, water supply for fire fighting purposes, strategic firebreaks etc).

5.12.5 **Development Requirements:**

The provisions for controlling subdivision and development in a Rural Residential 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; notwithstanding this the Commission may approve variations to the subdivisional design but further break down of the lots so created shall be deemed to be contrary to the provisions of the Scheme;
- b) 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 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) a building envelope with an area not exceeding 3000m² of the relevant lot shall be defined in a position to be agreed by the Council before any building is constructed on a lot; no building shall be constructed on a lot other than within the defined building envelope without the written approval of the Council;
- e) the Council will, where practical require building envelopes to be located within existing cleared areas such that fragmentation of remnant vegetation through the development of buildings, driveways, firebreaks and low fuel areas, is minimised.
- f) in order to conserve the rural environment or features of natural beauty no indigenous trees or substantial vegetation shall be felled or removed except where:
 - trees are dead, diseased, or dangerous;
 - the establishment of a firebreak is required under a regulation or a by-law or a local law;
 - access to a building site is required and is approved by the Council; or
 - an area up to one metre in width for the purpose of erecting and maintaining a fence line is required and approved by the Council; in these areas the land shall be slashed with a view to preventing erosion.

- i) removal of indigenous trees or substantial vegetation for any purpose other than the above exceptions, shall require the consent of the Council and as a condition of granting consent, the Council may require the planting and maintenance for a period of at least three years, of endemic trees of species and in locations approved by the Council.
 - ii) clearing of native vegetation with the approval of the Council for the erection of a dwelling shall not exceed the approved building envelope.
 - iii) a 20 metre wide low fuel buffer shall be provided around each dwelling and flammable material controlled in accordance with the Shire of Broomehill Fire Break Order.
- g) in order to enhance the rural amenity of the land in areas 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.
- h) with the intention of preventing overstocking, erosion or any other nuisance detrimental to amenity within the zone, rural pursuits and the breeding or keeping of animals for commercial gain shall not be permitted without the approval in writing of the 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 condition.
- i) The Council may only permit the keeping of stock and other rural pursuits in areas that are already substantially cleared and pastured so as not to conflict with paragraphs f) and g) relating to tree preservation and tree planting.
 - ii) The Council will impose fencing requirements as a condition of its approval to protect substantive vegetation.
 - iii) Provision of an adequate water supply for stock may also be required as a condition of approval.
 - iv) Offensive trades and pursuits shall be referred by the proponent to the Agriculture Western Australia, the Department of Environmental Protection, and other public authorities as required for comment prior to being submitted to the Council for planning consent.
- i) 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.

5.12.6 In considering an application for planning consent 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 lots;
- 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.

5.13 FARMING ZONE

Objectives:

- a) The Council intends the predominant form of rural 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.
- b) 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:
 - i) identification of soil types, availability and adequacy of water supply, and any areas of salt affected land;
 - ii) evidence of consultations by the proponent with Agriculture Western Australia on the suitability of the proposed lot(s) and lot size for the intended land use;
 - iii) the proponent entering into an Agreement with the Council to proceed with the intended land use;
 - iv) details of stream protection where appropriate; and
 - v) such other matters as may be requested by the Council.
- c) The Council does 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.
- d) 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.

5.13.1 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.

5.13.2 **Dwellings in the Farming Zone:**

- a) notwithstanding anything elsewhere appearing in the Scheme, within the Farming Zone the Council may permit the erection of not more than two dwellings per lot for private residential purposes associated with farm management of the lot.
- b) where the Council is satisfied that justification exists for agricultural or farm management purposes the Council may permit more than two dwellings on one property.

PART 6 - HERITAGE PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE

6.1 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.

6.2 HERITAGE LIST

- 6.2.1 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.
- 6.2.2 For the purposes of this part, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the Heritage List.
- 6.2.3 The Council shall keep copies of the Heritage List with the Scheme documents for public inspection during normal office hours.

