

**SHIRE OF MURCHISON**  
**DRAFT LOCAL PLANNING SCHEME NO.1**



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**SHIRE OF MURCHISON LOCAL PLANNING SCHEME NO.1 – SCHEME AMENDMENTS**

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## **SHIRE OF MURCHISON LOCAL PLANNING SCHEME NO.1**

### **Preamble**

This Local Planning Scheme of the Shire of Murchison consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the Shire.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning directions for the local government, applies State and regional planning policies and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for Local Planning Policies which set out the general policies of the local government on matters within the Scheme.

The Scheme divides the local government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

### **Scheme details**

The Shire of Murchison

Local Planning Scheme No.1

The Shire of Murchison under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

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- Part 1 **Preliminary** — sets out the Scheme title, responsible authority for implementing the Scheme, definitions used in the Scheme, Scheme area, contents, purpose, aims and relationship to other Schemes and laws.
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- Part 3 **Reserves** — sets out the reserves which apply in the Scheme area and related provisions.
- Part 4 **Zones and the use of land** — sets out the zones which apply in the Scheme area and the uses which may require approval or may be prohibited.
- Part 5 **General development requirements** — sets out the planning requirements which may apply to a particular use or development in a zone.
- Part 6 **Special control areas** — sets out particular provisions which may apply in addition to the zone requirements concerning the Inner Zone – Australian Radio Quiet Zone WA.
- Part 7 **Heritage protection** — sets out special provisions which apply to heritage places and areas.
- Part 8 **Development of land** — sets out the circumstances under which approval is required for the development of land as distinct from the use of land.
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- Part 10 **Procedure for dealing with applications** — sets out the procedure for dealing with applications for planning approval and the matters to be taken into account.
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## **Schedules**

- Schedule 1      Dictionary of defined words and expressions
  - General definitions
  - Land use definitions
- Schedule 2      Additional uses
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- Schedule 4      Special use zones
- Schedule 5      Exempted advertisements
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- Schedule 9      Notice of determination on application for planning approval
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## **Part 1 — Preliminary**

### **1.1. Citation**

The Shire of Murchison Local Planning Scheme No.1 (*the Scheme*) comes into operation on its Gazettal date.

### **1.2. Responsible authority**

The Shire of Murchison is the responsible authority for implementing the Scheme.

### **1.3. Scheme area**

The Scheme applies to the Scheme area which covers all of the local government district of the Shire as shown on the Scheme Map.

### **1.4. Contents of Scheme**

The Scheme comprises —

- (a) the Scheme Text;
- (b) the Scheme Map (Sheets 1 to 9)

The Scheme is to be read in conjunction with the Local Planning Strategy.

### **1.5. Purposes of Scheme**

The purposes of the Scheme are to —

- (a) set out the local government's planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in the First Schedule to the Planning and Development Act.

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## **1.6. The Aims of the Scheme**

The aims of the Scheme are as follows:

- (a) To support the continuation of existing pastoral activities in a manner that is viable, sustainable and consistent with land capability.
- (b) To recognise that the diversification of land uses, compatible with pastoral activities, are important for the local economy and the quality of life for the community.
- (c) To promote and facilitate tourism opportunities associated with the natural environment, pastoral activities, culture, heritage and scientific research.
- (d) To recognise the potential for extractive industries to provide local employment opportunities and economic growth at both a local and regional scale.
- (e) To plan for a safe and effective road network that is suited for its intended purpose, including upgrading and maintenance.
- (f) To identify, foster and protect the indigenous and non-indigenous heritage values of the area.
- (g) To protect the landscape values and character of the area.
- (h) To protect the health and amenity of residents.
- (i) To minimise land use and transport conflict.
- (j) To facilitate a stable population base in the area.
- (k) To promote a strong sense of community.

## **1.7. Definitions**

- 1.7.1. Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have —
  - (a) in the Planning and Development Act 2005; or
  - (b) if they are not defined in that Act —
    - (i) in the Dictionary of defined words and expressions in Schedule 1; or
    - (ii) in the Residential Design Codes.

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- 1.7.2. If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes —
- (a) in the case of a residential development, the definition in the Residential Design Codes prevails; and
  - (b) in any other case the definition in the Dictionary prevails.

1.7.3. Notes, and instructions printed in italics, are not part of the Scheme.

**1.8. Relationship with local laws**

Where a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails.

**1.9. Relationship with other Scheme**

There are no other Schemes of the Shire of Murchison which apply to the Scheme area.

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## **Part 2 — Local Planning Policy Framework**

### **2.1. Scheme determinations to conform with Local Planning Strategy**

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the local government under the Scheme are to be consistent with the Local Planning Strategy.

*(A Local Planning Strategy has been prepared and endorsed under the Town Planning Regulations 1967)*

### **2.2. Local Planning Policies**

The local government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply —

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the Scheme area or in one or more parts of the Scheme area,

and may amend or add to or rescind the Policy.

