

[GO TO CONTENTS PAGE](#)

SHIRE OF CUBALLING

Local Planning Scheme No. 2

Updated to include AMD 6 GG 24/10/2023



Department of Planning,
Lands and Heritage

Prepared by the
Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal
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SHIRE OF CUBALLING LPS NO. 2 - AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
1	04/05/07	05/05/07	HA	Rezoning only
2	18/09/09	18/09/09	HA	Rezoning Only
3	05/06/18	06/06/18	MLD	Rezoning Lot 46 Forrest Street, Popanyinning from 'Public Purpose' reserve to 'Rural Townsite' zone with a residential density code of R10. Amend Scheme Map accordingly.
4	22/01/19	07/01/19	GM	<p>Delete Parts 2, 7, 8, 9, 10 and 11 in their entirety and Schedules 6, 7, 8 and 9 in their entirety.</p> <p>Delete the following definitions from Schedule 1, Dictionary of Defined Words and Expressions: advertisement; amenity; cultural heritage significance; local government; Local Planning Strategy; owner; premises; region scheme; Residential Design Codes; substantially commenced; and zone.</p> <p>Replace the definitions from Schedule 1 Dictionary of Defined Words and Expressions: plot ratio and Planning Act.</p> <p>Delete the following definitions from Schedule 1 Land Use Definitions: abattoir; agroforestry; amusement parlour; animal husbandry-intensive; aquaculture; bed and breakfast; betting agency; child care premises; cinema/theatre; consulting rooms; corrective institution; family day centre; funeral parlour; home business; home occupation; home office; hospital; hotel; industry; industry - general; industry - extractive; industry - light; industry - mining; industry - rural; marine filling station; motor vehicle wash; night club; plantation; rural home business; shop; and telecommunications infrastructure.</p> <p>Add the following definitions to Schedule 1 Land Use Definitions: abattoir; ancillary dwelling; animal husbandry – intensive; bed and breakfast; child care premises; consulting rooms; family day care; grouped dwelling; holiday accommodation; holiday house; home business; home occupation; home office; hotel; industry; industry – extractive; industry – light; industry – primary production; mining operations; repurposed dwelling; road house; rural home business; second-hand dwelling; shop; single house; telecommunications infrastructure; transport depot; tree farm; and workforce accommodation.</p> <p>Delete reference to the following terms and replacing them with the corresponding terms throughout the Scheme text:</p> <ul style="list-style-type: none"> •planning approval to development approval •planning application to development application •single dwelling to single house •council to local government •outline development plan to structure plan •Town Planning Act to Planning Act •Town Planning Scheme to Local Planning Scheme <p>Delete the preamble.</p> <p>Insert a new Schedule A - Supplemental Provisions with preamble and provisions</p> <p>Amend the following clauses by removing the cross reference to the deemed provisions:</p> <ul style="list-style-type: none"> • Clause 3.4.1(b): Part 7 of the deemed provisions • Clause 3.4.2(a): clause 67 of the deemed provisions • Clause 4.3.2 'A': clause 64 of the deemed provisions • Clause 4.3.3 Note 3: clause 67 of the deemed provisions • Clause 4.4.2(b): clause 64 of the deemed provisions • Clause 4.8(c): clause 80 of the deemed provisions • Clause 4.9.2: clause 64 of the deemed provisions • Clause 5.4.2: clause 64 of the deemed provisions • Clause 5.6.2 (a): clause 64 of the deemed provisions • Clause 5.6.3: clause 67 of the deemed provisions • Clause 5.12.7: Part 7 of the deemed provisions <p>Amend clause 1.5(g) by replacing 'First Schedule to the Town' to 'Schedule 7 of the Planning Act'.</p> <p>Delete the 'Note' in Clauses 4.8 and 4.11.</p> <p>Remove the following Use Classes and associated permissibility levels from the Zone Table in Clause 4.3: Agroforestry; Amusement parlour; Aquaculture;</p>

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
				<p>Betting agency; Cinema/theatre; Corrective institution; Dwelling; Funeral parlour; Hospital; Industry - general; Industry - mining; Industry - rural; Marine filling station; Motor vehicle wash; Nightclub; and Plantation.</p> <p>Insert the following land use terms and permissibility into the Zoning Table: Ancillary dwelling; Grouped dwelling; Holiday accommodation; Holiday house; Industry; Industry - primary production; Mining operations; Motor vehicle repair; Re-purposed dwelling; Roadhouse; Second-hand dwelling; Single house; Transport depot; Tree farm; and Workforce accommodation.</p> <p>Amend the permissibility of the following land uses in the Zoning Table: Agriculture – intensive; Caretaker's dwelling; Childcare premises; Consulting rooms; Convenience store; Educational establishment; Family Day Care; Home office; Industry – light; Industry – service; Market; Place of worship; Rural pursuit; Showroom; Telecommunications; infrastructure; Veterinary centre; Warehouse; and Winery.</p> <p>Modify the Development Table – General.</p> <p>Modify the heading in sub-clause 5.10.1 through deleting 'Relocated Second hand buildings' and replacing with 'Repurposed dwelling and second-hand dwelling'.</p> <p>Delete 'transported' in sub-clause 5.10.1 and replacing it with 'repurposed dwelling or second-hand dwelling'.</p> <p>Renumber the remaining scheme provisions and schedules sequentially and update any cross referencing to the new clause numbers as required.</p> <p>Update the Table of Contents and the List of Schedules.</p> <p>Insert reference to the deemed provisions and supplemental provisions in Part 1.4 by inserting new sub-clauses (b) and (c) and renumbering subclause (b) accordingly.</p> <p>Insert reference to the model and deemed provisions in clause 1.7.1(b) by inserting new sub-clause (ii) and renumbering sub-clause (ii) accordingly.</p> <p>Delete current sub-clauses 5.7.1 - 5.7.3 and replace with new.</p>
5	12/1/2021	12/1/2021	MLD	<p>Rezoning Lot 7 Alton Street, Lot 9 Alton Street, Lot 8 Austral Street, Lot 91 Austral Street, Lot 92 Austral Street and Lot 90 Beeston Street from 'Rural Townsite R5' Zone to 'Rural Townsite R10' Zone and amending the Scheme Map accordingly.</p> <p>Rezoning a portion of Lot 56 Austral Street from the 'Local Road' Reserve to the 'Rural Townsite' Zone, allocating an R-Coding of 'R5' and amending the Scheme Map accordingly.</p> <p>Rezoning a portion of Lot 397 Beeston Street from the 'Local Road' Reserve to the 'Rural Townsite' Zone, allocating an R-Coding of 'R2.5' and amending the Scheme Map accordingly.</p>
6	24/10/2023	30/10/2023	HB	<p>Delete Parts 1 (other than clause 1.6), 2, 3 (other than for the Rural Townsite zone), 4, 5 and Schedules One, Two, Three, Five and Six from the Scheme text and replacing with Parts 1, 2, 3, 5 and 6 from Model Provisions for Local Planning Schemes set out in Schedule 1 of the Planning and Development (Local Planning Scheme) Regulations 2015 (Model Scheme Text).</p> <p>Modify Part 1, cl. 7 - Contents of the Scheme to reflect the most recent version of the Model Provisions</p> <p>Modify Part 4, cl. 25 - R-codes to reflect the most recent version of the Model Scheme text by inserting sub-clause 5</p> <p>Add land use terms and definitions into Part 6 - Terms Referred to in the Scheme (Part 6, Division 2, cl. 38) to reflect the most recent version of the Model Scheme text</p> <p>Delete the following land use terms and definitions in Part 6 - Terms Referred to in the Scheme (Part 6, Division 2, cl. 38) to reflect the most recent version of the Model Scheme text:</p> <p>Update land use definitions in Part 6 - Terms Referred to in the Scheme (Part 6, Division 2, cl. 38) to reflect the most recent version of the Model Scheme text</p> <p>Insert aims into the Scheme (Part 1, cl. 9)</p> <p>Delete non-model zone objectives for the Rural Townsite zone (Part 3, cl. 16, Table 2)</p> <p>Delete the Zoning Table and inserting a new Zoning Table (Part 3, cl. 17, Table 3) that contains new land uses, with modified permissibility</p>