6.3 DESIGNATION OF HERITAGE PRECINCTS

- 6.3.1 The Council may designate an area of land to be a Heritage Precinct where, in the opinion of the Council, special planning control is needed to conserve and enhance the heritage values and character of the area.
- 6.3.2 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.
- 6.3.3 The Council shall keep a copy of the policy statement for any designated Heritage Precinct with the Scheme documents for public inspection during normal office hours.
- 6.3.4 The procedure to be followed by the Council in designating a Heritage Precinct shall be as follows:
 - a) 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, by the serving of notice of the proposal on the owners and/or occupiers of land 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;
 - b) the Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to in paragraph (a) above;
 - c) the Council shall carry out such other consultations as it thinks fit;

- d) 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;
 - e) the Council shall forward notice of its decision to the Heritage Council of WA.
- 6.3.5 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 clause 6.3.4.

6.4 APPLICATIONS FOR DEVELOPMENT APPROVAL

- 6.4.1 In dealing with any matters which may affect a Heritage Precinct or individual entry on the Heritage List, including any application for development approval, the Council shall have regard to any heritage policy of the Council.
- 6.4.2 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, the National Trust of Australia (WA) and those of any other relevant bodies, and take those views into account when determining the application.
- 6.4.3 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.

6.5 FORMALITIES OF APPLICATION

- 6.5.1 In addition to the application formalities prescribed in clause 6.4 and any formalities or requirements associated with applications for planning consent contained in any other provision of the Scheme, the Council may require an applicant for planning consent, 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 two 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.

6.6 VARIATIONS TO SCHEME PROVISIONS

- 6.6.1 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 clause 7.2.3; and

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

6.6.2 In granting variations under sub-clause 6.6.1 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 7 - PLANNING CONSENT

7.1 APPLICATION FOR PLANNING CONSENT

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

7.2 ADVERTISING OF APPLICATIONS

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

7.2.2 Where an application is made for planning 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.

7.2.3 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.

7.2.4 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.

7.3 DETERMINATION OF APPLICATION

7.3.1 In determining an application for planning consent the Council may consult with any authority which, in the circumstances, it thinks appropriate.

7.3.2 The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is zoned or approved for the 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 such conditions as it thinks fit.

7.3.3 Where the Council approves an application for planning consent under the Scheme the Council may limit the time for which that consent remains valid.

7.4 DEEMED REFUSAL

7.4.1 Where the Council has not within sixty days of the 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 7.2 the application may be deemed to have been refused.

- 7.4.2 Where the Council has given notice of an application for planning consent in accordance with clause 7.2 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.
- 7.4.3 Notwithstanding that an application for planning consent may be deemed to have been refused under clauses 7.4.1 or 7.4.2 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, and that decision shall be regarded as being valid.

PART 8 - 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.
- e) the Council may require a proponent for planning consent to pay the costs of the advertising of the proposal under clause 7.2 of the Scheme.

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 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.

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.

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

8.4 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 gazettal date.

8.5 RIGHTS OF APPEAL

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

to the Act.

8.6 PLANNING POLICIES

- 8.6.1 In order to achieve the objectives of the Scheme, the Council may make Planning Policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the control of development.
- 8.6.2 A Planning Policy shall become operative only after the following procedures have been completed:
- a) the Council having prepared and having resolved to adopt a draft Planning 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 twenty-one days) representations may be made to the Council.
 - b) the Council shall review its draft Planning Policy in the light of any representations made and shall then decide to finally adopt the draft Policy with or without amendment, or to not proceed with the draft Policy.
 - c) following final adoption of a Planning Policy, details thereof shall be advertised publicly and a copy kept with the Scheme for inspection during normal office hours.
- 8.6.3 A Planning 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 Scheme Area.
- 8.6.4 A Planning Policy shall not bind the Council in respect of any application for planning consent but before making its decision the Council shall take into account the provisions of the Policy and the objectives which the Policy is designed to achieve.