### **2.3. Relationship of Local Planning Policies to Scheme**

- 2.3.1. If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.
- 2.3.2. A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.

### **2.4. Procedure for making or amending a Local Planning Policy**

- 2.4.1. If a local government resolves to prepare a Local Planning Policy, the local government —
  - (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of —

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- (i) where the draft Policy may be inspected;
  - (ii) the subject and nature of the draft Policy; and
  - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate.
- 2.4.2. After the expiry of the period within which submissions may be made, the local government is to —
- (a) review the proposed Policy in the light of any submissions made; and
  - (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.
- 2.4.3. If the local government resolves to adopt the Policy, the local government is to —
- (a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
  - (b) if, in the opinion of the local government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.
- 2.4.4. A Policy has effect on publication of a notice under clause 2.4.3(a).
- 2.4.5. A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.
- 2.4.6. Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.
- 2.5. Revocation of Local Planning Policy**
- A Local Planning Policy may be revoked by —
- (a) the adoption by a local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
  - (b) publication of a notice of revocation by the local government once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

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## **Part 3 — Reserves**

### **3.1. Reserves**

Certain lands within the Scheme area are classified as Local Reserves.

### **3.2. Regional Reserves**

3.2.1. There are no regional reserves in the Scheme area.

### **3.3. Local Reserves**

'Local Reserves' are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

### **3.4. Use and development of Local Reserves**

3.4.1. A person must not —

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve,

without first having obtained planning approval under Part 9 of the Scheme.

3.4.2. In determining an application for planning approval the local government is to have due regard to —

- (a) the matters set out in clause 10.2; and
- (b) the ultimate purpose intended for the Reserve.

3.4.3. In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for planning approval.

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## **Part 4 — Zones and the use of land**

### **4.1. Zones**

- 4.1.1. The Scheme area is classified into the zones shown on the Scheme Map.
- 4.1.2. The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

### **4.2. Objectives of the zones**

The objectives of the zones are —

(a) Settlement –

- a. To plan for the orderly and proper development of the Murchison settlement in accordance with an endorsed Local Planning Strategy.
- b. To plan for the orderly and proper development of the Pia Wadjarri Aboriginal settlement by:
  - i. Requiring the preparation and endorsement of a Layout Plan.
  - ii. Ensuring that development accords with a Layout Plan.
  - iii. Providing for a mix of land uses typically found on Aboriginal settlements, including residential, commercial, community, recreation and public utility.
  - iv. Protecting sensitive areas, such as ‘No Go’ areas and drinking water source protection areas, from inappropriate development.
  - v. Providing for traditional law and culture.

(b) Pastoral –

- a. To promote the economic and social importance of the pastoral industry by protecting and promoting the sustainable use and development of the Shire for pastoral uses.
- b. To have regard for the Shire of Murchison Local Planning Strategy.

### **4.3. Zoning Table**

- 4.3.1. The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of use

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classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

4.3.2. The symbols used in the cross reference in the Zoning Table have the following meanings —

- 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;
- 'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;
- 'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4;
- 'X' means a use that is not permitted by the Scheme.

4.3.3. A change in the use of land from one use to another is permitted if —

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

- Note:
- 1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.
  - 2. The local government will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.
  - 3. In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 10.2.
  - 4. The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.

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#### **4.4. Interpretation of the Zoning Table**

- 4.4.1. Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.
- 4.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —
  - (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
  - (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
  - (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

#### **4.5. Additional uses**

There are no additional uses which apply to the Scheme.

#### **4.6. Restricted uses**

There are no restricted uses which apply to the Scheme.

#### **4.7. Special use zones**

There are no special use zones which apply to the Scheme.

#### **4.8. Non-conforming uses**

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent —

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

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Note: ‘Land’ has the same meaning as in the Planning and Development Act and includes houses, buildings and other works and structures.

**4.9 Extensions and changes to a non-conforming use**

4.9.1 A person must not —

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use,

without first having applied for and obtained planning approval under the Scheme.

4.9.2 An application for planning approval under this clause is to be advertised in accordance with clause 9.4.

4.9.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.

**4.10 Discontinuance of non-conforming use**

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

**4.11 Termination of a non-conforming use**

The local government may effect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that land, and may enter into an agreement with the owner for that purpose.

Note: Section 15 of the Planning and Development Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a local planning scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

**4.12 Destruction of non-conforming use buildings**

If a building used for a non-conforming use is destroyed to 75% or more of its value, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not

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permitted by the Scheme, except with the planning approval of the local government.