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
				<p>Modify cl.32 to reflect the most up-to-date version of the Model Scheme Text</p> <p>Insert clauses into Part 4 – General development and requirements under cl.32, modifying the clauses as required, and numbering the clauses accordingly.</p> <p>Modify Part 4, cl.34 by inserting the clause and sub-clauses to reflect the most up-to-date version of the Model Scheme Text.</p> <p>Modify references to 'General Agriculture' zone throughout the Scheme to 'Rural' zone.</p> <p>Insert the contents of Schedule Four – Special Use Zones into clause 21 and delete the reference to 'dwelling' and insert 'single house' within the table.</p> <p>Delete Schedule A – Supplementary Provisions and replace it.</p> <p>Insert Schedule 1 – Exempted signage and advertisements and modify as required.</p> <p>Modify the scheme maps by changing references to 'General 'Agriculture' zone to 'Rural' zone and changing reserve names to align with Schedule 3 – Legends used in Scheme from the <i>Planning and Development {Local Planning scheme} Regulations 2015</i>.</p> <p>Any modifications necessary to correct administrative and typographic matters, including renumbering and cross-referencing of provisions, tables and indexes.</p>

Scheme Details

The Shire of Cuballing

Local Planning Scheme No. 2.

The Shire of Cuballing under the powers conferred by the *Town Planning and Development Act 1928* makes the following Local Planning Scheme.

TABLE OF CONTENTS

PART 1 - PRELIMINARY	8
1.1 Citation	Error! Bookmark not defined.
1.2 Responsible Authority	Error! Bookmark not defined.
1.3 Scheme Area	Error! Bookmark not defined.
1.4 Contents of Scheme.....	Error! Bookmark not defined.
1.5 Purposes of Scheme.....	Error! Bookmark not defined.
1.6 The aims of the Scheme	Error! Bookmark not defined.
1.7 Definitions	Error! Bookmark not defined.
1.8 Relationship with Local Laws.....	Error! Bookmark not defined.
1.9 Relationship with other Schemes.....	Error! Bookmark not defined.
PART 2 – RESERVES.....	11
2.1 Reserves	Error! Bookmark not defined.
2.2 Regional Reserves.....	Error! Bookmark not defined.
2.3 Local Reserves	Error! Bookmark not defined.
2.4 Use and Development of Local Reserves.....	Error! Bookmark not defined.
PART 3 – ZONES AND THE USE OF LAND	13
3.1 Zones	Error! Bookmark not defined.
3.2 Objectives of the Zones	Error! Bookmark not defined.
3.3 Zoning Table	Error! Bookmark not defined.
3.4 Zoning Table	Error! Bookmark not defined.
3.4 Interpretation of the Zoning Table.....	Error! Bookmark not defined.
3.5 Additional Uses	Error! Bookmark not defined.
3.6 Restricted Uses.....	Error! Bookmark not defined.
3.7 Special Use Zones	Error! Bookmark not defined.
3.8 Non-conforming Uses	Error! Bookmark not defined.
3.9 Extensions and Changes to a Non-conforming use	Error! Bookmark not defined.
3.10 Discontinuance of Non-conforming use	Error! Bookmark not defined.
3.11 Termination of a Non-conforming Use	Error! Bookmark not defined.
3.12 Destruction of Non-conforming Use Buildings	Error! Bookmark not defined.
PART 4 – GENERAL DEVELOPMENT REQUIREMENTS	20
4.1 Compliance with Development Standards and Requirements ..	Error! Bookmark not defined.
4.2 Residential Design Codes.....	Error! Bookmark not defined.
4.3 Special Application of Residential Design Codes	Error! Bookmark not defined.
4.4 Restrictive Covenants	Error! Bookmark not defined.
4.5 Development Standards and Requirements.....	Error! Bookmark not defined.
4.6 Variations to Site and Development Standards and Requirements.....	Error! Bookmark not defined.
4.6 Development Table - General.....	Error! Bookmark not defined.
4.7 Environmental Conditions	19
4.8 Development of Land without Constructed/Dedicated Road Frontage or Access	19
4.9 Categories of Development or Development in Areas Affected by Local Planning Policies ...	19
4.10 Amenity Provisions.....	19
4.11 Development in the Rural Zone	Error! Bookmark not defined. 0
4.12 Development in the Rural Residential Zone	Error! Bookmark not defined. 1
PART 5 – SPECIAL CONTROL AREAS	332
5.1 Operation of Special Control Area	Error! Bookmark not defined. 2

SCHEDULES	343
Schedule A - Supplemental provisions	484
Schedule One - Dictionary of defined words and expressions	507
1. General definitions	Error! Bookmark not defined.
2. Land use definitions	29
Schedule Two - Additional Uses	Error! Bookmark not defined. 6
Schedule Three - Restricted Uses	Error! Bookmark not defined. 7
Schedule Four - Special Use Zones	Error! Bookmark not defined. 8
Schedule Five - Exempted Advertisements	39
Schedule six - Environmental Conditions	Error! Bookmark not defined. 0
ADOPTION.....	511

PART 1 – PRELIMINARY

AMD 6 GG 24/10/23

1. Citation

This local planning scheme is the Shire of Cuballing Scheme No 2.

2. Commencement

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

3. Scheme revoked

The following local planning scheme is revoked -

Shire of Cuballing Local Planning Scheme No. 1 gazetted on 18 February 1994.

4. Notes do not form part of Scheme

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

5. Responsibility for Scheme

The Shire of Cuballing is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

6. Scheme area

This Scheme applies to the area shown on the Scheme Map.

7. Contents of Scheme

(1) In addition to the provisions set out in this document (the ***scheme text***), this Scheme includes the following -

- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 (amended))
- (b) the supplemental provisions to the deemed provisions contained in Schedule A;
- (c) the Scheme Maps.

8. Purposes of Scheme

The purposes of this Scheme are to -

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and

- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are -

- a) to encourage the sustainable development and expansion of the Cuballing and Popanyinning townsites to improve service viability while conserving or enhancing a strong sense of community;
- b) to ensure that future subdivision and development within and near the Cuballing and Popanyinning townsites provide a broad range of housing and lifestyle choices that enhance the environment and character of the townsites;
- c) to provide opportunities for planned, contained and sustainable rural residential and rural smallholdings development with access to services and infrastructure within and abutting the existing town sites;
- d) to assist employment and economic growth by facilitating the timely provision of suitable land for commercial, industrial and tourist development, as well as providing opportunities for home-based employment;
- e) to encourage economic growth in rural areas by facilitating the more intensive and diversified use of rural land in appropriate areas for high value products which are compatible with surrounding farm practices and encouraging processing and value adding industries to be located within the Shire;
- f) to protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes;
- g) to promote the sustainable management of natural resources including energy, water, land, minerals and basic raw materials by preventing land degradation and integrating land and catchment management with land use;
- h) to protect the natural environment and biodiversity whilst ensuring appropriate development opportunities within the Shire are realised;
- i) to manage the use and development of land by means of zoning and development controls to achieve compatibility between land uses, and the preservation, and where possible the enhancement of visual amenity or urban and rural uses;

- j) to safeguard and ensure the character and amenity of the built and natural environment of the Scheme Area; and
- k) to protect the existing local heritage by encouraging compatible development which will aid the restoration and retention of the property.