8.7 DELEGATION

- 8.7.1 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 staff of the Council the authority to deal with an application for planning consent made under this Scheme.
- 8.7.2 Any delegation made under this clause 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.
- 8.7.3 A delegation of authority conferred by 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.
- 8.7.4 A resolution to revoke or amend a delegation under clause 8.7 may be passed by a simple majority.
- 8.7.5 The performance of the function by a delegate under clause 8.7.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

- 8.7.6 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.
- 8.7.7 The staff of the Council exercising the power delegated pursuant to the provisions of clause 8.7 shall comply with the provisions of the Scheme governing the exercise of the power by the Council, insofar as such provisions are reasonably applicable.

SCHEDULE 1 - INTERPRETATIONS

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

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

advertisement: means any word, letter, model, sign, placard, board, notice device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements; and Advertising Sign shall be construed accordingly but does not include:

- a) an advertising sign of less than 2m² in area relating to the carrying out of building or similar work on land on which it is displayed, not being land which is normally used for those purposes;
- b) an advertising sign of less than 2m² in area announcing a local event of a religious, educational, cultural, political, social or recreational character not promoted or carried on for commercial purposes;
- c) an advertising sign of less than 2m² in area relating to the prospective sale or letting of the land or building on which it is displayed;
- d) an advertising sign exhibited upon any land vested in or owned by the Minister for Railways which is directed only to persons upon or entering a railway station or platform or bus station; and
- e) directional signs, street signs and other like signs erected by a public authority.

aquaculture: means any fish farming operation for which a fish farm licence issued pursuant of 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 forming part of the Scheme outside which building development is not permitted.

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 (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.

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.

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

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

constructed road: means a track that has been graded and stabilised within a gazetted road reserve.

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

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.

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 Broomehill.

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 or institutional home.

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

gazettal date: means the date of which the Scheme is published in the Government Gazette.

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

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 occupation: means a business or activity carried out 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 house to which it is appurtenant.

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

industry: means premises used for the manufacture, dismantling, processing, assembly, treating, testing servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land use for – AMD 5 GG 15/06/12

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

Incidental to any of these industrial operations.

industry - cottage: means a industry which produces goods within a dwelling or the curtilage of a dwelling and 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) is conducted in an out-building which is compatible to the zone and its amenity and does not occupy an area in excess of 55m²;
- c) does not require the provisions of any essential service main of a greater capacity than normally required in the zone in which it is located;
- d) does not display a sign exceeding 0.2m² in area.

industry - extractive: means an industry which involves 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 when the manufacture is carried out on the land from which any of those materials is extracted or on land adjacent thereto.

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, 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 any 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, produced, or used 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.

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.

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.

non-conforming use: means any use of land which, though lawful immediately prior to the coming into operation of the scheme, is not in conformity with the scheme.

office: means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services, and services of a similar nature.

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 land and buildings used for the propagation, rearing, 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 - Third Edition, World Health Organisation - 1971".

poultry farm: means any land and 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.

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.

residential building: means a building or portion of a building, together with rooms and outbuildings separate from such building but ancillary thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation -

- temporarily by two or more persons; or
- permanently by seven or more persons, who do not comprise a single family;

but does not include a hospital or sanatorium, a prison, an hotel, a motel, or a residential school

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 the building 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 sheep, cattle, horses, goats or beasts of burden;
- c) the stabling, agistment or training of horses;
- d) the growing of crops or pasture for grazing or seed production;
- e) the sale of produce grown solely on the said land;

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

- i) the processing, treatment or packing of produce;
- ii) the breeding, rearing or boarding of domestic pets;
- iii) the breeding, rearing, or agistment of fauna including but not limited to emus, kangaroos, and ostriches.

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, 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.

tavern: means land and buildings the subject of a Tavern Licence 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 of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles.