**TABLE 1 – ZONING TABLE**

USES		MURCHISON SETTLEMENT	PIA WADJARRI SETTLEMENT	PASTORAL
1	abattoir	X		
2	aged or dependent persons' dwelling	P		
3	agriculture - extensive	D		
3	agriculture- intensive	D		
4	ancillary accommodation	D		
5	art gallery	D		
6	bed and breakfast	A		
7	camping ground	P		
8	caravan park	P		
9	caretaker's dwelling	P		
10	carpark	D		
11	chalet	P		
12	civic use	D		
13	club premises	P		
14	community purpose	D		
15	consulting room	A		
16	convenience store	D		
17	educational establishment	A		
18	exhibition centre	A		
19	fuel depot	D		
20	grouped dwelling	D		
21	hire service	D		
22	holiday accommodation	D		
23	home business	A		
24	hotel	D		
25	industry - extractive	D		
26	industry - general	D		
27	industry - light	D		
28	industry – rural	D		
29	industry – mining <sup>1</sup>	A		

Land Use Permissibility is to be determined with reference to the endorsed Layout Plan.

Refer Clause 5.6

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<b>USES</b>		<b>MURCHISON SETTLEMENT</b>	<b>PIA WADJARRI SETTLEMENT</b>	<b>PASTORAL</b>
30	industry – service	D		
31	medical centre	D		
32	motel	D		
33	motor vehicle repair	D		
34	motor vehicle sales	A		
35	multiple dwelling	A		
36	office	A		
37	place of worship	A		
38	plant nursery	D		
39	power generation	D		
40	private recreation	D		
41	residential building	D		
42	restaurant	D		
43	roadhouse	D		
44	rural/pastoral pursuit	D		
45	service station	D		
46	shop	D		
47	single house	P		
48	storage	P		
49	tavern	D		
50	telecommunications infrastructure	A		
51	transient workers accommodation	D		
52	transport depot	D		
53	veterinary consulting rooms	D		
54	warehouse	D		
55	Wind or solar energy facility	D		

<sup>1</sup> 'Mining' covered by the Mining Act 1978 is exempt from the requirement for planning approval and will be determined in accordance with the Mining Act 1978.

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## **Part 5 — General development requirements**

### **5.1 Compliance with development standards and requirements**

Any development of land is to comply with the provisions of the Scheme.

### **5.2 Residential Design Codes**

- 5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the local government.
- 5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes. 5.2.3. The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Planning Code.

### **5.3 Restrictive covenants**

- 5.3.1 Subject to clause 5.3.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme
- 5.3.2 Where clause 5.3.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.2.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause 9.4

### **5.4 Variations to site and development standards and requirements**

- 5.4.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.
- 5.4.2 In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —

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- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and
  - (b) have regard to any expressed views prior to making its determination to grant the variation.
- 5.5.3 The power conferred by this clause may only be exercised if the local government is satisfied that —
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
  - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

## **5.5 Environmental conditions**

There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme.

## **5.6 Settlement Zone**

### **5.6.1 Murchison Settlement**

- (a) Council shall consider all land use and development proposals in the Murchison Settlement Zone within the context of the direction set by the Strategic Land Use plan contained within the Shire's Local Planning Strategy.
- (b) In determining applications, Council will also have regard to the general objectives and provisions contained within this Scheme.

### **5.6.2 Pia Wadjarri Settlement**

- (a) The use and development of land zoned Settlement is to be in accordance with a Layout Plan prepared in accordance with *State Planning Policy 3.2 – Aboriginal Settlements*.

## **5.7 Pastoral Zone**

### **5.7.1** Notwithstanding anything elsewhere contained in the Scheme, an application for planning approval is not required for the following development or use of land in the Pastoral zone:

- (a) Pastoral uses.
- (b) Mining including uses ancillary thereto.
- (c) Radio-astronomy including uses ancillary thereto.

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5.7.2 An application for planning approval is to be made under the Scheme for all other uses not mentioned in Clause 5.7.1. In determining such applications, the local government is to have regard to the State Planning Framework, the provisions of the Scheme and the objective for the Pastoral zone as set out in Clause 4.2(b).

**5.8 Caretakers Dwellings in Industrial Areas**

- 5.8.1 The purpose and intent of the following provisions is to limit the scale of caretaker's dwellings in industrial areas to be incidental to the predominant industrial use.
- 5.8.2 The provisions of this clause apply to all caretakers' dwellings within the Shire:
- (a) A caretakers dwelling should be incidental to the predominant industrial use of the site;
  - (b) Only one caretaker's dwelling is permitted on a lot and that dwelling should be on the same lot as the associated industrial use;
  - (c) A caretaker's dwelling is to have a total floor area that does not exceed 100sqm measured from the external face of the walls; and
  - (d) Open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the 100sqm referred to in (c), above.

**5.9 Bushfire Prone Areas and Bushfire Management**

- 5.9.1 Determining whether a development site is in a bushfire prone area.

A development site is subject, or likely to be subject, to bushfires and is referred to as being in a bushfire-prone area, in either of the following cases:

- (a) where the development site is on land covered by a Bushfire Prone Area Map endorsed by the FES Commissioner - if any part of the development site is designated on that map as being bushfire-prone; and
- (b) where the development site is not on land covered by a Bushfire Prone Area Map endorsed by the FES Commissioner - land that is within 100m of an area of bushfire-prone vegetation equal to or greater than 1 ha is designated as bushfire-prone.