10 Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

11 Relationship with other local planning schemes

There are no other local planning schemes of the Shire of Cuballing which apply to the Scheme Area.

12 Relationship with region planning scheme

There are no region planning schemes which apply to the Scheme area.

PART 2 – RESERVES

AMD 6 GG 24/10/23

13 Regional Reserves

There are no regional reserves in the Scheme area.

14 Local reserves

(1) In this clause -

Department of Main Roads means the department principally assisting in the administration of the *Main Roads Act 1930*;

Western Australian Road Hierarchy means the document of that name available on the website maintained by the Department of Main Roads.

(2) Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(3) The objectives of each local reserve are as follows -

Table 1 Reserve objectives

Reserve name	Objectives
Public Open Space	<ul style="list-style-type: none"> • To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> 152. • To provide for a range of active and passive recreation users such as recreation buildings and courts and associated car parking and drainage.
Environmental conservation	<ul style="list-style-type: none"> • To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. • To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves
State Forest	<ul style="list-style-type: none"> • To identify areas of State Forest.
Civic and community	<ul style="list-style-type: none"> • To provide for a range of community facilities which are compatible with surrounding development. • To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organizations involved in activities for community benefit.
Public Purposes	<ul style="list-style-type: none"> • To provide for a range of essential physical and community infrastructure.
Infrastructure Services	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of essential infrastructure services.

Emergency Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential emergency services
Government Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of government services
Recreational	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of public recreational facilities
Cemetery	<ul style="list-style-type: none"> To set aside land required for a cemetery
Drainage/Waterway	<ul style="list-style-type: none"> To set aside land required for significant waterways and drainage.
Railways	<ul style="list-style-type: none"> To set aside land required for passenger rail and rail freight services
Primary Distributor Road	<ul style="list-style-type: none"> To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.
Local Distributor Road	<ul style="list-style-type: none"> To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.
Local Road	<ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.
Special Purpose Reserve	<ul style="list-style-type: none"> To set aside land for a special purpose. Purposes that do not comfortably fit in any other reserve classification.

15 Additional uses for local reserves

There are no additional uses for land in local reserves that apply to this Scheme.

PART 3 - ZONES AND USE OF LAND

AMD 6 GG 24/10/23

16 Zones

- (1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) The objectives of each zone are as follows -

Table 2 - Zone objectives

Zone name	Objectives
Rural Townsite	<ul style="list-style-type: none">• To provide for a range of land uses that would typically be found in a small country town.
Rural Residential	<ul style="list-style-type: none">• To provide for lot sizes in the range of 1 ha to 4ha.• To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.
Rural	<ul style="list-style-type: none">• To provide for the maintenance or enhancement of specific local rural character.• To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.• To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.• To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.• To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

17 Zoning table

The zoning table for this Scheme is as follows -

Table 3 - Zoning Table

LAND USE	Rural Townsite	Rural Residential	Rural
Abattoir	X	X	A
Agriculture-extensive	X	X	P
Agriculture-intensive	X	A	D
Ancillary dwelling	P	D	D
Animal establishment	X	A	D
Animal husbandry - intensive	X	X	A
Art gallery	D	A	D
Bed and breakfast	A	A	D
Betting agency	A	X	X
Brewery	A	A	A
Bulky goods showroom	D	X	X
Caravan park	A	A	X
Caretakers dwelling	D	X	D
Car park	A	A	X
Child care premises	D	A	X
Cinema/theatre	D	X	X
Civic use	D	D	D
Club premises	D	D	D
Commercial vehicle parking	D	D	P
Community purpose	D	D	D
Consulting rooms	A	A	X
Convenience store	A	X	X
Corrective institution	X	X	A
Educational establishment	A	A	A
Exhibition centre	D	D	D
Family day care	A	A	D
Fast food outlet	D	X	X
Fuel depot	D	X	D
Funeral parlour	A	X	X
Garden centre	A	A	D
Grouped dwelling	D	X	D
Holiday accommodation	A	A	A
Holiday house	A	A	A
Home business	A	A	P
Home occupation	P	P	P
Home office	P	P	P
Home store	A	X	X
Hospital	A	X	X
Hotel	A	X	X
Independent living complex	D	X	X
Industry	A	X	A
Industry - extractive	X	X	A
Industry - light	D	X	A

LAND USE	Rural Townsite	Rural Residential	Rural
Industry - rural	X	X	D
Liquor store - small	D	X	X
Lunch bar	D	X	X
Market	D	X	D
Medical centre	A	X	X
Mining operations	D	D	D
Motel	A	X	X
Motor vehicle, boat or caravan sales	D	X	X
Motor vehicle repair	A	A	D
Motor vehicle wash	A	X	X
Nature based park	X	X	D
Office	D	X	X
Park home park	A	X	A
Place of worship	A	A	A
Reception centre	A	A	A
Recreation - private	D	D	D
Renewable energy facility	X	X	A
Repurposed dwelling	D	D	D
Residential building	D	D	D
Residential aged care facility	A	X	X
Resource recovery centre	A	X	D
Restaurant/cafe	D	A	A
Restricted premises	A	X	X
Road house	A	X	A
Rural home business/industry cottage	D	D	D
Rural pursuit/hobby farm	D	P	P
Second hand dwelling	D	D	D
Service station	A	X	X
Shop	D	X	X
Single house	P	P	P
Small bar	D	X	X
Tavern	A	X	X
Telecommunications infrastructure	D	D	D
Tourist development	A	X	A
Trade display	D	X	D
Trade supplies	A	X	A
Transport depot	X	X	A
Tree farm	X	X	A
Veterinary centre	A	A	A
Warehouse/storage	A	X	D
Waste disposal facility	X	X	A
Waste storage facility	A	X	D

LAND USE	Rural Townsite	Rural Residential	Rural
Winery	A	A	A
Workforce accommodation	A	X	A

18 Interpreting zoning table

(1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

(2) The symbols used in the zoning table have the following meanings -

P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;

X means that the use is not permitted by this Scheme.

Notes for this clause

1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.
2. Under clause 61 of the deemed provisions and Schedule A, certain works and uses are exempt from the requirement for development approval.
3. Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the local government. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.

(3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.

(4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table -

(a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or

(b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or

- (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land -
 - (a) a structure plan;
 - (b) a local development plan;

19 Additional uses

There are no additional uses for zoned land that apply to this Scheme.

20 Restricted uses

There are no restricted uses which apply to this Scheme

21 Special use zones

- (1) The Table 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 that are permissible in that zone; and
 - (c) the conditions that apply in respect of the special uses.

Table 4 - Special use zones in Scheme area

No.	Description of land	Special use	Conditions
SU 1	Pt Lot 244 Ridley Street Cuballing	Single house Home business Home occupation Home office Home store	<ul style="list-style-type: none"> • All use and development shall be in accordance plans, and conditions approved by the local government. • No alterations or extensions to the land use shall be undertaken without the approval of the local government

- (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 for this clause

- (1) Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

22 Non-conforming uses

- (1) Unless specifically provided, this Scheme does not prevent -
 - (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
 - (b) the carrying out of development on land if -
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if -
 - (a) the non-conforming use of the land is discontinued; and
 - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if under Part 11 of the Act, the local government -
 - (a) purchases the land; or
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.