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 - RURAL RESIDENTIAL ZONES

PARTICULARS OF LAND	REQUIREMENTS OF THE ZONE
<p>In the Broomehill Townsite Lots 525 to 549 inclusive bounded by Tie Line Road, Garrity Road, Darcy Street, and Nardlah Road</p>	<ol style="list-style-type: none"> 1 The plan of subdivision referred to in clause 5.12.1(a) of the Scheme shall be the existing cadastral plan for the townsite as shown in the Scheme Map. 2 The Council may recommend approval and the Commission may approve the amalgamation of lots, or the adjustment of boundaries between lots where the resultant lot(s) have a minimum area of 1.5 hectare. 3 All lots of less than 2 hectares shall be connected to a reticulated public water supply as a condition of subdivision.
<p>In the Broomehill townsite Lots 445 and 446 bounded by Green Street, Morgan Road, Nelson Street; and with the exception of Lots 370 and 371 (Reserves 1699 and 7797) all of the land in the Broomehill Suburban Area bounded by Broomehill-Kojonup Road, Morgan Road, Nelson Street, Gordon Street, Jones Road, Morgan Road, Boundy Road, and road number 1097.</p>	<ol style="list-style-type: none"> 1 The plan of subdivision referred to in clause 5.121(a) of the Scheme shall be the existing cadastral plan for the townsite and the suburban area as shown in the Scheme Map. 2 The Council may recommend approval and the Commission may approve the amalgamation of lots, or the adjustment of boundaries between lots where the result lot(s) have a minimum area of 2.0 hectares.
<p>Lots 17-23 Spencer Road and Gordon Street, Broomehill.</p>	<ol style="list-style-type: none"> 1 The plan of subdivision referred to in clause 5.12.1(a) of the Scheme shall be the existing cadastral plan for the townsite as shown in the Scheme Map, and no further subdivision shall be permitted.
<p>Lot 581 bounded by Javelin Street, Jetsam Street, unnamed road, and Janus Street, Broomehill</p>	<ol style="list-style-type: none"> 1 Subdivision is to be generally in accordance with a Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. The minimum lot size should be no less than 1.0 hectare. 2 Each lot shall be serviced with a reticulated water supply, electricity and telecommunications. The provision of these services shall be the responsibility of the subdivider.
<p>Lot 301 Tie Line Road <i>AMD 2 GG 19/8/08</i></p> <p><i>AMD 4 GG 23/2/10</i></p>	<ol style="list-style-type: none"> 1. Subdivision shall generally be in accordance with the Subdivision Guide Plan adopted by the local government and endorsed by the Chief Executive Officer. 2. Minimum lot size shall be 1.0 hectare. 3. Notwithstanding the provisions of Table 1, the uses which shall be permitted within the zone are as follows: <ul style="list-style-type: none"> Dwelling (P) Home Occupation (D) Horse Stable (D) Rural Pursuit (D) All other uses are not permitted.

SCHEDULE 3 - SPECIAL USE ZONES

No.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
SU 1.	Lots 150, 668, and 670 Indus Street, and portion of Iona Street Broomehill <i>AMD 1 GG 4/2/03</i>	Truck parking associated with the service station use on Lot 45 Indus Street	<ul style="list-style-type: none"> a. No indigenous trees or substantial vegetation are to be felled or removed unless with the Council's written approval and then only where the trees or substantial vegetation are dead, diseased, or dangerous or the establishment of a firebreak is required under a law or a local law. b. A vegetated buffer area not less than 10 metres wide is to be maintained along the common boundary with Lots 149, 669, and 671 India Street to the satisfaction of the Council, and this buffer area is not to be used for the parking of trucks. c. Council may require a drainage management plan as a Condition of planning approval to address stormwater runoff and management of any contaminant discharge to surface or groundwater.

ADOPTION

Adopted by Resolution of the Council of the Shire of Broomehill at the meeting of the Council held on the 17th day of November 1994.

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

- 1. Adopted by Resolution of the Council of the Shire of Broomehill at the meeting of the Council held on the 15th day of May 1997 and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of:

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

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

- 2. RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

.....
CHAIRPERSON of the WESTERN AUSTRALIAN PLANNING COMMISSION

Date

- 3. FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

Date 26/6/1997