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5.9.2 Before commencing or carrying out any development on land that is designated as bushfire-prone, or described under subclause 5.7.1 a) and b), a person (*the developer*) must prepare, or cause to be prepared:

- (a) a Bushfire Hazard Level Assessment providing the bushfire hazard level.
- (b) a Bushfire Management Plan in accordance with the requirements outlined in the bushfire planning guidelines.
- (c) Subject to subclause 5.7.2 a) where the bushfire hazard level is above low, a Bushfire Attack Level Assessment shall also be prepared.

5.9.3 If –

- (a) the bushfire attack level assessment prepared under subclause 5.7.2 c) calculates the bushfire attack level of the development site as BAL-LOW or above; or
- (b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site,

the developer must not commence or carry out any development on the development site without development approval.

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## **Part 6 — Special control areas**

### **6.1 Operation of special control areas**

6.1.1 The following special control areas are shown on the Scheme Maps:

- (a) Inner Zone – Australian Radio Quiet Zone WA

6.1.2 In respect of a special control area shown on a Scheme Map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

### **6.2 Inner Zone – Australian Radio Quiet Zone WA**

6.2.1 Purpose of the Special Control Area

- (a) To protect radio-astronomy observatory facilities, both existing and future, against radio frequency interference caused by radio transmissions and electrical interference.

6.2.2 Application and Referral Requirements

(a) The local government is to refer any application for development to the radio-astronomy managing entity/authority at the time of application and may refuse or approve with or without conditions having regard for the recommendations of the ATNF.

(b) Notwithstanding anything elsewhere contained in the Scheme, an application for planning approval is not required for the following development or use of land in the Inner Zone – Australian Radio Quiet Zone WA area:

- (i) Radioastronomy activities including uses ancillary thereto.

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## **Part 7 — Heritage protection**

### **7.1      Heritage List**

- 7.1.1    The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.
- 7.1.2    In the preparation of the Heritage List the local government is to —
- (a)    have regard to the local government inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
  - (b)    include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.
- 7.1.3    In considering a proposal to include a place on the Heritage List the local government is to —
- (a)    notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
  - (b)    invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
  - (c)    carry out such other consultations as it thinks fit; and
  - (d)    consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.
- 7.1.4    Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.
- 7.1.5    The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.
- 7.1.6    The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.
- Note:    1.    The purpose and intent of the heritage provisions are —
- (a)    to facilitate the conservation of places of heritage value; and

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- (b) to ensure as far as possible that development occurs with due regard to heritage values.
  - 2. A ‘place’ is defined in Schedule 1 and may include works, buildings and contents of buildings.

## **7.2 Designation of a heritage area**

- 7.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, designate that area as a heritage area.
- 7.2.2 The local government is to —
  - (a) adopt for each heritage area a Local Planning Policy which is to comprise —
    - (i) a map showing the boundaries of the heritage area;
    - (ii) a record of places of heritage significance; and
    - (iii) objectives and guidelines for the conservation of the heritage area;

and
  - (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.
- 7.2.3 If a local government proposes to designate an area as a heritage area, the local government is to —
  - (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
  - (b) advertise the proposal by —
    - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
    - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
    - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;

and

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- (c) carry out such other consultation as the local government considers appropriate.
- 7.2.4 Notice of a proposal under clause 7.2.3(b) is to specify —
- (a) the area subject of the proposed designation;
  - (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
  - (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.
- 7.2.5 After the expiry of the period within which submissions may be made, the local government is to —
- (a) review the proposed designation in the light of any submissions made; and
  - (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.
- 7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.
- 7.2.7 The local government may modify or revoke a designation of a heritage area.
- 7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

### **7.3 Heritage agreements**

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

- Note:
- 1. A heritage agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.
  - 2. Detailed provisions relating to heritage agreements are set out in the *Heritage of Western Australia Act 1990*.

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**7.4 Heritage assessment**

Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List.

**7.5 Variations to Scheme provisions for a heritage place or heritage area**

Where desirable to —

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (a) enhance or preserve heritage values in a heritage area designated under clause 7.2.1,
- (b) the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.5.2.

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## Part 8 — Development of land

### **8.1 Requirement for approval to commence development**

Subject to clause 8.2, all development and use of land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 9.

- Note:
1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).
  2. Development includes the erection, placement and display of any advertisements.

### **8.2 Permitted development**

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of local government —

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —
  - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - (iii) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where —
  - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes; or
  - (ii) the development will be located in a heritage area designated under the Scheme;
- (c) the demolition of any building or structure except where the building or structure is —
  - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;

- 
- (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - (iii) included on the Heritage List under clause 7.1 of the Scheme; or
  - (iv) located within a heritage area designated under the Scheme;
- (d) a home office;
  - (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
  - (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.
  - (g) the development is located within a designated bushfire-prone area as provided for in Part 5.7 of the Scheme.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under the Planning and Development Act.