23 Changes to non-conforming use

- (1) A person must not, without development approval-
 - (a) alter or extend a non-conforming use of land; or
 - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
 - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use -
 - (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and

(b) is closer to the intended purpose of the zone in which the land is situated.

24 Register of non-conforming uses

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following -
 - (a) a description of each area of land that is being used for a non-conforming use;
 - (b) a description of any building on the land;
 - (c) a description of the non-conforming use;
 - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government -
 - (a) must ensure that the register is kept up-to-date; and
 - (b) must ensure that an up-to-date copy of the register is published in accordance with clause 87 of the deemed provisions.
- (3A) Subclause (3)(b) is an ongoing publishing requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

PART 4 - GENERAL DEVELOPMENT REQUIREMENTS

AMD 6 GG 24/10/23

25 R-Codes

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government must ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.
- (2A) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if -
 - (a) the area has a coding number superimposed on it in accordance with subclause (3); or
 - (b) a provision of this Scheme provides that the R-Codes apply to the area.
- (5) The R-Codes can be applied in full or in part, in a provision of the Scheme.

26 Modification of R-Codes

There are no modifications to the R-Codes

27 State Planning Policy 3.6 to be read as part of Scheme

- (1) State Planning Policy 3.6 - Development Contributions for Infrastructure, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The local government must ensure that State Planning Policy 3.6 is published in accordance with clause 87 of the deemed provisions.
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

28 Modification of State Planning Policy 3.6

There are no modifications to State Planning Policy 3.6

29 Other State planning policies to be read as part of Scheme

There are no other State planning policies that are to be read as part of the Scheme.

30 Modification of State planning policies

There are no modifications to a State planning policy that, under clause 29 is to be read as part of the Scheme

31 Environmental conditions

There are no environmental conditions imposed under the Environmental Protection Act 1986 that apply to this Scheme.

32. General development standards and requirements

To the extent that a requirement referred to in sub clauses 32.1 to 32.20 is inconsistent with a requirement in the R-Codes, a precinct structure, local development plan or a State or local planning policy the requirement referred to in clauses 32.1 to 32.20 prevails.

32.1 Car parking and vehicle access requirements

- (1) Car parking shall be provided, in accordance with Table 5 and in accordance with the standards and requirements, including parking space layouts and dimensions, as set out in the relevant Australian Standard.
- (2) The local government may require the provision of spaces for cycle racks and vehicles for the disabled as considered necessary.
- (3) Where land is to be developed or used for purposes not mentioned in Table 5, or where a standard or requirement is not specified in the Scheme, the local government shall determine in each case the number of spaces to be provided on the land having due regard to the -
 - (a) nature of the proposed development;
 - (b) number of employees or others likely to be employed or engaged in the use of the land;
 - (c) anticipated demand for visitor parking; and
 - (d) orderly, proper and sustainable planning of the area.
- (4) Car parking requirements shall be provided on the site the subject of the proposed development or land use, or in the immediate vicinity thereof provided that arrangements for the permanent retention of that parking can be set in place to the satisfaction of the local government.
- (5) The size of car parking spaces and the vehicular driveways providing entry to, or exit from, a parking area shall meet the minimum requirements set out in Table 6.
- (6) Where an applicant can demonstrate to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in Table 5, or that other off-street parking facilities are available and that these facilities can be shared with a nearby land use, the local government may vary parking requirements specified in Table 5.
- (7) All parking, loading and access areas shall be constructed prior to occupation of the development or at such time as may be agreed in writing between the local government and the proponent. Such areas shall be maintained by the landowner to the satisfaction of the local government.

- (8) Where the local government is satisfied that an application for development approval cannot provide the minimum car parking requirements on site, the local government may accept a cash payment in lieu of the provision of car parking spaces, subject to requirements specified by a local planning policy.

Table 5: Car parking requirements

Use	Minimum number of parking spaces to be provided
Bed and breakfast	1 per bedroom
Caravan park	1.25 per unit, bay or tent site
Civic use	1 per 40m ² Gross Floor Area (GFA)
Club premises	1 per 50m ² GFA, or where licensed: 1 per 5m ² and other activity area
Consulting rooms/Medical centre	4 per practitioner for the first practitioner and 2 bays for each practitioner thereafter
Family day care	1 per staff member + 2 extra spaces for the picking up and setting down of persons
Fast food outlet	1 per 4 seated patrons
Lunch bar	1 per 4 seated patrons
Recreation - private	1 per 40m ² GFA
Hotel	1 per 5m ² public area + 1 per bedroom
Industry	1 per 100m ² GFA
Light industry	1 per 50m ² GFA
Liquor store - small	1 per 40m ² GFA
Motel	1 per unit + 1 per 25m ² service area
Office	1 per 40m ² GFA
Cinema/theatre	1 per 4 seats provided
Place of worship	1 per 4 seats provided
Residential	As per the Residential Design Codes
Restaurant/cafe	1 per 4 patrons
Service station	1 per 200m ² gross site area
Shop	1 per 40m ² GFA
Bulky goods showroom	1 per 50m ² GFA
Tourist development	1 per unit or dwelling + 1 space per staff member
Tavern	1 per 5m ² public area
Veterinary centre	4 per practitioner
Warehouse/storage	1 per 100m ² GFA
Other Uses Not Listed	Determined by the local government after consideration of the parking need generated by the use and/or outlined in a Local Planning Policy

Table 6 - Parking dimensions

Parking angle	Width of bay (m)	Length of bay (m)	Depth of bay (m)	Minimum maneuvering depth (m)	Minimum total depth (m)
(a) One-way access					
90"	2.6	5.5	5.0	5.9	11.4
75"	2.6	5.5	6.0	5.3	11.3
60"	2.6	5.5	6.1	5.0	11.1
45"	2.6	5.5	6.1	3.6	9.7
30"	2.6	5.5	4.8	3.3	8.1
00" (parallel parking)	3.0	6.7	3.0	3.0	6.0
(b) Two-way access					
90'	2.6	5.5	5.5	6.0	11.5
75'	2.6	5.5	6.0	6.0	12.0
60'	2.6	5.5	6.1	6.0	12.1
45'	2.6	5.5	6.1	6.0	12.1
30'	2.6	5.5	4.4	6.0	10.4
00" (parallel parking)	3.0	6.7	3.0	6.0	9.0

32.2 Commercial vehicle parking

For lots containing and/or adjacent a dwelling in the Rural Townsite zone and within the Rural Residential zone, commercial vehicles shall comply with the following -

- (a) the commercial vehicle is located on freehold land;
- (b) the vehicle forms an essential part of the lawful occupation of the occupant of the single house or grouped dwelling and that occupation, if carried on upon the site, does not contravene the provisions of this Scheme;
- (c) the vehicle is not brought or taken from the lot between the hours of midnight and 6:00am; and
- (d) the vehicle is not carrying any residue hazardous or noxious material.

32.3 Development of land without constructed/dedicated road frontage or access

- (1) In considering a development application for any development on land abutting an un-constructed road or a lot or location which does not have frontage to a constructed road/dedicated road, the local government may -

- (a) place conditions to require access by means of a dedicated or constructed road or require road construction;
 - (b) where dedicated road access is available, grant development approval subject to a condition requiring the applicant to pay a sum of money in or towards the cost of constructing the road or part thereof and any other condition it considers appropriate; or
 - (c) require other legal arrangements are made for permanent legal access, to the satisfaction of the local government.
- (2) The responsible authority shall be satisfied arrangements for vehicle access are acceptable including the location of access points and construction, with regard to the impact of the proposed land use and expected traffic volume and composition on traffic flow and safety, the character and function of the road, the volume and the width of the carriageway and visibility; and the ultimate volume and type of traffic generated by the development.

32.4 Signage and advertisements

- (1) Advertisements that advertise goods or services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, but excluding political signage during elections, are prohibited.
- (2) Despite subclause (1), the local government will consider applications for development approval for advertisements on 'third party land' for a temporary period. The local government will have regard to the relevant Local Planning Policy.

32.5 Landscaping

- (1) Where landscaping is required under this scheme or pursuant to a development application, it shall be:
- (a) provided in a location and standard to the satisfaction of the local government; and
 - (b) carried out at the time of the development or at such other time as may be agreed in writing between the proponent and the local government and shall thereafter be maintained to the satisfaction of the local government.
- (2) Landscaping requirements may, at the discretion of the local government, include areas of natural bushland, and areas under covered ways and access driveways between a street alignment and any buildings, however garbage collection and handling spaces, other open storage areas and other driveways and parking areas shall not be included.
- (3) In areas that local government considers to be deficient in tree cover, local government may require as a condition of any development approval, the planting of such trees and/or groups of trees and species as specified by the local government which may include native vegetation re-establishment and/or drainage measures were considered by the relevant public agency or local government.

32.6 General appearance of buildings and amenity

The local government may place conditions on any development approval granted to ensure development will not have an adverse impact on the character of the area of the locality which may address matters including -

- (a) design and appearance of the development including screening of areas used for servicing, storage and waste management;
- (b) the colour or type of materials to be used on exposed surfaces;
- (c) the height, bulk and massing of any building;
- (d) managing and controlling impacts of development;
- (e) the condition of a repurposed dwelling or second-hand dwelling so that it does not adversely affect the amenity of the location.
- (f) modification/restoration of existing buildings will take place in a manner which is compatible with the existing streetscape.

32.7 Ancillary dwellings

An ancillary dwelling on land which the R-Codes do not apply must:

- (a) be no greater than 100m²;
- (b) be co-located with the single house;
- (c) allow for the continued use of the lot for rural purposes on a rural lot; and
- (d) be constructed to a standard that ensures the visual amenity of the area is not adversely impacted.

32.8 Caretaker's dwellings

Caretaker's dwellings shall be -

- (a) limited to one (1) dwelling per lot;
- (b) a maximum plot ratio area of 100m²; and
- (c) incidental to the predominant use of the site.

32.9 Workforce accommodation

Applications for development approval for workforce accommodation shall address the following to the satisfaction of the local government -

- (a) the demonstrated need for workers accommodation necessary for the continued operation of an industry;
- (b) the suitability of the site to be developed for the proposed use;
- (c) the suitable siting of the land use in the context of surrounding existing and proposed land uses to avoid landscape impacts and land use conflicts;

- (d) all services to the dwellings from the lot boundary (including access and egress by vehicles and pedestrians) are to be shared, where applicable;
- (e) be located to minimise any amenity impacts from noise, dust, odour and light spill from the predominant land use;
- (f) maintain the amenity of the locality;
- (g) comply with the development standards of this Scheme or any R-code standards applicable; and
- (h) appropriate facility design and use including provision and/or access to recreation, entertainment and community services.

32.10 Dwellings without reticulated mains water supply

- (1) Where any dwelling is proposed to be constructed on a lot which cannot be connected to a reticulated mains water supply, that dwelling shall be provided with sufficient roof catchment or other methods acceptable to the local government and the provision of a rain water tank with a minimum capacity of 135,000 litres prior to occupation unless alternative arrangements are made to the satisfaction of the local government for a supply of potable water.
- (2) Where additional water supplies are required for fire-fighting purposes, the capacity of the rainwater tank shall be a minimum of 10,000 litres in addition to the minimum tank size specified in clause 32.10.1 along with sufficient roof catchment or other methods of water capture acceptable to the local government.

32.11 Servicing

Development is to be serviced with power, water supply and wastewater and effluent disposal to a level commensurate with the intended land use, with arrangements in place to the satisfaction of the responsible authority and relevant agencies.

32.12 Waterway resource management and protection

- (1) In considering a development application which may have an impact on any water resources including waterways such as rivers, creeks, drainage lines, swamps and other wetlands, the local government shall have regard to -
 - (a) managing water balance;
 - (b) maintaining and where possible enhancing water quality;
 - (c) encouraging water conservation;
 - (d) maintaining and where possible enhancing water related environmental values, recreational and cultural values; and
 - (e) advice from relevant government agencies.
- (2) The local government may require proponents to -
 - (a) prepare a foreshore management plan, drainage strategy or other document to manage impacts of proposed development and subdivision and will require the proponent, or other agreed party, to appropriately

implement the plan or strategy to the satisfaction of the local government;

- (b) undertake appropriate pre-development and post development monitoring and undertake measures deemed appropriate by the local government to address water management and protection issues.

32.13 Development adjoining a main road or railway

Development of noise-sensitive land uses adjoining a main road or railway may require assessment against State Planning Policy 5.4 - Road and Rail Noise to determine the likely impact of transport noise, and any required noise mitigation measures required.

32.14 Mining operations

In considering proposals to commercial extract minerals the local government may exercise its discretion to inform the Minister responsible for the *Mining Act 1978* and the Minister for Planning in writing that the granting of a mining lease or general-purpose lease is contrary to the provisions of this Scheme and/or the Local Planning Strategy.

32.15 Regional facilities

Where there are proposals including scheme amendment or development applications for a regional facility such as waste facilities and resource recovery facilities, the following shall be demonstrated

- (a) facilities shall be located on a main road or on a road that is of a suitable standard and treatment, to accommodate significant increase in traffic volumes and freight tasks which may be generated by the proposal;
- (b) facilities shall contain or satisfactorily manage potential environmental (including water resources), noise, amenity and air quality impacts on the landholding without affecting nearby rural land uses;
- (c) facilities shall not be visually dominant within key viewsheds, and should be visually compatible with surrounding land uses and development; and
- (d) facilities shall be provided with essential services commensurate with the intended land use.

32.16 Rural Pursuit/hobby farms

- (1) Rural pursuit/hobby farm development shall comply with the following:
 - (a) The keeping or stabling of horses, or animal of similar Dry Sheep Equivalent (DSE), will generally be limited to 1 animal per hectare of paddock area unless otherwise approved by the local government.
 - (b) The keeping or agistment of livestock shall be limited to a DSE per lot in accordance with the Department of Primary Industry and Regional Development Stocking Rate Guidelines for Rural Small Holdings. The type and number of any livestock shall comply with the recommendation of DPIRD depending on soil type and landform gradient.
 - (c) The local government may require measures to be undertaken to avoid erosion, including the maintenance of ground cover.

- (d) Any proposal is expected to contain impacts within the lot boundary.