### **8.3 Amending or revoking a planning approval**

The local government may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.

### **8.4 Unauthorised existing developments**

- 8.4.1** The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.
- 8.4.2** Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

Note:

- 1. Applications for approval to an existing development are made under Part 9.
- 2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.

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**8.5 Requirement for consultation to commence mining**

In considering proposals to commercially extract minerals, Council may exercise its discretion to inform the Minister for Mines and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is in contrary to the provisions of the Scheme and the Local Planning Strategy.

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## **Part 9 — Applications for planning approval**

### **9.1 Form of application**

- 9.1.1 An application for approval for one or more of the following —
- (a) a use or commencement of development on a Local Reserve under clause 3.4;
  - (b) commencement of a ‘P’ use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
  - (c) commencement of a ‘D’ use or an ‘A’ use as referred to in clause 4.3.2;
  - (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
  - (e) alteration or extension of a non-conforming use under clause 4.9;
  - (f) a change of a non-conforming use under clause 4.9;
  - (g) continuation of a non-conforming use under clause 4.9;
  - (h) variation of a site or development requirement under clause 5.3;
  - (i) commencement of development under clause 8.1;
  - (j) continuation of development already commenced or carried out under clause 8.4;
  - (k) a subsequent planning approval pursuant to an approval under clause 10.8.1; and
  - (l) the erection, placement or display of an advertisement,
- is, subject to clause 9.1.2, to be made in the form prescribed in Schedule 6 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.
- 9.1.2 An application for the erection, placement or display of an advertisement is to be accompanied by the additional information set out in the form prescribed in Schedule 7.

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## **9.2 Accompanying material**

Unless the local government waives any particular requirement every application for planning approval is to be accompanied by —

- (a) A plan or plans to a scale of not less than 1:500 showing —
  - i. road name/pastoral lease number/station name, direction and distance from homestead, lot number(s), north point and the dimensions of the site;
  - ii. the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - iii. the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - iv. the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - v. the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - vi. the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - vii. the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
  - viii. the nature and extent of any open space and landscaping proposed for the site;
- (b) Plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) Any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) Any other plan or information that the local government may require to enable the application to be determined.

## **9.3 Additional material for heritage matters**

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Where an application relates to a place entered on the Heritage List or within a heritage area, the local government may require an applicant to provide one or more of the following to assist the local government in its determination of the application —

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

#### **9.4 Advertising of applications**

- 9.4.1 Where an application is made for planning approval to commence a use or commence or carry out development which involves a use which is —
  - (a) an 'A' use as referred to in clause 4.3.2; or
  - (b) a use not listed in the Zoning Table,

the local government is not to grant approval to that application unless notice is given in accordance with clause 9.4.3.
- 9.4.2 Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice to be given in accordance with clause 9.4.3.
- 9.4.3 The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways —
  - (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
  - (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;

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- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.
  - 9.4.4 The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.
  - 9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.
  - 9.4.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

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## **Part 10 — Procedure for dealing with applications**

### **10.1 Consultation with other authorities**

- 10.1.1 In considering an application for planning approval the local government may consult with any other statutory, public or planning authority it considers appropriate.
- 10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the local government is to consult that authority before making its determination.

### **10.2 Matters to be considered by local government**

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —

- (a) the aims and provisions of the Scheme.
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;

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- (j) any social issues that have an effect on the amenity of the locality;
  - (k) the cultural significance of any place or area affected by the development;
  - (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
  - (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
  - (n) the preservation of the amenity of the locality;
  - (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
  - (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
  - (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
  - (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
  - (s) whether public utility services are available and adequate for the proposal;
  - (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
  - (u) whether adequate provision has been made for access by disabled persons;
  - (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
  - (w) whether the proposal is likely to cause soil erosion or land degradation;

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- (x) the potential loss of any community service or benefit resulting from the planning approval;
  - (y) any relevant submissions received on the application;
  - (z) the comments or submissions received from any authority consulted under clause 10.1.1;
  - (za) any other planning consideration the local government considers relevant.

### **10.3 Determination of applications**

In determining an application for planning approval the local government may —

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

### **10.4 Form and date of determination**

- 10.4.1 As soon as practicable after making a determination in relation to the application, the local government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the local government's determination.
- 10.4.2 Where the local government refuses an application for planning approval the local government is to give reasons for its refusal.

### **10.5 Term of planning approval**

- 10.5.1 Where the local government grants planning approval for the development of land —
  - (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and
  - (b) the approval lapses if the development has not substantially commenced before the expiration of that period.
- 10.5.2 A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.

### **10.6 Temporary planning approval**

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Where the local government grants planning approval, the local government may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the local government grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

#### **10.7 Scope of planning approval**

Planning approval may be granted —

- (a) for the use or development for which the approval is sought;
- (b) for that use or development, except for a specified part or aspect of that use or development; or
- (c) for a specified part or aspect of that use or development.