32.17 Development in the Rural Townsite zone

- (1) Residential development in the zone is to occur in accordance with the Residential Design Codes
- (2) non-residential development within the zone shall be determined in the context of each proposed and site conditions, but shall generally accord with the following principles:
 - (a) the form and scale of the development is to be compatible with surrounding land uses;
 - (b) the impacts of the development are to be contained on site and/or suitably managed off-site;
 - (c) impacts from commercial and industrial uses will be avoided by ensuring these are adequately separated from sensitive uses;
 - (d) adequate provision is to be made for parking for staff and visitors, with separation between staff/visitor parking and service/haulage vehicles;
 - (e) the impact of the development on the road network and traffic management is to be consistent with the road function and hierarchy;
 - (f) visual impacts to be minimised by the use of vegetation screening, tree retention and building orientation;
 - (g) use of 'on building' signage where the building addresses the street, and where 'freestanding' signage is necessary it should either be affixed to a front fence, or located adjacent to it at a height that is compatible with the setting.
- (3) Non-residential development in the Rural Townsite zone shall meet the following site requirements

Maximum Plot Ratio	Minimum Setback (m)			Minimum Landscaping % of site
	Front	Side	Rear	
0.5	15	5	7.5	10%

32.18 Development in the Rural Residential Zone

- (1) The local government may require a Structure Plan to be prepared by the proponent and approved in the Rural Residential Zone prior to subdivision being approved where detailed planning is required to ensure coordinated development and address matters such as access, servicing, land use, environmental impact and bushfire risk.
- (2) All development in the Rural Residential zone must be located within any building envelope or outside of any building exclusion area approved (as may be shown on an approved Structure Plan, Local Development Plan or approved building envelope plan), except for -

- (a) provision of a suitable access way to the building envelope;
 - (b) rainwater tanks;
 - (c) provision of suitable boundary fencing; and
 - (d) implementation of an approved bushfire management plan or any other general bushfire requirements.
- (3) The local government may grant development approval for variation to subclause 2 under clause 32 where -
- (a) the objectives of the zone are not compromised;
 - (b) the visual amenity and rural character of the locality;
 - (c) development within the proposed new building envelope will not increase bushfire risk; and
 - (d) the proposed size and location of the envelope can accommodate future development, including on-site sewerage disposal systems and water supply tanks, and not have a detrimental effect on the environment.
- (4) Building envelopes and building exclusion areas in the Rural Residential Zone, shall be defined for maximum flexibility for building location, but subject to -
- (a) avoidance of impacts to significant landscape and environmental elements;
 - (b) avoidance of impacts to areas where ground or soil conditions may prejudice the structural integrity of buildings or result in potential for pollution, erosion or flooding;
 - (c) building setback requirements of the Scheme unless appropriately justified by the proponent to the satisfaction of the local government; and
 - (d) where possible, positioning any building envelope to maximise the separation distance to adjoining agricultural land and to address bushfire risk.
- (5) Unless otherwise specified by an approved structure plan, local development plan or approved building envelope plan, the building setbacks from lot boundaries in the Rural Residential Zone shall be a minimum of -
- (a) 15 metres from primary street boundaries; and
 - (b) 10 metres from other boundaries.
- (6) A reduction of the setbacks requirements may be permitted in the Rural Residential Zone where, in the opinion of the local government, the topography, soil conditions, location or shape of the lot are such as to make adherence to the setback impractical, and the proposal otherwise meets the requirements of the Scheme.

- (7) Boundary fencing within the Rural Residential zone shall be post and minimum four strand wire, 1.0 to 1.3 metres high, or post and ring lock or similar approved by the local government. Solid fencing such as super six or pickets shall not be permitted on boundaries and shall only be permitted in proximity to buildings where the local government determines that it will not adversely affect the amenity of the area.
- (8) In the Rural Residential zone in order to conserve the rural environment of features of natural beauty all native trees shall be retained unless their removal is authorised by local government and relevant public agencies and is associated with approved works, vehicle access or required bushfire mitigation measures or the trees are dead, diseased or dangerous.

32.19 Subdivision and development in the Rural Zone

- (1) Subdivision in the Rural zone shall be consistent with the State Planning Policy 2.5 - Rural Planning and Development Control Policy 3.4 - Subdivision of Rural Land, with the exception of homestead lots which shall not be supported in the zone unless they occur in the context of a boundary realignment.
- (2) Any homestead lot created via a boundary realignment is to be consistent with cl. 6.6 of DC3.4
- (3) Development in the Rural zone shall conform to the following setback requirements -
 - (a) 30 metres from road boundaries;
 - (b) 20 metres from other boundaries; and
 - (c) 50 metres from a boundary with State Forest, or reserved land managed for conservation purposes.
- (4) A reduction of the setbacks requirements may be permitted in the Rural zone where, in the opinion of the local government, the topography, soil conditions, location or shape of the lot are such as to make adherence to the setback impractical, and the proposal otherwise meets the requirements of the Scheme.
- (5) The local government may grant development approval of up to two dwellings regardless of the dwelling type (e.g. grouped dwellings, caretakers dwellings, repurposed dwellings, second-hand dwelling or combinations thereof) on any lot in the Rural zone, where the land is managed for agricultural production, tourism, or education purposes and where the occupants are employed in those specified predominant land uses or activities. This clause does not apply to ancillary dwellings which can be approved in addition to the two dwellings.
- (6) Notwithstanding sub-clause (3), the local government may consider, if appropriately justified by the applicant, a third dwelling (regardless of the dwelling type) on a lot in the Rural Zone where one of the existing dwellings forms part of a heritage protected place and where there is a suitable agreement, to the satisfaction of the local government (in consultation if appropriate with the Heritage Council), to conserve and appropriately maintain the heritage significance of the dwelling.
- (7) When considering an application for more than one dwelling in accordance with sub clause 3 and 4 and regardless of the dwelling type in the Rural zone, the local government will have regard to -

- (a) the size of the subject land and its capacity to operate as a farm where used for agricultural production;
 - (b) bushfire risks;
 - (c) compatibility with adjoining and nearby uses; (d) the additional dwelling(s) will not adversely detract from the rural character and amenity of the area or conflict with primary production on the subject lot or adjoining land;
 - (d) the landscape values of the area and any impact of the proposal upon these values;
 - (e) access to the existing road network is to be provided for any additional dwelling(s) and shared with any existing dwelling(s) where practicable; and
 - (f) the existence of more than one (1) dwelling on a lot in the Rural zone shall not be considered by itself to be sufficient grounds for subdivision.
- (8) The above provisions do not preclude the local government from considering proposals for workforce accommodation in the Rural zone
- (9) Applications for agriculture-intensive and animal husbandry-intensive shall, in addition to other Scheme requirements, demonstrate the following -
- (a) evidence of suitable land management addressing retention of remnant vegetation, revegetation, land degradation and salinity management; and/or
 - (b) evidence that the proposed activity is compatible with off-site sensitive uses or that adverse impacts can be contained within the site.

33. Site specific development standards and requirements

There are no site specific development requirements that apply to this Scheme.

34. Variations to site and development requirements

- (1) In this clause -

general development standards and requirements refers to any site or development requirement contained in the scheme unless the scheme otherwise provides that a certain development requirement cannot be varied but this clause is not to apply to variations to use permissibilities contained in the zoning table and does not apply with respect to development which the R-Codes apply or clause 33

- (2) The local government may approve an application for a development approval that does not comply with a general development standard or requirement.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.

- (4) If the local government is of the opinion that the non-compliance with a general development standard or requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must -
 - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64(4) of the deemed provisions; and
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that -
 - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 (2) of the deemed provisions; and
 - (b) the non-compliance with the general development standard or requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.
- (6) Where two or more uses are combined in a single development, the development shall comply with the general development standards and requirements for each use respectively, or where such general development standards and requirements are deemed by the local government to be inappropriate in the particular circumstances, to such general development standards and requirements as the local government shall determine, subject to the provisions of subclauses (4) and (5).

35. Restrictive covenants

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant -
 - (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
 - (b) the local government must not grant development approval for the construction of the residential dwelling unless it advertises the application for development approval in accordance with clause 64 of the deemed provisions.

PART 5 - SPECIAL CONTROL AREAS

AMD 6 GG 24/10/23

36. Special control areas

There are no special control areas which apply to this Scheme.

PART 6 - TERMS REFERRED TO IN SCHEME

AMD 6 GG 24/10/23

Division 1 - General definitions used in Scheme

37. Terms used

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows -

building envelope	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.
cabin	means a dwelling forming part of a tourist development or caravan park that is - (a) an individual unit other than a chalet; and (b) designed to provide short-term accommodation for guests.
chalet	means a dwelling forming part of a tourist development or caravan park that is - (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and (b) designed to provide short-term accommodation for guests.
commercial vehicle	means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including - (a) a utility, van, truck, tractor, bus or earthmoving equipment; and (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).
floor area	has meaning given in the Building Code.
minerals	has the meaning given in the <i>Mining Act 1978</i> section 8(1).
plot ratio	means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located.
precinct	means a definable area where particular planning policies, guidelines or standards apply.
predominant use	means the primary use of premises to which all other uses carried out on the premises are incidental.
retail	means the sale or hire of goods or services to the public
scheme commencement date	means the day on which this Scheme comes into effect under section 87(4) of the Act.

short-term accommodation	means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.
wholesale	means the sale of goods or materials to be sold by others.

(2) A word or expression that is not defined in this Scheme -

(a) has the meaning it has in the *Planning and Development Act 2005*; or

(b) if it is not defined in that Act - has the same meaning as it has in the R-Codes.

Division 2 - Land use terms used in Scheme

38. Land use terms used

(1) If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows -

abattoir	means premises used commercially for the slaughtering of animals for the purposes of consumption as food products.
agriculture - extensive	means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture - intensive or animal husbandry - intensive.
agriculture - intensive	means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following - (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts; (b) the establishment and operation of plant or fruit nurseries; (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms); (d) aquaculture.
animal establishment	means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry - intensive or veterinary centre.
animal husbandry - intensive	means premises used for keeping, rearing or fattening of alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), sheep or other livestock in feedlots, sheds or rotational pens but excludes agriculture - extensive.

art gallery	means premises that are open to the public and where artworks are displayed for viewing or sale.
bed and breakfast	means a dwelling - (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms.
betting agency	means an office or totalisator agency established under the <i>Racing and Wagering Western Australia Act 2003</i> .
brewery	means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> .
bulky goods showroom	means premises - (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes - (i) automotive parts and accessories; (ii) camping, outdoor and recreation goods; (iii) electric light fittings; (iv) animal supplies including equestrian and pet goods; (v) floor and window coverings; (vi) furniture, bedding, furnishings, fabrics, manchester and homewares; (vii) household appliances, electrical goods and home entertainment goods; (viii) party supplies; (ix) office equipment and supplies; (x) babies' and children's goods, including play equipment and accessories; (xi) sporting, cycling, leisure, fitness goods and accessories; (xii) swimming pools. or (b) used to sell goods and accessories by retail if - (i) a large area is required for the handling, display or storage of the goods; or (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.
caravan park	means premises that are a caravan park as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5 (1).
caretaker's dwelling	means a dwelling on the same site as a building, operation or plant used for industry and occupied by a supervisor of that building, operation or plant.

car park	means premises used primarily for parking vehicles whether open to the public or not but does not include - (a) any part of a public road used for parking or for a taxi rank; or (b) any premises in which cars are displayed for sale.
child care premises	means premises where - (a) an education and care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> Section 5(1), other than a family day care service as defined in that section, is provided; or (b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided.
cinema/theatre	means premises where the public may view a motion picture or theatrical production.
civic use	means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
club premises	means premises used by a legally constituted club or association or other body of persons united by a common interest.
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.
community purpose	means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.
consulting rooms	means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
convenience store	means premises - (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and (b) operated during hours which include, but may extend beyond, normal trading hours; and (c) the floor area of which does not exceed 300m ² net lettable area.

corrective institution	means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility.
educational establishment	means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution.
exhibition centre	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
family day care	means premises where a family day care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> is provided.
fast food outlet	means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten - (a) without further preparation; and (b) primarily off the premises.
fuel depot	means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used - (a) as a service station; or (b) for the sale of fuel by retail into a vehicle for use by the vehicle.
funeral parlour	means premises used to prepare and store bodies for burial or cremation or to conduct funeral services.
garden centre	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.
holiday accommodation	means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot.
holiday house	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

home business	<p>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 -</p> <ul style="list-style-type: none"> (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 (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and (f) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.
home occupation	<p>means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that -</p> <ul style="list-style-type: none"> (a) does not involve employing a person who is not a member 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 20 m²; and (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and (f) does not - <ul style="list-style-type: none"> (i) require a greater number of parking spaces than normally required for a single dwelling; or (ii) result in an increase in traffic volume in the neighbourhood; and (g) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.

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 - <ul style="list-style-type: none"> (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.
home store	means a shop attached to a dwelling that - <ul style="list-style-type: none"> (a) has a net lettable area not exceeding 100m²; and (b) is operated by a person residing in the dwelling.
hospital	means premises used as a hospital as defined in the <i>Health Services Act 2016</i> section 8(4).
hotel	means premises providing accommodation the subject of a hotel license under the Liquor Licensing Act 1988, and may include a betting agency on those premises, but does not include a tavern or motel
independent living complex	means a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility.
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 facilities on the premises for any of the following purposes - <ul style="list-style-type: none"> (a) the storage of goods; (b) the work of administration or accounting; (c) the selling of goods by wholesale or retail; (d) the provision of amenities for employees; (e) incidental purposes.
industry - extractive	means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes - <ul style="list-style-type: none"> (a) the processing of raw materials including crushing, screening, washing, blending or grading; (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.

industry - light	means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.
industry - rural	means premises used for an industry that - (a) supports and/or is associated with primary production; or (b) services plant or equipment used in primary production.
liquor store - small	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300 m ² .
lunch bar	means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas.
market	means premises used for the display and sale of goods from stalls by independent vendors.
medical centre	means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
mining operations	means premises where mining operations, as that term is defined in the <i>Mining Act 1978</i> section 8(1) is carried out.
motel	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> - (a) used to accommodate guests in a manner similar to a hotel; and (b) with specific provision for the accommodation of guests with motor vehicles.
motor vehicle, boat or caravan sales	means premises used to sell or hire motor vehicles, boats or caravans.
motor vehicle repair	means premises used for or in connection with - (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or (b) repairs to tyres other than recapping or retreading of tyres.
motor vehicle wash	means premises primarily used to wash motor vehicles.
nature based park	means premises that are defined in the <i>Caravan Parks and Camping Ground Regulations 1997</i>

office	means premises used for administration, clerical, technical, professional or similar business activities.
park home park	means premises used as a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> .
place of worship	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
reception centre	means premises used for hosted functions on formal or ceremonial occasions.
recreation - private	means premises that are - a) used for indoor or outdoor leisure, recreation or sport; and b) not usually open to the public without charge.
renewable energy facility	means premises used to generate energy from a renewable energy source predominantly and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary.
repurposed dwelling	means a building or structure not previously used as a single house which has been repurposed for use as a dwelling.
residential aged care facility	means a residential facility providing personal and/or nursing care primarily to people who are frail and aged or dependent persons which, as well as accommodation, includes; (a) appropriate staffing to meet the nursing and personal care needs of residents; (b) meals and cleaning services; (c) furnishings, furniture and equipment. This may consist of multiple components that include communal amenities and land uses for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short term) care and an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility
resource recovery centre	means premises other than a waste disposal facility used for the recovery of resources from waste.
restaurant/cafe	means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> .