#### **10.8 Approval subject to later approval of details**

10.8.1 Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.

10.8.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.

10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

#### **10.9 Deemed refusal**

10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of

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that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

- 10.9.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.9.1 or 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

**10.10 Appeals**

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply for review to the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act.

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## **Part 11 — Enforcement and administration**

### **11.1 Powers of the local government**

- 11.1.1 The local government in implementing the Scheme has the power to —
- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
  - (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the Planning and Development Act; and
  - (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the Planning and Development Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.
- 11.1.2 An employee of the local government authorised by the local government may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

### **11.2 Removal and repair of existing advertisements**

- 11.2.1 Where an existing advertisement at, or at any time after, the coming into force of the Scheme, is, in the opinion of the local government, in conflict with the amenity of the locality, the local government may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertisement.
- 11.2.2 Where, in the opinion of the local government, an advertisement has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the local government may by written notice require the advertiser to —
- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the local government in the notice; or
  - (b) remove the advertisement.
- 11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify —
- (a) the advertisement the subject of the notice;
  - (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and

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- (c) the period, being not less than 60 days from the date of the local government's determination, within which the action specified is to be completed by the advertiser.
- 11.2.4 A person on whom notice is served under this clause may apply for a review of the determination of the local government to the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act.
- 11.3 Delegation of functions**
- 11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
  - 11.3.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.
  - 11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.
  - 11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.
- 11.4 Person must comply with provisions of Scheme**
- A person must not —
- (a) contravene or fail to comply with the provisions of the Scheme;
  - (b) use any land or commence or continue to carry out any development within the Scheme area —
    - (i) otherwise than in accordance with the Scheme;
    - (ii) unless all approvals required by the Scheme have been granted and issued;
    - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
    - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or

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determined by the local government under the Scheme with respect to that building or that use.

Note: The Planning and Development Act provides that a person who —

- (a) contravenes or fails to comply with the provisions of a local planning scheme; or
- (b) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme, is guilty of an offence. Penalty: \$50 000, and a daily penalty of \$5 000.

## **11.5 Compensation**

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Section 11(1) of the Planning and Development Act —

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and —
  - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
  - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

not later than 6 months after the application is refused or the permission granted.

11.5.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 11.5.1.

Note: 1. A claim for compensation under the *Planning and Development Act 2005* may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

## **11.6 Purchase or taking of land**

11.6.1 If, where compensation for injurious affection is claimed under the Planning and Development Act, the local government elects to purchase or take the land compulsorily the local government is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

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- 11.6.2 The local government may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used, and preserved, for a use compatible with the purpose for which it is reserved.

Note: Section 11 of the Planning and Development Act empowers the local government to purchase or compulsorily acquire land comprised in a scheme.

#### **11.7 Notice for removal of certain buildings**

- 11.7.1 Under section 214 of the Planning and Development Act, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.
- 11.7.2 The local government may recover expenses under section 215 of the Planning and Development Act in a court of competent jurisdiction.

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## **Schedules**

- Schedule 1      Dictionary of defined words and expressions
  - General definitions
  - Land use definitions
- Schedule 2      Additional uses
- Schedule 3      Restricted uses
- Schedule 4      Special use zones
- Schedule 5      Exempted advertisements
- Schedule 6      Form of application for planning approval
- Schedule 7      Additional information for advertisements
- Schedule 8      Notice of public advertisement of planning proposal
- Schedule 9      Notice of determination on application for planning approval
- Schedule 10     Environmental conditions

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## Schedule 1 — Dictionary of defined words and expressions

### 1. General definitions

In the Scheme —

**advertisement** means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising;

**amenity** means all those factors which combine to form the character of an area and include the present and likely future amenity;

**AS 3959** means Australian Standard AS 3959 — 2009 Construction of Buildings in Bushfire Prone Areas, as adopted from time to time as a referenced document for the purposes of the Building Code;

**Building Code** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

**building envelope** means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;

**bushfire** means uncontrolled fire in vegetation and includes wildfire;

**bushfire attack level assessment** means an assessment prepared in accordance with bushfire planning guidelines;

**bushfire hazard level assessment** means an assessment prepared in accordance with bushfire planning guidelines;

**bushfire planning guidelines** means:

- (b) any regulations that relate to bushfire risk management prepared under section 256 of the *Planning and Development Act 2005*
- (c) the State Planning Policy 3.7 Planning for Bushfire Risk Management and Planning for Bushfire Risk Management Guidelines; and

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- (d) any guidelines contained in, or prepared and published under a State Planning Policy that replace the guidelines mentioned in paragraph (a).

**bushfire prone vegetation** means contiguous vegetation including grasses and shrubs but not including maintained lawns, parks and gardens, nature strips, plant nurseries, golf courses, vineyards, orchards or vegetation on land that is used for horticultural purposes;

**conservation** has the same meaning as in the *Heritage of Western Australia Act 1990*;

**contiguous** means separated by less than 20 metres;

**cultural heritage significance** has the same meaning as in the *Heritage of Western Australia Act 1990*;

**development** has the same meaning as given to it in the Planning and Development Act 2005 (MST standard);

**development (as it applies to bushfire prone areas)** includes the construction or use, or construction and use, of any habitable building or specified building;

**development approval** means approval obtained upon the making of a development application to the local government;

**development site** means the land on which a building that is the subject of development stands or is to be constructed;

**FES Commissioner** has the meaning given to that term in the Fire and Emergency Services Act 1998 section 3;

**floor area** has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;

**frontage**, when used in relation to a building that is used for —

- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;

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**Gazettal date**, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 7(3) of the Planning and Development Act 2005.

**height** when used in relation to a building that is used for —

- (a) residential purposes, has the same meaning as in the Residential Design Codes; or
- (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;

**incidental use** means a use of premises which is ancillary and subordinate to the predominant use;

**local government** means the Shire of Murchison;

**Local Planning Strategy** means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;

**lot** has the same meaning as in the Planning and Development Act 2005 but does not include a strata or survey strata lot;

**minerals** has the same meaning as in the *Mining Act 1978*;

**net lettable area (NLA)** means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas —

- (a) all stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;

**non-conforming use** has the same meaning as it has in the Planning and Development Act 2005;

**owner**, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity —

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- (a) is entitled to the land for an estate in fee simple in possession;
  - (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
  - (c) is a lessor or licensee from the Crown; or
  - (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;

**place**, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;

**Planning and Development Act** means the *Planning and Development Act 2005*;

**plot ratio**, in the case of residential dwellings has the same meaning as in the Residential Design Codes;

**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 subordinate, incidental or ancillary;

**premises** means land or buildings;

**Residential Design Codes** means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1, as amended from time to time;

**retail** means the sale or hire of goods or services to the public;

**substantially commenced** means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;

**wholesale** means the sale of goods or materials to be sold by others;

**zone** means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include a reserve or special control area.

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## 2. Land use definitions

*In the Scheme —*

**abattoir** means premises used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

**aged or dependent persons dwelling** shall have the same meaning ascribed to it in the Residential Design Codes.

**agriculture - extensive** means premises used for the raising of stock or crops but does not include agriculture - intensive or animal husbandry - intensive;

**agriculture - intensive** means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with 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); or
- (d) aquaculture;

**ancillary accommodation** shall have the same meaning ascribed to it in the Residential Design Codes.

**art gallery** means any land or buildings used to display art. **bed and breakfast** means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;

**camping ground** means any land used for the lodging of persons in tents.

**caravan park** has the same meaning as in the Caravan Parks and Camping Grounds Act 1995;

**caretaker's dwelling** means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;

**carpark** means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;

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**chalet** means any individual self-contained unit usually comprising cooking facilities, ensuite, living area, and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of three (3) months in any twelve (12) month period.

**civic use** means premises used by a government department, an instrumentality of the Crown, 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;

**community purpose** means the use of 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 consultants 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, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 300 square metres net lettable area;

**educational establishment** means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;

**exhibition centre** means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;

**fuel depot** means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;

**grouped dwelling** shall have the same meaning ascribed to it in the Residential Design Codes.

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**hire service** means land and buildings used for the storage and or hire of machinery and other bulky equipment.

**holiday accommodation** means premises used for accommodation and recreation for holiday purposes but does not include a hotel or motel;

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

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

**hotel** means premises providing accommodation the subject of a hotel licence under the Liquor Licensing Act 1988, and may include a betting agency on those premises, but does not include a tavern or motel;

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

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

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**industry - extractive** means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry - mining;

**industry - general** means an industry other than a cottage, extractive, light, mining, rural or service industry;

**industry - light** means an industry —

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

**industry - mining** means land used commercially to extract minerals from the land;

**industry - rural** means —

- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes;

**industry - service** means —

- (a) an industry - light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

**medical centre** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

**motel** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the

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*accommodation of patrons with motor vehicles and may comprise premises licensed under the Liquor Licensing Act 1988;*

***motor vehicle repair*** means premises used for or in connection with —

- (a) *electrical and mechanical repairs, or overhauls, to vehicles; or*
- (b) *repairs to tyres,*

*but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;*

***motor vehicle sales*** means premises used to sell or hire motor vehicles.

***office*** means premises used for administration, clerical, technical, professional or other like business activities;

***place of worship*** means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;

***plant nursery*** means land and/or buildings used for the propagation, nurturing and growing of plants, and where that is the predominant use may include as an incidental use the retail sale of seeds, bulbs, seedlings, shrubs, trees and other nursery stock and additionally plant containers, fertilisers, soil conditioners, weedicides, pesticides sold in bags or other containers, garden implements, sprinklers and home reticulation equipment;

***power generation*** means land and buildings, structures and plant used for the generation of electrical power and includes such land, buildings, structures, ore bodies and water bodies that provide fuel to or are ancillary to the generation of electrical power but shall not include small scale generators, or renewable energy sources;

***Radio-astronomy*** means land and/or buildings, structures and equipment used for radio astronomy purposes and includes specialist activities related to the Square Kilometre Array (SKA) project.

***recreation - private*** means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;

***residential building*** has the same meaning as in the Residential Design Codes.

***restaurant*** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988;

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**roadhouse** means premises used for the predominant purpose of a service station but incidentally including a café, restaurant and/or shop.

**rural/pastoral pursuit** means any premises used for —

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

but does not include agriculture - extensive or agriculture - intensive;

**service station** means premises used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles,

but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

**shop** means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

**single house** means an independently constructed dwelling standing wholly on its own lot created pursuant to the Residential Design Codes.

**storage** means premises used for the storage of goods, equipment, plant or materials;

**tavern** means premises licensed as a tavern under the Liquor Licensing Act 1988 and used to sell liquor for consumption on the premises;

**telecommunications infrastructure** means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;

**transient workers accommodation** means any habitable building permanently affixed to the ground by footings as required by Council and includes any caravan, transportable dwelling or any structure used for habitation for the purposes of accommodation and not

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*occupied by the same tenant for a continuous period for more than 6 months in any 12 month period.*

**transport depot** means premises used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles, and may include overnight accommodation on-site for the transport workers.

**veterinary consulting rooms** means a building in which one or more veterinary surgeons or veterinarians treat the minor ailments of domestic animals and household pets as patients. No animal undergoing treatment may remain on the premises overnight;

**warehouse** means premises used to store or display goods and may include sale by wholesale;

**wind or solar energy facility** means premises used to generate electricity by wind force or solar power and includes any turbine, panel, building or other structure used in, or in conjunction with, the generation of electricity by wind force or solar activity but does not include turbines or panels used principally to supply electricity for a domestic property, rural use of the land or anemometers;

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## Schedule 2 — Additional uses

No.	Description of land	Zone	Additional use	Conditions

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### Schedule 3 — Restricted uses

No.	Description of land	Restricted use	Conditions

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#### **Schedule 4 — Special use zones**

No.	Description of land	Special use	Conditions

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## Schedule 5 — Exempted advertisements

Land use and/or development	Exempted sign	Maximum size

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## **Schedule 6 — Form of application for planning approval**

### **Application for planning approval**

Owner details		
Name:		
Address:		Postcode:
Phone: (work): (home): (mobile):	Fax:	E-mail:
Contact person:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		

Applicant details		
Name:		
Address:		Postcode:
Phone: (work): (home) (mobile):	Fax:	E-mail:
Contact person for correspondence:		
Signature:		Date:

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:

Title encumbrances (e.g. easements, restrictive covenants):	
Street name:	Suburb:
Nearest street intersection:	

<b>Existing building/land use:</b>
Description of proposed development and/or use:
Nature of any existing buildings and/or use:
Approximate cost of proposed development:
Estimated time of completion:

<i>OFFICE USE ONLY</i>	
Acceptance Officer's initials:	Date received:
Local government reference no:	

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## Schedule 7 — Additional information for advertisements

*Note: to be completed in addition to the Application for Planning Approval form*

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property: ..... .....
2.	Details of proposed sign: (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): ..... ..... (b) Height: ..... Width: ..... Depth: ..... (c) Colours to be used: ..... (d) Height above ground level — - (to top of advertisement): ..... - (to underside): ..... (e) Materials to be used: ..... ..... Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: ..... .....
3.	Period of time for which advertisement is required: ..... .....
4.	Details of signs (if any) to be removed if this application is approved: ..... ..... ..... Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above. Signature of advertiser(s): ..... (if different from land owners) ..... Date: .....

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## **Schedule 8 — Notice of public advertisement of planning proposal**

*Planning and Development Act 2005*

Shire of Murchison

### **Notice of public advertisement of planning proposal**

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

Lot No.: Street: Suburb:

Proposal: .....

.....

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

.....

Signed: Dated:

.....

for and on behalf of the Shire of Murchison.

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## Schedule 9 — Notice of determination on application for planning approval

*Planning and Development Act 2005*

Shire of Murchison

### Determination on application for planning approval

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for planning approval is:	
<input type="checkbox"/> granted subject to the following conditions:	
<input type="checkbox"/> refused for the following reason(s):	
Conditions/reasons for refusal:	
.....	
.....	
.....	
Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.	
Note 2: Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.	
Note 3: If an applicant is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the <i>Planning and Development Act 2005</i> . An application must be made within 28 days of the determination.	
Signed:	Dated:
.....	
for and on behalf of the Shire of Murchison.	

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## Schedule 10 — Environmental conditions

Scheme or Amendment No.	Gazettal Date	Environmental Conditions