restricted premises	<p>means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of -</p> <ul style="list-style-type: none"> (a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); and (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or (c) smoking-related implements.
road house	<p>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 -</p> <ul style="list-style-type: none"> (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; and (f) dump points for the disposal of black and/or grey water from recreational vehicles.
rural home business/industry cottage	<p>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 occupation -</p> <ul style="list-style-type: none"> (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 200 m²; and (d) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and (e) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle more than 30 tonnes gross weight.
rural pursuit/hobby farm	<p>means any premises, other than premises used for agriculture - extensive or agriculture - intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household -</p> <ul style="list-style-type: none"> (a) the rearing, agistment, stabling or training of animals; (b) the keeping of bees; (c) the sale of produce grown solely on the premises.

second hand dwelling	means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular home or transportable dwelling.
service station	means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for - (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; and/or (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.
shop	means premises other than a bulky goods showroom, a liquor store large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
small bar	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> .
tavern	means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> .
telecommunications 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.
tourist development	means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide - (a) short-term accommodation for guests; and (b) onsite facilities for the use of guests; and (c) facilities for the management of the development
trade display	means premises used for the display of trade goods and equipment for the purpose of advertisement.

trade supplies	means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for any of the following purposes including goods which may be assembled or manufactured off the premises - <ul style="list-style-type: none"> (a) automotive repairs and servicing; (b) building including repair and maintenance; (c) industry; (d) landscape gardening; (e) provision of medical services; (f) primary production; (g) use by government departments or agencies, including local government.
transport depot	means premises used primarily for the parking or garaging of 3 or more commercial vehicles including - <ul style="list-style-type: none"> (a) any ancillary maintenance or refuelling of those vehicles; and (b) any ancillary storage of goods brought to the premises by those vehicles; and (c) the transfer of goods or persons from one vehicle to another.
tree farm	means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the <i>Carbon Rights Act 2003</i> section 5.
veterinary centre	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
warehouse/storage	means premises including indoor or outdoor facilities used for: <ul style="list-style-type: none"> (a) the storage of goods, equipment, plant or materials; or (b) the display or the sale by wholesale of goods.
waste disposal facility	means premises used - <ul style="list-style-type: none"> (a) for the disposal of waste by landfill; or (b) the incineration of hazardous, clinical or biomedical waste.
waste storage facility	means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.
winery	means premises used for the production of viticultural produce and associated sale of the produce.

workforce accommodation	means premises, which may include modular or relocatable buildings, used - (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.
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SCHEDULES

Schedule A	Supplemental provisions
Schedule 1	Exempted signage and advertisements

SCHEDULE A - SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS

AMD 6 GG 24/10/23

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) set out in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Numbering follows the final clause (61(8)) of this part of the Deemed Provisions.

61.(9) Development for which development approval not required

- (1) Development approval is not required for works if -
- (a) the works are of a class specified in Column 1 of an item in the Table 7; and
 - (b) if conditions are set out in Column 2 of Table 7 opposite that item - all of those conditions are satisfied in relation to the works

Numbering follows the final entry of the table (61(1)(21) of this part of the Deemed Provisions.

Table 7 - Supplemental provisions relating to works		
	Column 1 - Works	Column 2 - Conditions
61.1.22	The erection or extension of a single house on a lot .	(a) a single house is a permitted ('P') use in the zone (where the R-Codes do not apply) in which that lot is located; (b) the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied; and (c) the works are not in a heritage-protected place or lot or location which does not have access to a dedicated and/or constructed road.
61.1.23	The erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, deck, garage or carport on the same lot as a single house.	(a) a single house is a permitted ('P') use in the zone (where the R-Codes do not apply) in which that lot is located; (b) the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied;
61.1.24	The erection or installation of landscaping; letter boxes; or clothes lines where on the same lot as a single house or a grouped dwelling	Where compliant with all relevant provisions in this Scheme
61.1.25	The erection or installation of advertisements.	Where exempt in Schedule 1 except in respect of a sign that is to be erected or installed in heritage protected place.

Table 7 - Supplemental provisions relating to works		
	Column 1 - Works	Column 2 - Conditions
61.1.26	The minor filling, excavation or re-contouring of land.	(a) the Residential Design Codes do not apply (b) there is no more than 0.9 metres change to the natural ground level; (c) the works are not within a flood risk area; and (d) there are no other relevant scheme requirements
61.1.27	Retaining walls.	(a) the Residential Design Codes do not apply; and (b) there is no more than 0.9 metres change to the natural ground level.
61.1.28	Satellite dishes and other domestic telecommunication installation.	(a) the works comply with any relevant adopted standards outlined in a local planning policy; and (b) the works are not located in a heritage protected place.
61.1.29	The erection or placement of a sea container.	The works are in place for a maximum period of 3 months, unless it is associated with storing building materials to support building works approved by the local government.
61.1.30	Outbuildings.	(a) the Residential Design Codes do not apply; and (b) the works comply with any relevant adopted standards outlined in a local planning policy.
61.1.31	A dam.	(a) It is located in the Rural or Rural Residential zone for the purposes of water collection, storage, and use that is directly associated with a lawful land use; (b) It is not within 10 metres of a lot boundary or natural waterway; (c) It does not alter or affect waterways or water table; and (d) It does not direct runoff to areas other than the watercourse on site and/or impacts adjoining properties.

(2) Development approval is not required for the following uses if –

- (a) the use is of a class specified in Column 1 of an item in Table 8;
- (b) if conditions are set out in Column 2 of Table 8 opposite that item - all of those conditions are satisfied in relation to the use.

Table 8 - Supplemental provisions relating to use		
	Column 1 - Use	Column 2 - Conditions
61.2.1	A use that is wholly located on land identified as a local reserve under this Scheme.	<p>(a) The land is owned or vested in the local government or a public authority.</p> <p>(b) For a purpose for which the land is reserved under this Scheme.</p> <p>(c) For any purpose for which the land may be lawfully used by the local government or public authority.</p>
61.2.2	Commercial vehicle parking	Parking of one commercial vehicle per lot in the Rural Townsite or Rural Residential zones where it complies with the relevant development standards set out by the Scheme.

SCHEDULE 1 - EXEMPTED SIGNAGE AND ADVERTISEMENTS

AMD 6 GG 24/10/23

Land use/works	Exempted sign type and number (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	Maximum size/area of exempted sign
Bed and breakfast, Home occupation, Holiday house Family day care, Rural home business/hobby farm and other businesses operating from a dwelling	One advertisement describing the nature of the business operating from a dwelling.	0.2m ²

ADOPTION

Adopted by resolution of the Local Government of the SHIRE OF CUBALLING at the meeting of the Council held on the 21st day of December 2001 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

PRESIDENT – I WATTS

CHIEF EXECUTIVE OFFICER – P NAYLOR

FINAL APPROVAL

Adopted by resolution of the Local Government of the SHIRE OF CUBALLING at the meeting of the Council held on the 21st day of October 2004 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

PRESIDENT – I WATTS

DATE:

CHIEF EXECUTIVE OFFICER – P NAYLOR

DATE:

Recommended for Approval

DELEGATED UNDER S20 OF WAPC ACT 1985

SIGNED:

DATE:

Final Approval

A MACTIERNAN, Minister for Planning and Infrastructure

DATE: