

WESTERN AUSTRALIAN GOVERNMENT Gazette

4395



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IMPORTANT NOTICE—INCORRECT PAGE NUMBERING

Readers please note incorrect page numbering has occurred in edition Nos. 168 and 169.

No. 168 should commence at page number 4245 NOT 4225;

No. 169 should commence at page number 4253 NOT 4233.

Confusion may arise because edition number 167 commences at page 4229 and finishes at page 4244.

The on-line editions on the State Law Publisher website have been re-paginated to show the correct page numbers.

The index printed at the end of the year will show page numbers as printed in the Gazettes, i.e. the incorrect numbers.

An explanation will also appear in the index alerting readers to the duplication of the page numbers for the two Gazettes.

WESTERN AUSTRALIAN GOVERNMENT GAZETTE—ON-LINE ACCESS

The *Gazette* is now available as a subscription service via the State Law Publisher web site.

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- A regularly updated and browseable index to the gazettes;
- The latest gazettes as they are published; and
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PUBLISHING DETAILS

The Western Australian *Government Gazette* is published by State Law Publisher for the State of Western Australia on Tuesday and Friday of each week unless disrupted by Public Holidays or unforeseen circumstances (changes to this arrangement will be advertised beforehand on the inside cover).

Special *Government Gazettes* containing notices of an urgent or particular nature are published periodically.

The following guidelines should be followed to ensure publication in the *Government Gazette*.

- Material submitted to the Executive Council prior to gazettal will require a copy of the signed Executive Council Minute Paper and in some cases the Parliamentary Counsel's Certificate.
- Copy should be received by the Manager (Sales and Editorial), State Law Publisher no later than 12 noon on Wednesday (Friday edition) or 12 noon on Friday (Tuesday edition).

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- Lengthy or complicated notices should be forwarded early to allow for preparation. Failure to observe this request could result in the notice being held over.

If it is necessary through isolation or urgency to fax copy, confirmation is not required by post. *If original copy is forwarded later and published, the cost will be borne by the advertiser.*

ADVERTISING RATES AND PAYMENTS

EFFECTIVE FROM 1 JULY 1999.

Deceased Estate notices, (per estate)—\$17.80

Real Estate and Business Agents and Finance Brokers Licences, (per notice)—\$41.50

Other articles in Public Notices Section—\$41.50 (except items of an exceptionally large nature. In these instances arrangements will be made for pricing the notice at time of lodging).

All other Notices

Per Column Centimetre—\$8.20

Bulk Notices—\$154.00 per page

Clients who have an account will be invoiced for advertising charges.

Clients without an account will need to pay at time of lodging the notice.

PUBLISHING ALTERATIONS

Periodically the normal *Gazette* publishing times need to be altered to cater for disruption caused by public holidays.

- Easter and Christmas holidays cause disruption each year.
- Australia Day and Anzac Day cause disruption when they fall on a Tuesday or Friday.

In these instances, notices warning of the change are generally published on page 2 for approximately 4 weeks prior to the date.

Readers are urged to check *Gazettes* accordingly, prior to contacting State Law Publisher.

JOHN A. STRIJK, Government Printer.

— PART 1 —

AGRICULTURE

AG301

EXOTIC DISEASES OF ANIMALS ACT 1993

EXOTIC DISEASES OF ANIMALS (IMPORTATION RESTRICTION ORDER) 1999 NUMBER 5

Made by the Minister under section 24.

1. Citation

This order may be cited as the *Exotic Diseases of Animals (Importation Restriction Order) 1999—Number 5*.

2. Duration

This order comes into operation on the day on which it is published in the *Gazette* and has effect for a period of 30 days.

3. Certain entry or importation of birds or bird products prohibited unless approved

(1) The entry or importation into Western Australia of any animal or animal product that is, or is of, a bird that has come from an area described in subclause (2) is prohibited unless in a particular case the Chief Veterinary Officer has given prior approval.

(2) An area referred to in subclause (1) is an area of New South Wales that is declared under a law of that State to be a restricted area or a control area for the purpose of an outbreak or suspected outbreak of Newcastle disease.

HENDY COWAN, A/Minister for Primary Industry.

FAIR TRADING

FT301*

Retail Trading Hours Act 1987

Retail Trading Hours (Christmas and New Year) Exemption Order 1999

Made by the Minister for Fair Trading.

1. Citation

This order may be cited as the *Retail Trading Hours (Christmas and New Year) Exemption Order 1999*.

2. Interpretation

In this order —

“**Fremantle area**” has the same meaning as in the *Retail Trading Hours (Tourism Precincts) Exemption Order 1996*;

“motor shop” means a general retail shop or portion of a general retail shop, as the case requires —

- (a) in, on or from which motor vehicles are sold by way of retail sale; or
- (b) in, on or from which spare parts for motor vehicles are sold by way of retail sale in conjunction with the sale of motor vehicles;

“Perth area” has the same meaning as in the *Retail Trading Hours (Tourism Precincts) Exemption Order 1996*.

3. Application

- (1) This order applies to all general retail shops, other than motor shops, in the metropolitan area.
- (2) The *Retail Trading Hours (Tourism Precincts) Exemption Order 1996* does not apply to a general retail shop on a day to which a provision of this order applies.
- (3) This order does not affect the operation of the *Retail Trading Hours Exemption Order (No. 12) 1994*.

4. Sunday, 19 December 1999

Each general retail shop to which this order applies is exempted from section 12(1)(d) of the Act on 19 December 1999 provided that the shop is closed on that day until 12.00 noon and from and after 6 p.m..

5. Tuesday, 21 December 1999

Each general retail shop to which this order applies is exempted from section 12(1)(a) of the Act on 21 December 1999 provided that the shop is closed on that day until 8 a.m. and from and after 9 p.m..

6. Wednesday, 22 December 1999

Each general retail shop to which this order applies is exempted from section 12(1)(a) of the Act on 22 December 1999 provided that the shop is closed on that day until 8 a.m. and from and after 9 p.m..

7. Thursday, 23 December 1999 - Perth area hours extended

Clause 5 of the *Retail Trading Hours (Tourism Precincts) Exemption Order 1996* does not apply to general retail shops in the Perth area on 23 December 1999.

8. Friday, 24 December 1999 — Perth and Fremantle areas hours reduced

The *Retail Trading Hours (Tourism Precincts) Exemption Order 1996* does not apply to general retail shops in the Perth area and the Fremantle area on 24 December 1999.

9. Tuesday, 28 December 1999

Each general retail shop to which this order applies is exempted from section 12(1)(e) of the Act on 28 December 1999 provided that the shop is closed on that day until 8 a.m. and from and after 6 p.m..

10. Thursday, 30 December 1999 - Perth area hours extended

Clause 5 of the *Retail Trading Hours (Tourism Precincts) Exemption Order 1995* does not apply to general retail shops in the Perth area on 30 December 1999.

11. Friday 31 December 1999 — Perth and Fremantle areas hours reduced

The *Retail Trading Hours (Tourism Precincts) Exemption Order 1995* does not apply to general retail shops in the Perth area and the Fremantle area on 31 December 1999.

12. Monday, 3 January 2000

Each general retail shop to which this order applies is exempted from section 12(1)(e) of the Act on 3 January 2000 provided that the shop is closed on that day until 8 a.m. and from and after 6 p.m.

D. J. SHAVE, Minister for Fair Trading.

HEALTH

HE301*

Physiotherapists Act 1950

Physiotherapists Amendment Regulations 1999

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Physiotherapists Amendment Regulations 1999*.

2. The regulations amended

The amendments in these regulations are to the *Physiotherapists Regulations 1951**.

[* *Published in Gazette 7 September 1951, pp. 2422-8.*
For amendments to 27 April 1999 see 1998 Index to Legislation of Western Australia, Table 4, pp. 233-4.]

3. Regulations 22, 23, 27, 28, 29, 30, 31 and 32 repealed

Regulations 22, 23, 27, 28, 29, 30, 31 and 32 are repealed.

4. Schedule 1 amended

- (1) After item 26 of Schedule 1 the following item is inserted —

“

26A. Bachelor of Science in Physiotherapy of the University of Ottawa.

”.

- (2) The proviso before item 27 of Schedule 1 is amended by deleting “17 to 26” and inserting instead —

“ 17 to 26A ”.

- (3) Item 34 of Schedule 1 is amended by deleting “Stellenboch” and inserting instead —

“ Stellenbosch ”.

- (4) After the proviso to item 34 of Schedule 1 the following items are inserted —

“

35. Bachelor of Science (Physiotherapy) from 1984 onwards of the University of Pretoria.

36. Bachelor of Science (Physiotherapy) of the University of the Orange Free State.

New Zealand

37. Diploma in Physiotherapy (between 1946 and 1977) of the New Zealand School of Physiotherapy.

38. Diploma in Physiotherapy (Otago) (between 1978 and 1992) of the Otago Polytechnic.

39. Diploma in Physiotherapy (between 1973 and 1990) of the Auckland Technical Institute.

40. Diploma in Physiotherapy (between 1990 and 1992) of the Auckland Institute of Technology.

Provided that graduates between 1950 and 1989 holding a qualification referred to in items 37 to 40 have passed the New Zealand State Examination in Physiotherapy conducted by the New Zealand Physiotherapy Board.

41. Bachelor of Physiotherapy from 1993 onwards of the University of Otago.

42. Bachelor of Health Science (Physiotherapy) 1991 onwards of the Auckland Institute of Technology.

”.

By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.

LOCAL GOVERNMENT

LG301*

LOCAL GOVERNMENT ACT 1995

Shire of Menzies

GENERAL PROVISIONS LOCAL LAW 1999

ARRANGEMENT

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- 1.2 Application
- 1.3 Interpretation
- 1.4 Repeal

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- 2.2 Appointment of Authorised Person
- 2.3 Removal of Hazardous Goods or Animals from Public Place
- 2.4 Registration of Impounded Goods or an Animal
- 2.5 Application of the Act
- 2.6 Public Notification of Goods or Animals Impounded
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PART 3—OLD REFRIGERATORS AND CABINETS

- 3.1 Disposal of refrigerators, cabinets, or the like
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- 4.3 Reticulation of lawns or garden in a street
- 4.4 Damage to public property
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LOCAL GOVERNMENT ACT 1995

Shire of Menzies

GENERAL PROVISIONS LOCAL LAW 1999

Under the powers conferred by the abovementioned Act and all other powers enabling it, the Council of the Shire of Menzies hereby records having resolved on the 21st day of May 1999, to make the following local laws.

PART 1—PRELIMINARIES

1.1 Citation

This local law may be cited as “Shire of Menzies General Provisions Local Law.”

1.2 Application

This local law applies to the whole of the Local Government District of the Shire of Menzies.

1.3 Interpretation

In this local law, unless the context otherwise requires—

- 1.3.1 “Act” means the Local Government Act 1995;
- 1.3.2 “CEO” means the person for the time being employed as the Chief Executive Officer or Acting Chief Executive Officer of the Council;
- 1.3.3 “Council” means the Council of the Shire of Menzies;
- 1.3.4 reference to any Act or statute (whether State or Federal) shall include all statutory amendments and reenactments thereof for the time being in force;
- 1.3.5 the singular number includes the plural number and the masculine gender includes the feminine gender and the neuter gender and vice versa.

1.4 Repeal

The following local laws are hereby repealed—

- 1.4.1 Building of Inflammable materials:
as published in the *Government Gazette* on 26 June 1935

- 1.4.2 Straying Stock:
as published in the *Government Gazette* on 28 March 1947
- 1.4.3 Hawkers:
as published in the *Government Gazette* on 25 September 1953
- 1.4.4 Model By-Law No 1. Prevention of Damage to Streets:
as published in the *Government Gazette* on 29 August 1963
- 1.4.5 Model By-Law No 8. Old Refrigerators and Cabinets:
as published in the *Government Gazette* on 29 August 1963
- 1.4.6 Petrol Pumps:
as published in the *Government Gazette* on 21 September 1971
- 1.4.7 Long Service Leave:
as published in the *Government Gazette* on 31 March 1971
- 1.4.8 Signs, Hoardings and Bill Postings. Model By-Law No 13:
as published in the *Government Gazette* on 28 October 1971

PART 2—REMOVAL OF GOODS & ANIMALS FROM PUBLIC PLACES

2.1 Interpretation

In this part, unless the context otherwise requires—

- 2.1.1 “goods” has the same meaning as given to it in Section 3.38 of the Local Government Act 1995.
- 2.1.2 “public place” includes a street, way and place which the public are allowed to use whether the street way or place is or is not on private property. It shall also include parklands, reserves, and other lands set apart for the use and enjoyment of inhabitants of the district and includes all land vested in or under the care, control or management of the Shire of Menzies.

2.2 Appointment of Authorised Person

The Council may appoint a person as an Authorised Person for the purposes oil performing particular functions under this Part. An Authorised Person shall be furnished with a certificate of appointment in a form determined by the CEO from time to time. A person shall not hinder with an authorised Person in the course of that person’s duties.

2.3 Removal of Hazardous Goods or Animal from Public Place

Where an Authorised Person, or a member of the Police Force finds goods or an animal in a public place and those goods or animal present a hazard to public safety or obstructs the lawful use of any public place, that person may remove the goods or the animal from the public place and place the goods or the animal in the Council depot, public pound or to the place set aside for the purpose.

2.4 Registration of Impounded Goods or an Animal

When an Authorised Person places goods or an animal in the Council Depot, public pound or other place set aside for that purpose, details of the time and date, a description of the goods or the animal, and of the place from which it was removed, shall be entered in a register provided by the Council for that purpose, and the CEO shall be notified.

2.5 Application of the Act

The procedural provisions of Part 3, Division 3, Subdivision 4 of the Act shall apply generally when goods or animal are impounded.

2.6 Public Notification of Goods or Animal Impounded

The CEO shall exhibit on the notice board of the Council notification that the goods or the animal therein described has been impounded and shall, unless the goods or the animal therein described has been impounded and shall, unless the goods or the animal is sooner recovered, keep that notification exhibited for a period of not less than 7 days.

2.7 Offence

Any person who removes impounded goods or an animal from the Council depot, public pound or other place set aside for the purpose, without the authority of the CEO or otherwise contravenes or fails to comply with any clause in Part III of these Local Laws commits an offence and is liable on conviction to a penalty which is not less than \$250 and not more than \$1000.

PART 3—OLD REFRIGERATORS AND CABINETS

3.1 Disposal of refrigerators, cabinets, or the like

A person shall not place in, or about any rubbish depot, tip or dump, sanitary depot, public reserve, public place or unfenced vacant land any refrigerator, ice chest, ice box, furniture, trunk or other thing whether or the same kind as, or of a different

kind from, those specified in this Part, that has in it a compartment of a capacity of 0.04 cubic metre or more, unless before so placing it, that person removes from the compartment every door, lid, lock and hinge thereof or otherwise renders every such door or lid incapable of being fastened.

3.2 Offence

A person who contravenes or fails to comply with any clause in Part IV of those Local Laws commits an offence and is liable on conviction to a penalty which is not less than \$500 and not more than \$1000.

PART 4—STREET LAWNS & GARDENS

4.1 Interpretation

In this Part, unless the context otherwise requires, all words and expressions used have the same meanings as they have in the Local Government Act 1995.

4.2 Planting of a lawn or garden in a street

A person shall not plant or permit to be planted a lawn or garden, in a street—

- 4.2.1 that it extends beyond the frontage of the property owned or occupied by that person, without the written approval of the Council.
- 4.2.2 that it encroaches on the pavement of a carriageway, or on a made footpath;
- 4.2.3 that is not graded evenly, from the frontage of the land abutting on that portion of the street to the kerb of the carriageway.

4.3 Reticulation of lawns or garden in a street

Any water pipes laid to a lawn or garden, in a street, shall—

- 4.3.1 be laid beneath the surface of the street, at a depth of not more than 300mm, nor less than 150mm, and so that any fitting connected to them does not project above the surface of the lawn or garden;
- 4.3.2 if connected to a public water supply, be laid to comply with the requirements of the body constituted for, and having control of, that supply under an Act;
- 4.3.3 if connected to a private supply, where passing under road pavement, made footpaths or crossings, be of galvanised, wrought iron or of copper; and
- 4.3.4 have approved valves, located within the property where they are connected to the supply and fitted so as to give complete control of the flow of water from the supply.

4.4 Damage to public property

Where a person, in the course of laying pipes pursuant to this clause, causes damage to any road, pavement, footpath, or crossing, to any water, gas or sewerage pipes, to any power or telephone cables, to a fire hydrant or to any public place or property that damage may be made good, by the authority having the control of the thing damaged, at the expense of that person or of the person whose behalf the pipes were laid; and the amount of that expense may be recovered in any court of competent jurisdiction.

4.5 Maintenance of lawn or garden

4.5.1 A person planting a lawn or garden in a street may do all things reasonably necessary to maintain that lawn or garden and shall make good any damage thereby occasioned to the street and shall keep the lawn mowed to a reasonable height.

4.5.2 Nothing in this local law authorises a person to place or erect any fence, enclosure or other obstruction on, or about, a lawn or garden in a street.

4.6 Notice to rectify

The Council may at any time, by notice in writing to the owner or occupier of land that abuts upon that part of a street wherein a lawn or garden is planted, require that owner or occupier to remove any tree, shrub or water piping or fitting and may, where the owner or occupier does not comply with the notice, remove the tree, shrub, piping or fitting at the expense of the owner or occupier, and any expense incurred by the Council pursuant to this local law may be recovered in any court or competent jurisdiction.

4.7 Carrying out of authorised works

4.7.1 The Council or any other authority empowered by law to dig up a street may, without being liable to compensate any person therefore, dig up all or any part of a lawn or garden in a street, for the purposes of carrying out any authorised works.

4.7.2 A person employed by the Council or other authority acting pursuant to this local law shall not disturb a lawn or garden or damage any pipes laid under it or them to any greater extent than is reasonable necessary, for the purpose of carrying out any authorised works and shall, upon the completion of the works, reinstate the lawn or garden, as far as is reasonably practicable.

4.7.3 Where the Council or any other authority authorised by law to dig up a street for the purpose of carrying out authorised works is of the opinion that the carrying

out of those works may be impeded by the existence of piping under a lawn or garden in a street, it may give notice to the owner or occupier of the land abutting on the lawn or garden to remove the piping, until the completion of the works, and may, where the owner or occupier does not comply with the notice, remove the piping at the expense of the owner or occupier; and any expense incurred by the Council or authority pursuant to this local law may be recovered in any court of competent jurisdiction.

4.7.4 The Council or other authority is not liable *for* damage to piping under a lawn or garden in a street, occasioned either in the course of the removal of the piping under the provisions of the subclause 5.7(3) of this local law or of carrying out authorised works.

4.8 Standing of vehicle or animal

4.8.1 A person, not being the occupier of the land abutting on that lawn or garden, shall not, without the consent of that occupier, drive or stand a vehicle or animal upon a lawn or garden planted in a street pursuant to this local law.

4.8.2 Where a complaint brought under this local law is in respect of the driving of a vehicle upon a lawn or garden, if the pavement of the carriageway adjoining the lawn or garden does not exceed 5.4 metres in width, it is a sufficient defence to the complaint to show that—

- (a) the wheels of one side only of the vehicle passed over the lawn or garden; and
- (b) it was necessary to drive upon the lawn or garden, in order to pass another vehicle then being driven or standing on the pavement of the carriageway.

4.9 Offences

4.9.1 Except as provided by this local law, every person who wilfully damages a lawn or garden in a street or who removes from any such garden any flower, plant or shrub commits an offence.

4.9.2 The Council is not liable for any damage sustained by a person by reason of, or arising out of, the planting, or existence, of a lawn or garden in a street.

4.9.3 A person who contravenes or fails to comply with any clause in this Part 4 of the General Provisions Local Law is liable on conviction to a penalty not exceeding \$1000 and if the offence is of a continuing nature, to a daily penalty not exceeding \$200 in respect of each day or part of a day during which the offence continues.

Dated this 2nd day of September 1999.

The Common Seal of the Shire of Menzies is hereunto affixed by authority of a Resolution of the Council in the presence of—

KATH M. FINLAYSON, Shire President.
GREG R. CARTER, Chief Executive Officer.

— PART 2 —

CENSORSHIP

CS401***CENSORSHIP ACT 1996**

I, CHERYL LYNN EDWARDES, being the Minister administering the Censorship Act 1996, acting in the exercise of the powers conferred by Section 15 of that Act, do hereby determine that the publications specified in the schedule below shall be classified as refused publications for the purposes of that Act. Dated this 24th day of August 1999.

CHERYL LYNN EDWARDES, Minister for Labour Relations.

Schedule
17 August 1999
Refused Classification

Title or Description	Publisher
Australian Penthouse (Limited Edition) Sep 1999 Vol 20 No 9	Gemkilt Publishing Pty Ltd
Hustler Jun 1999 Vol 25 No 13	LFP Inc
Letters To Victoria Vol 1 No 2	Rev International Inc
Nugget Sep 1999 Vol 43 No 9	Dugent Corporation
Penthouse Forum Jul 1999 Vol 29 No 7	General Media Communications Inc

CS402***CENSORSHIP ACT 1996**

I, CHERYL LYNN EDWARDES, being the Minister administering the Censorship Act 1996, acting in the exercise of the powers conferred by Section 15 of that Act, do hereby determine that the publications specified in the schedule below shall be classified as restricted publications for the purposes of that Act.

Dated this 24th day of August 1999.

CHERYL LYNN EDWARDES, Minister for Labour Relations.

Schedule
17 August 1999
Restricted Classification

Title or Description	Publisher
40 Plus Vol 8 No 10	Fantasy Publications Ltd
Amateur Hours Aug 1999 Vol 7 No 4	Magcorp
Asian Babes Vol 7 No 11	Fantasy Publications Ltd
Australian Sex Paper Sep 1999 Vol 11 No 95	ASP Productions Pty Ltd
Australian Flesh Iss 81	Adult Media Group Pty Ltd
Australian Penthouse Forum Vol 7 No 9	Forum International Ltd
Babyface Aug 1999 Vol 2 No 8	The Score Group
Best of Cheri, The (Special Edition #119) Vol 21 No 12	Cheri Magazine Inc
Best of Fiesta No 16	Galaxy Publications Ltd
Big Girls Vol 5 No 10	Fantasy Publications Ltd
Big Ones (International) Vol 10 No 5	Fantasy Publications Ltd
Blueboy Sep 1999 Vol 10 No 9	Globel Media Group
Cheeks Aug 1999 No 22	Swank Publications Inc
Cheri Aug 1999 Vol 24 No 1	Cheri Magazine Inc
Cheri Sep 1999 Vol 24 No 2	Cheri Magazine Inc
Cheri Teens (Special Collectors' Edition) No 7	Cheri Magazine Inc
Cum All Over #27 (Distra Spezial) Vol 5 No 3	Distra GMBH
Dark & Sweet Vol 3 No 1	Gourmet Editions
D-Cup Aug 1999 No 23	Swank Publications Inc
Dude Sep 1999 Vol 3 No 5	Dugent Corp
Eros Vol 1 No 9	Fantasy Publications Ltd
Finally Legal Jul 1999 Vol 1 No 2	Dowager Inc
Finally Legal Aug 1999 Vol 1 No 3	Dowager Inc
Freeway Iss 181	Not Known

Restricted Classification—*continued*

Title or Description	Publisher
Gallery Sep 1999 Vol 27 No 9	Montcalm Publishing Corporation
Genesis Aug 1999 No 23	Genesis Publications Inc
Gent (Home of the D-Cups) Sep 1999 Vol 41 No 9	Dugent Corporation
Girls of the Orient Sep 1999 No 24	Stag Publications Inc
Girls/Girls (Plump & Pink) Oct 1999 No 24	Genesis Publications Inc
Hawk Sep 1999 Vol 8 No 9	Killer Joe Productions Inc
High Society Sep 1999 Vol 24 No 9	The Crescent Publishing Group
Hot Male Review Jul 1999 Vol 15 No 4	Magcorp
Hustler (Gold Label Edition) Vol 4 No 7	JT Publishing Pty Ltd
Just 18 Sep 1999 No 23	Swank Publications Inc
Just Men No 1	Not Known
Leg Action Aug 1999 No 23	Swank Publications Inc
Leg Sex Aug 1999 Vol 3 No 4	The Score Group
Leg Tease Jul 1999	Rev International Inc
Live Young Girls Aug 1999 Vol 19 No 7	Live Periodicals Inc
Mayfair Vol 34 No 7	Paul Raymond Publications Ltd
Men Only Vol 64 No 7	Paul Raymond Publications Ltd
Model Directory Vol 17 No 7	Paul Raymond Publications Ltd
Monster Tits (Gent Special) 1999 No 3	Dugent Corporation
Naughty Neighbors Sep 1999 Vol 5 No 9	The Score Group
Oui Sep 1999 Vol 29 Iss 9	Global Media Group Ltd
Penthouse Jul 1999 Vol 30 No 11	General Media Communications Inc
Petite Sep 1999 Vol 2 No 5	Dugent Corporation
Picture Premium, The Iss 11	ACP Extra
Plumpers and Big Women Aug 1999 Vol 7 Iss 5	Dugent Corporation
Razzle (Readers' Wives) Vol 21	Paul Raymond Publications Ltd
Score Sep 1999 Vol 8 No 9	The Score Group
Sexorgies No 23	Color-Climax Corporation
Succulent Aug 1999 No 22	Swank Publications Inc
Super Head #19 Vol 3 No 6	Gourmet Editions
Swank Sep 1999 No 24	Swank Publications Inc
Swank Confidential Sep 1999 No 23	Swank Publications Inc
Swank Exposed (Open Legs) Sep 1999 No 22	Swank Publications Inc
Swank Photo Series (Black Heat) Sep 1999 No 40	Swank Publications Inc
Swank Private (Uncensored) Aug 1999 No 21	Swank Publications Inc
Swank Super Special (Big Boobs) Sep 1999 No 22	Swank Publications Inc
Swank Unleashed (44-Plus) Aug 1999 No 22	Swank Publications Inc
Swank Untamed (Rear Action) Aug 1999 No 22	Swank Publications Inc
Swank X-Rated Series (Uncensored Close-Up) Aug 1999 No 23	Swank Publications Inc
Swank's Adult Erotica (X-tasy) Sep 1999 No 21	Swank Publications Inc
Teenage School Girls No 51	Color-Climax Corporation
Teenage School Girls No 55	Color-Climax Corporation
Teenage Sex No 90	Color-Climax Corporation
Teenage Sex No 91	Color-Climax Corporation
Velvet Aug 1999 No 23	Velvet Publications Inc
Very Best of High Society, The #110 Vol 16 No 6	The Crescent Publishing Group
Very Best of Readers' Wives, The Vol 1 Iss 9	Fantasy Publications Ltd
Xmania No 3	MGM

CS403***CENSORSHIP ACT 1996**

I, CHERYL LYNN EDWARDES, being the Minister administering the Censorship Act 1996, acting in the exercise of the powers conferred by Section 15 of that Act, do hereby determine that the publications specified in the schedule below shall be classified as unrestricted publications for the purposes of that Act.

Dated this 24th day of August 1999.

CHERYL LYNN EDWARDES, Minister for Labour Relations.

Schedule

17 August 1999

Unrestricted Classification

Title or Description	Publisher
Fiesta International Vol 3 Iss 4	Galaxy Publications Ltd
Fiesta International Vol 3 Iss 5	Galaxy Publications Ltd
Girls of Australian Penthouse, the No 117	Gemkilt Publishing Pty Ltd
Hustler (Australian Edition) Vol 4 No 9	JT Publishing Pty Ltd

ELECTRICITY

EG401***ENERGY CORPORATIONS (POWERS) ACT 1979****ELECTRICITY CORPORATION TRADING AS WESTERN POWER****ORDER**

1. In Western Power's opinion the provision, distribution and supply of electricity is likely to be affected and supply may be interrupted, curtailed or terminated by union action at Western Power's Power Stations.

2. Western Power declares that a System Emergency, as defined in section 57(1) of the Energy Corporations (Powers) Act 1979, exists and Orders that from 05:15 hours on Friday, 23rd July 1999 the following restrictions shall apply to the use of electricity supplied to customers via the South West Interconnected System—

2.1 Industrial, Commercial and other Non-Domestic Customers

2.1.1 Electricity must not be used for—

- (a) Industrial purposes unless supply is essential to prevent serious damage to plant and Western Power has given its prior written approval to that use;
- (b) Air-conditioning, both heating and cooling. (Air circulating fans can be used to the extent absolutely necessary for ventilation);
- (c) Refrigeration (including deep freezing), except the extent absolutely necessary to prevent loss or deterioration of stock;
- (d) Display, window, sign, decorative, advertising and all external lighting;
- (e) Recreational, sporting and entertainment purposes, except in cinemas and theatres where use is limited to meet the minimum requirements for projection, safety and security;
- (f) Pumping water, except with the prior written approval of Western Power;

2.1.2 All automatic time switches controlling lighting, pumping and all other loads must be switched off.

2.1.3 Only one lift or escalator or half the lifts or escalators (which ever is the greater) installed in any building, structure or premises may be used.

2.1.4 Not more than one third of the electric lighting installed in any building, structure or premises may be used at any one time.

2.2 Domestic Customers

2.2.1 The use of electricity shall be restricted to the essential needs and without limiting that general restriction the following specific restrictions apply—

- (a) Airconditioning (both heating and cooling) and water heaters; must not be used, unless required for the treatment of an illness or the comfort of persons suffering from an illness;
- (b) Cooking; limited to the use of one—
 - hot plate;
 - oven;
 - grill; or
 - microwave appliance,at a time;
- (c) Internal lighting, limited to two (2) rooms at a time;
- (d) External lighting; must not be used;
- (e) Refrigeration (including deep freezing); must not be used except the extent absolutely necessary to prevent loss or deterioration of food;
- (f) Water reticulation and swimming pool; must not be used and automatic time switches must be turned off;

3. This Order shall cease to have effect 7 days from the date in clause 2, unless previously renewed, varied or cancelled.

4. For the purposes of this Order the South West Interconnected System means the interconnected electricity supply system which extends between Geraldton (including Kalbarri), Kalgoorlie and Albany.

By Order of Western Power's Electricity Supply Restrictions Committee on Friday, 23rd July 1999.

M. HANDS, Executive Officer, Western Power.

EG402***ENERGY CORPORATIONS (POWERS) ACT 1979****CANCELLATION OF ORDER****WESTERN POWER**

The Order made by Western Power at Friday, 23 July 1999 at 5.15am, under section 57 of the Energy Corporations (Powers) Act 1979 is cancelled with effect from Tuesday, 27 July 1999 at 4.24pm.

Dated 28th of July 1999.

M. HANDS, Executive Officer.

LAND ADMINISTRATION

LA401

LAND ADMINISTRATION ACT 1997
INSTRUMENT OF DELEGATION

I, Douglas James Shave, MLA, Minister for Lands, acting in accordance with section 9 of the Land Administration Act 1997, hereby delegate to the officers of the Department of Land Administration listed by position title in the attached schedule, the powers and duties under those sections of the Land Administration Act 1997 listed in the attached Schedule.

Dated this 24th day of August 1999.

DOUG SHAVE, Minister for Lands.

Schedule
MINISTERIAL POWERS DELEGATED

Section	Position	Summary of Powers Delegated
8	Chief Executive Officer of the Department of Land Administration	To negotiate, conclude and execute and contract, arrangement or understanding for the purposes of carrying out the International Program and, without limiting this, negotiate, conclude and execute and: <ol style="list-style-type: none"> (1) joint venture agreement; (2) memorandum of understanding; (3) memorandum of agreement; (4) teaming agreement; (5) consultant services contract; (6) contracts or agreements for the licensing or sale of any intellectual property; and (7) contracts for the purchase of any goods or equipment for any international project, or vary or amend any such contracts, arrangements or understandings.
8	Director, Service Delivery of the Department of Land Administration	To negotiate, conclude and execute any: <ol style="list-style-type: none"> (1) consultant services contract; (2) contracts of service; and (3) contracts for the purchase of any goods or equipment for any international project, including any variation or amendment to such contracts.
8	International Coordinator, International Services of the Department of Land Administration	To negotiate, conclude and execute any: <ol style="list-style-type: none"> (1) consultant services contract; (2) contracts of service; and (3) contracts for the purchase of any goods or equipment for any international project, including any variation or amendment to such contracts.

LOCAL GOVERNMENT

LG401

LOCAL GOVERNMENT ACT 1995
HEALTH ACT 1911
Shire of Dandaragan

Memorandum of Imposing Rates and Charges for Financial Year 1999/2000

To whom it may concern,

At a meeting of the Dandaragan Shire Council held on 26th August 1999, it was resolved that the rates specified hereunder should be imposed on all rateable property within the District of the Shire of Dandaragan in accordance with the provisions of the Local Government Act 1995 and the Health Act 1911.

Dated the 26th August 1999.

G. SNOOK, President.
B. J. GOLDING, Chief Executive Officer.

Gross Rental Value—

Jurien townsite: a rate of 5.7963 cents in the dollar
Badgingarra townsite and specified area: a rate of 5.7963 cents in the dollar
Cervantes townsite: a rate of 5.7963 cents in the dollar
Dandaragan townsite: a rate of 5.7963 cents in the dollar
Rural: a rate of 5.7963 cents in the dollar

Unimproved Value—

Rural: a rate of 1.1551 cents in the dollar
Mineral Claims: a rate of 1.1551 cents in the dollar

Minimum Rate—

Jurien, Cervantes, Badgingarra and Dandaragan townsites and Rural GRV: \$292.00 per assessment
Unimproved: \$347.00 per assessment
Mineral Claims: \$402.00 per assessment

Rubbish Charges—**Jurien and Cervantes townsites—**

Domestic: \$125.00 per 240L bin per annum
Commercial: \$125.00 per 240L bin per annum
Pensioner: \$80.00 per 240L bin per annum
Non-rateable Premises: \$145.00 per 240L bin per annum
Industrial \$190.00 per 240L bin per annum
Woehrl's Shops \$825.00 per annum
Cervantes General Store \$285.00 per annum
C-Side Hardware \$210.00 per annum
Golden West Lobsters \$405.00 per annum
Mid West Wildflowers \$390.00 per annum
Fremantle Fisherman's Co-op \$405.00 per annum
Shell Service Station \$240.00 per annum
Timberlane Nominees \$290.00 per annum
Harbour Tip Fee \$80.00 per annum
Industrial Tip Fee \$80.00 per annum
Dept. of Transport—Harbour Tip Fee \$400.00 per annum
Commercial Tip Fee \$125.00 per annum
Caravan Park Tip Fee \$300.00 per annum
Factory Tip Fee \$292.00 per annum
Residential Tip Fee \$105.00 per annum
Sport Club Tip Fee \$183.00 per annum
Tourist Tip Fee \$245.00 per annum
Community Organisation Tip Fee \$245.00 per annum
Cervantes Service Station \$340.00 per annum
Licenced Premises Tip Fee \$295.00 per annum
General Store Tip Fee \$190.00 per annum
BP Jurien Service Station Tip Fee \$135.00 per annum
1.6 cubic metre Bins \$550.00 per annum
Cervantes Supermarket \$215.00 per annum

Dandaragan and Badgingarra townsites—

Domestic: \$105.00 per 240L bin per annum
Pensioner: \$72.00 per 240L bin per annum
Dandaragan General Store \$550.00 per annum
Industrial Tip Fee: \$80.00 per annum
Dandaragan Community Recreation Club: \$550.00 per annum
Dandaragan Primary School \$420.00 per annum
Badgingarra Primary School \$420.00 per annum

Service Charges—

Jurien townsite: \$60.00 per rateable property for upgrade of Television Rebroadcasting facility.
Cervantes townsite: \$62.00 per rateable property for upgrade of Television Rebroadcasting facility.
Badgingarra townsite: \$77.00 per rateable property for upgrade of Television Rebroadcasting facility.
Cervantes townsite: Bushfire Brigade Levy \$5.00 per rateable property.

Discount on Rates—a discount of 10% will be allowed on current general rates which are paid in full within 35 days of service of the annual rate notice, in accordance with section 6.46 of the Local Government Act.

Penalty Interest—a penalty interest of 10% per annum calculated daily, by simple interest will apply 35 days of service of the rate notice.

Instalment Plan Interest—a charge of 5% per annum, calculated daily by simple interest.

Administration Fee—a charge of \$5.00 per instalment for rates levied.

Due dates for payment of Rates and Services 1999/2000—

1. 7th October 1999
2. 7th December 1999
3. 7th February 2000
4. 7th April 2000

LG501**HEALTH ACT 1911***Shire of Moora*

Sewerage Scheme Extensions Moora Townsite

NOTICE OF INTENTION

The Shire of Moora proposes to construct an extension to the existing townsite sewerage scheme for the purpose of draining waste water and sewerage from dwellings within the area delineated on McDowall Affleck Pty Ltd Drawings No: 759615 and to treat the waste water and sewerage in the treatment works already constructed. It is estimated that the capital cost of the extension will cost \$7,000, it is proposed to finance the work from the developers (Landstart) funds.

The estimated capital cost of the properties to be served by the proposed extension is \$1,900,000.

Water supply for the Sewerage Scheme comes from the existing country areas water supply for Moora Townsite.

A general plan and description of the proposed extension has been deposited with the Executive Directors, Public Health and copies may be inspected at the Council Office, objections will be received until 1 October, 1999.

J. N. WARNE, Chief Executive Officer.

LG601**BUSH FIRES ACT 1954***Shire of Laverton*

(Section 33)

Notice to all Owners and Occupiers of Land

Pursuant to the powers contained in Section 33 of the Bush Fires Act 1954, you are hereby required on or before the 1st day of November 1999 or within fourteen days of you becoming owner or occupier of land should this be after the 1st day of November 1999 to clear firebreaks and remove inflammable material from the land owned or occupied by you as specified hereunder and to have the specified land and firebreaks clear of all inflammable material from the 1st day of November 1999 up to and including the 30th day of April 2000.

1. Land Outside of Townsites

1.1 All buildings on land which is outside townsites shall be surrounded by two firebreaks not less than two metres wide cleared of all inflammable material, the inner firebreak to be not more than twenty metres from the perimeter of the building or group of buildings and the outer firebreak not less than 200 metres from the inner firebreak.

1.2 To remove all inflammable material from the whole of the land between the firebreaks required in paragraph 1.1 above.

2. Land in Townsites

2.1 All land in the townsite shall have firebreaks at least three metres in width cleared of all inflammable material immediately inside and along all external boundaries of the land and where there are buildings on the land additional firebreaks three metres in width shall be cleared immediately surrounding each building.

If it is considered for any reason to be impractical to clear firebreaks or remove inflammable material as required by this notice you may apply to the Council or its duly authorised officer not later than the 30th day of September 1999 for permission to provide firebreaks in alternative positions or take alternative action to remove or abate any fire hazard. If permission is not granted by Council or its duly authorised officer, you shall comply with the requirements of this notice.

S. J. DECKERT, Chief Executive Officer.

If the requirements of this notice are carried out by burning, such burning shall comply with the relevant provisions of the Bush Fires Act. "Inflammable material" does not include green growing trees or green growing plants in gardens.

LG602**BUSH FIRES ACT 1954***City of Geraldton*

Notice to All Owners and/or Occupiers of Land in the City of Geraldton

Pursuant to the powers contained in section 33 of the above Act, you are hereby required, on or before the 15th day of November of each year, or within 14 days of the date of your becoming owner or occupier should this be after the 15th day of November to remove from the land owned or occupied by you, all

inflammable materials or to clear firebreaks in accordance with the following and thereafter to maintain the land or the firebreaks clear of inflammable material up to and including the 31st day of March the following year—

- (i) Where the area of the land is 0.202 hectares or less, all inflammable material on the land shall be removed from the whole of the land;
- (ii) Where the land exceeds 0.202 hectares in area, firebreaks at least 3 metres wide and high shall be cleared of all inflammable material immediately—
 - (a) inside all external boundaries of the land; and
 - (b) surrounding all buildings situated on the land.

Inflammable material is defined for the purpose of this notice to include bush, timber, boxes, cartons, paper and like inflammable materials, rubbish and also any combustible matter, but does not include living trees, shrubs, growing bushes and plants under cultivation.

Clearing is defined for the purpose of this notice to include ploughing, cultivating, scarifying, slashing or to otherwise clear the land or firebreaks as determined above. Where the option of slashing is preferred, the height of grass when slashed shall not exceed 150mm.

Burning of all rubbish or refuse is not permitted within the City of Geraldton without Council permission; therefore burning of vegetation for clearing purposes is not a permitted method, except in special circumstances approval may be authorised by the Manager of Health and Essential Services on receipt of a written application.

If it is considered to be impracticable for any reason to clear firebreaks by this notice, you may apply to Council or its duly authorised officer, no later than 1st day of November of each year, for permission to provide firebreaks in alternative position or to take alternative action to abate fire hazards on the land. If permission is not granted by Council or its duly authorised officer, you are to comply with the requirements of this notice.

The penalty for failing to comply with this notice is either an \$80.00 infringement fine or a court fine to a maximum of \$1 000. A person in default is also liable, whether prosecuted or not, to pay the cost of performing the work directed in this notice if it is not carried out by the owner or occupier by the date required by this notice.

By Order of the Council,

C. ALDRED, Chief Executive Officer.

MINERALS AND ENERGY

MN401*

PETROLEUM ACT 1967

Exploration Permit Nos. EP413 and EP414 held by Premier (Perth Basin) Ltd, Dudley Joe Hughes, Victoria Winifred Burns, John Kevin Geary, Dan Allen Hughes, Alan Robert Burns, Boral Energy Developments Pty Limited, Rothschild Australia Petroleum NL, Cladium Mining Pty Ltd, Euro Pacific Energy Pty Ltd and Phoenix Energy Pty Limited have been renewed to have effect for a period of five (5) years from the 26 August 1999.

W. L. TINAPPLE, Director Petroleum Division.

MN402*

PETROLEUM PIPELINES ACT 1969

NOTICE OF APPLICATION FOR A PIPELINE LICENCE

I, William Lee Tinapple, the Director Petroleum Division in the Department of Minerals and Energy for the State of Western Australia being the officer for the time being holding certain powers and functions of the Minister in respect of the area specified in the State of Western Australia by virtue of an instrument of delegation dated 4 June 1998 and published in the *Government Gazette* of Western Australia on 16 June 1998, give notice pursuant to Section 8(4) of the Petroleum Pipelines Act, 1969 that an application recorded as 3P/99-0 has been received from—

STATEWEST POWER PTY LTD

7-11 CATALANO ROAD, CANNING VALE WA 6155

for a licence to construct and operate a pipeline for the conveyance of natural gas from approximately 1142.8km on the Goldfields Gas Pipeline, 18km west of Leonora, a distance of approximately 16.5km to its power station site in Leonora.

A map showing the position of the proposed pipeline may be examined during public office hours until 21 September 1999 at the Petroleum Division, Department of Minerals and Energy, 11th Floor, Mineral House, 100 Plain Street, East Perth WA

Dated this 3rd day of September 1999.

W. L. TINAPPLE, Director Petroleum Division.

PLANNING

PD401***METROPOLITAN REGION TOWN PLANNING SCHEME ACT**
**METROPOLITAN REGION SCHEME (SECTION 33) AMENDMENT No. 984/33
 FORRESTFIELD MARSHALLING YARDS**
OUTCOME OF SUBMISSIONS

The Western Australian Planning Commission has considered all the submissions received in respect of the amendment proposals for the 'Forrestfield Marshalling Yards' amendment No. 984/33. This proposal was first published in the *Government Gazette* on 19 May 1998. The Commission has recommended that the amendment proposal be modified, and is further subject to environmental conditions as set by the Minister for the Environment. The amendment (as modified) is shown on Western Australian Planning Commission plan 1.3776/1.

The amendment has been presented to and approved by His Excellency the Governor in accordance with the requirements of the *Metropolitan Region Town Planning Scheme Act*. It will now be tabled in both Houses of Parliament, where it must remain for 12 sitting days. During this time either House may, by resolution, disallow the amendment. As soon as the amendment is no longer subject to disallowance it becomes legally effective in the Metropolitan Region Scheme.

Copies of the amendment and the accompanying *Report on Submissions* are available for public inspection from 9 September 1999 to 22 October 1999 at the following locations—

- | | |
|---|---|
| <ul style="list-style-type: none"> • Ministry for Planning
1st floor, Albert Facey House
469 Wellington Street
Perth • J S Battye Library
Alexander Library Building
Francis Street
Northbridge | Council Offices of the municipalities of— <ul style="list-style-type: none"> • City of Perth • City of Fremantle • City of Belmont • City of Bayswater • Town of Bassendean • Shire of Kalamunda • Shire of Swan |
|---|---|

Copies of the *Report on Submissions* are available upon request from these display locations.

PETER MELBIN, Secretary,
Western Australian Planning Commission.

PD402**TOWN PLANNING AND DEVELOPMENT ACT 1928****ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT***CITY OF JOONDALUP***TOWN PLANNING SCHEME No. 1—AMENDMENT 842**

Ref: 853/2/34/1, Pt. 842.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the City of Joondalup Town Planning Scheme Amendment on 30 August, 1999 for the purpose of—

1. deleting the definition of "Home Occupation" in Clause 1.8 and substituting the following—
 "HOME BUSINESS—Category 1" means an occupation carried on within a dwelling by a resident of the dwelling which—
 - (a) does not entail the retail sale, display or hire of goods of any nature;
 - (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
 - (c) does not entail any substantial and/or inappropriate modification of the dwelling;
 - (d) does not entail employment of any other person;
 - (e) does not occupy an area greater than 20m² or where more than one resident is involved not cause the area used for home business within the dwelling to occupy an area greater than 30m²
 - (f) does not display any advertising signage;
 - (g) does not attract customers or regular and frequent deliveries of goods or equipment to the site;
 - (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in any increase in the amount of vehicular traffic in the vicinity; and
 - (i) does not entail the presence, parking and garaging of a vehicle of more than 1.5 tonnes tare weight.
 - (j) does not involve the servicing or repair for gain of motor vehicles.

- (k) notwithstanding factors (a)-(j); a Home Business Category 1 may entail the operation of a Family Day Care Centre as defined by Clause 1.8 of this Scheme.

“HOME BUSINESS-Category 2” means an occupation carried on in a dwelling or on land around a dwelling by a resident of the dwelling which—

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails the employment of no more than 1 person not a member of the occupier’s household;
- (e) does not occupy an area greater than 30m². Council may permit an area greater than 30m² where it is considered that the scale of the business is limited by other factors and the increase in floorspace will not have a detrimental effect on the amenity of the surrounding areas;
- (f) does not have more than one advertisement sign and the sign displayed does not exceed 0.2 square metres in area;
- (g) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (h) does not involve the servicing or repair for gain of motor vehicles; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

“HOME BUSINESS—Category 3” means an occupation or professional practice undertaken for the purposes of commercial gain; and carried on in a dwelling or on land around a dwelling by a resident of the dwelling which—

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails employment of a maximum of 2 persons not members of the occupier’s household. Council may approve a greater number of employees, not exceeding 4 persons, subject to community consultation;
- (e) occupies an area not exceeding 50 square metres. Council may approve; subject to community consultation; an area of up to 100 square metres, or one third of the floor area of the dwelling whichever is the lesser;
- (f) displays a sign describing the nature of the approved home occupation. The sign must not exceed 0.2 square metres, and a maximum 2 metres high;
- (g) will not result in the requirement for a greater number of parking facilities than those provided on the site so as to cause an unacceptable inconvenience for adjoining residents and road users;
- (h) will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not involve the servicing or repair for gain of motor vehicles; and
- (j) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

2. deleting Clause 3.24 Home Occupations, and inserting the following—

3.24. Home Business-Category 1

- (a) Subject to Clause 3.24.3, a person may conduct a Home Business-Category 1 within a dwelling without the need to submit an application for approval to commence development.
- (b) If in the opinion of the Council the activity is no longer consistent with the limits of a Home Business-Category 1, or is otherwise causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, Council may serve notice on the person requiring the person to cease using the dwelling for the occupation.

3.24.1 Home Business-Category 2

- (a) A person wishing to conduct a Home Business Category 2 on residential premises is required to apply to Council for an approval to commence development, and such use or occupation may be approved by Council at its discretion.

3.24.2 Home Business-Category 3

- (a) A person wishing to conduct a Home Business Category 3 on residential premises is required to apply to Council for an approval to commence development, and such use or occupation may be approved by Council at its discretion.
- (b) The provisions of the Residential Planning Codes and all other clauses in the Scheme relating to developments in a Residential Zone shall apply to a Home Business-Category 3. Council may exercise its discretion and vary a provision of the Codes, except the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.

3.24.3 Review—

- (a) At any time Council may undertake a review of the status of an occupation being carried out in a dwelling as a Home Business-Category 1, by requiring the resident to submit a statement setting out the nature and extent of the occupation being carried out on the premises or, on reasonable notice, permitting inspection of the dwelling by Council.
 - (b) Following completion of a review, Council may designate the occupation either as a Home Business-Category 1, Category 2 or 3 and require the resident to comply with the requirements of the Scheme in a manner applicable to that designation and if the designation has changed, then notwithstanding that the occupation may have been lawful up to the time of the review, such occupation shall be carried out only in conformity with Council provisions of either a Home Business Category 2 or a Home Business-Category 3, whichever is applicable, once issued."
3. replacing clause 7.1 "Council's Approval Necessary" with the following—
"in addition to a building licence (where applicable) Council's prior approval to commence development is required for all development except in the case of zoned land, for a 'single house' or such other proposals as are expressly excluded in this Scheme. For the purposes of this clause 'single house' does not include the development of Mast or Antenna in a Residential and Special Residential Zones where the Council's prior approval to commence development will be required."
4. Table 1 of the Town Planning Scheme No. 1 is amended by deleting "Home Occupation" from the table and inserting in place thereof the following—
- Home Business-Category 1. This use being a permitted use "P", in zones 1, 2, 3, 10, 12, 13, 17; and an 'X' not permitted use in all other areas.
 - Home Business-Category 2. This used being inserted as a "P" use in zones 1, 2, 3, 10, 12, 13, 17, and 'X' in all other zones.
 - Home Business-Category 3. This use being inserted as an "AA" in Zones 1, 2, 3, 10, 12, 13, 17, and 'X' in all other zones.
5. In Clause 1.8 after the definition of the term "Extractive Industry" insert the following—
"Family Day Care Centre" has the same meaning as that in the Community Services (Child Care) Regulations 1988.

C. ANSELL, Chairman of Commissioners.
L. DELAHAUNTY, Chief Executive Officer.

PD403***TOWN PLANNING AND DEVELOPMENT ACT 1928**

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

CITY OF ROCKINGHAM

TOWN PLANNING SCHEME No. 1—AMENDMENT No. 325

Ref: 853/2/28/1, Pt. 325.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the City of Rockingham Town Planning Scheme Amendment on 30 August, 1999 for the purpose of rezoning Pt Lot 402 Rae Road, Rockingham from 'Residential SR3', 'Local Major Roads' and Unzoned land to 'Development Zone' and including the land within the Residential Planning Code density coding of R20/40 as depicted on the Scheme Amendment Map.

C. S. ELLIOTT, Mayor.
J. S. GREEN, for Chief Executive Officer.

PD404***TOWN PLANNING AND DEVELOPMENT ACT 1928**

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

CITY OF ROCKINGHAM

TOWN PLANNING SCHEME No. 1—AMENDMENT No. 327

Ref: 853/2/28/1, Pt. 327.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the City of Rockingham Town Planning Scheme Amendment on 30 August, 1999 for the purpose of rezoning Lot 391 (No 12) Baralda Court, Rockingham from "Residential Special (Church)" to "Residential GR5 (R12.5/R50)".

C. S. ELLIOTT, Mayor.
G. G. HOLLAND, Chief Executive Officer.

PD405*

TOWN PLANNING AND DEVELOPMENT ACT 1928
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT
SHIRE OF GINGIN

TOWN PLANNING SCHEME No. 8—AMENDMENT No. 72

Ref: 853/3/8/10, Pt. 72.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the Shire of Gingin Town Planning Scheme Amendment on 30 August, 1999 for the purpose of including Lot 500 Dewar Road, Gingin in Appendix 2—Schedule of Additional Use Sites as follows—

16. (a) Lot 500 Dewar Road, Gingin
(b) Vehicle Repairs
(c) (i) The additional use shall only be permitted where the use—
- is incidental to and positioned behind an existing residence;
 - has a front setback of at least 50m;
 - has a gross floor area of no greater than 400m²;
 - is contained within a building that has a character and appearance of a rural shed; and
 - complies with the development guide plan for the site as endorsed by the Shire of Gingin.
- (ii) The development of the land shall incorporate the retention of existing trees on site and substantial supplementary landscaping to screen the development from the road.
(iii) The storage of motor vehicles is to be restricted to the rear of the residence and inside the workshop.
(iv) All signage to be in accordance with the requirements of the Shire of Gingin Town Planning Scheme No. 8 and signage shall not be permitted along Dewar Road.
(v) Drainage and effluent disposal arrangements shall ensure that chemical spills do not enter the nearby tributary of the Gingin Brook. The workshop floor area (and any other areas likely to contain chemicals) shall consist of a concrete pad covered against the rain and should drain to a central point. All drainage from the area shall be directed to a holding tank and there shall be no discharge of effluent to the tributary.

G. MORTON, President.
S. D. FRASER, Chief Executive Officer.

PD406

TOWN PLANNING AND DEVELOPMENT ACT 1928
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT
SHIRE OF SERPENTINE-JARRAHDAL

TOWN PLANNING SCHEME No. 2—AMENDMENT No. 98

Ref: 853/2/29/3, Pt. 98.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the Shire of Serpentine-Jarrahdale Town Planning Scheme Amendment on 30 August, 1999 for the purpose of—

1. Rezoning Lot 2 Kargotich Road, Oakford, from "Rural" to "Rural Living B" as depicted on the Scheme Amendment map;
2. Including the portion of closed road reserve between Lots 2 and 113 Kargotich Road within the "Rural Living B" zone; and
3. Including special provisions in Appendix 4B of the Scheme described hereunder—
 - (a) SPECIFIED AREA OR LOCALITY
Lot 2 Kargotich Road, Oakford
 - (b) SPECIAL PROVISIONS TO REFER TO (a)
 - 1 Within the Rural Living zone, the following land uses are permitted, or are permitted at the discretion of the Council—
Uses classes permitted (P)—
Single Dwelling
Public Recreation
Public Utility

Discretionary Uses (AA)—

Ancillary Accommodation
Home Occupation
Rural Use/Intensive Agriculture

All other uses are prohibited.

In exercising its discretion in respect to AA uses, the Council having regard to the Planning Guidelines for Nutrient Management shall only permit such uses when it is satisfied following consultation with Government Agencies that the land use does not involve excessive nutrient application or the clearing of the land.

- 2 No dwelling shall be approved by the Council unless it is connected to an alternative domestic waste water treatment system as approved by the Health Department of WA with an adequate phosphorous retention capacity, as determined by the Department of Environmental Protection, and with the base of the system or the modified irrigation area being the required distance above the highest known water table.
- 3 Notwithstanding the controls specified by Provision 1, development and use of the land is subject to the provisions of the Water Corporation of Western Australia By-laws applying to underground water supply and pollution control.
- 4 Notwithstanding the obligations of the subdivider under clause 5.12.9(e) of the Scheme, the subdivider shall drain the land and provide drainage sumps in accordance with the Subdivision Guide Plan and/or drainage Plan for the estate. Those easements required by the Council shall be provided to the Council free of cost at the time of subdivision to provide for the ongoing maintenance of the drains and sumps.
- 5 The subdivider shall, in accordance with the Subdivision Guide Plan for this estate, plant indigenous trees and shrubs of a species and at a density and distribution to the satisfaction of the Council prior to the transfer of a lot(s) to a new owner.
- 6 The subdivider shall either maintain the trees and shrubs planted until the land is sold, or shall plant sufficient numbers of trees and shrubs to allow for natural loss. Thereafter, the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Council.
- 7 The subdivider shall prepare and implement a Fire Management Plan that identifies the need for and the construction requirements relative to strategic firebreaks, water supplies and equipment and any other fire management requirements that may be deemed necessary, to the specifications and satisfaction of the local authority and the Bush Fires Board of WA. This will include contribution to fire fighting facilities in accordance with Council policy.
- 8 At the time of the building application for each lot, a plan of the site shall be submitted by the applicant to the satisfaction and specifications of the Council which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting and maintenance.
- 9 The land is situated within the catchment of the Peel-Harvey system where nutrient control through fertiliser application is to be promoted. Therefore, the application, type and distribution of fertiliser to the land shall be subject to the prior approval of the Council who shall consult the Department of Environmental Protection before approval is granted.
- 10 No indigenous vegetation or trees shall be destroyed or cleared except, but subject to the developer obtaining the prior consent in writing of the Council, where such vegetation and trees are dead, diseased or where the clearing is required for the purpose of a firebreak, dwelling, outbuilding, fence, drainage systems, house driveways and/or to accommodate the discretionary uses identified under Provision 1.
- 11 Bridle paths to be constructed by the Subdivider and ceded free of cost to the Crown in accordance with the Subdivision Guide Plan.

J. STAR, President.

I. BODILL, Chief Executive Officer.

PD407**TOWN PLANNING AND DEVELOPMENT ACT 1928**

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

CITY OF WANNEROO

TOWN PLANNING SCHEME No. 1—AMENDMENT No. 842

Ref: 853/2/30/1, Pt. 842.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the City of Wanneroo Town Planning Scheme Amendment on 30 August, 1999 for the purpose of—

1. deleting the definition of "Home Occupation" in Clause 1.8 and substituting the following—
"HOME BUSINESS -Category 1" means an occupation carried on within a dwelling by a resident of the dwelling which—
 - (a) does not entail the retail sale, display or hire of goods of any nature;

- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not entail any substantial and/or inappropriate modification of the dwelling;
- (d) does not entail employment of any other person;
- (e) does not occupy an area greater than 20m² or where more than one resident is involved not cause the area used for home business within the dwelling to occupy an area greater than 30m²
- (f) does not display any advertising signage;
- (g) does not attract customers or regular and frequent deliveries of goods or equipment to the site;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in any increase in the amount of vehicular traffic in the vicinity; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than 1.5 tonnes tare weight.
- (j) does not involve the servicing or repair for gain of motor vehicles.
- (k) notwithstanding factors (a)—(j); a Home Business Category 1 may entail the operation of a Family Day Care Centre as defined by Clause 1.8 of this Scheme.

“HOME BUSINESS-Category 2” means an occupation carried on in a dwelling or on land around a dwelling by a resident of the dwelling which—

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails the employment of no more than 1 person not a member of the occupier’s household;
- (e) does not occupy an area greater than 30m². Council may permit an area greater than 30m² where it is considered that the scale of the business is limited by other factors and the increase in floorspace will not have a detrimental effect on the amenity of the surrounding areas;
- (f) does not have more than one advertisement sign and the sign displayed does not exceed 0.2 square metres in area;
- (g) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (h) does not involve the servicing, or repair for gain of motor vehicles; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

“HOME BUSINESS-Category 3” means an occupation or professional practice undertaken for the purposes of commercial gain; and carried on in a dwelling or on land around a dwelling by a resident of the dwelling which—

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails employment of a maximum of 2 persons not members of the occupier’s household. Council may approve a greater number of employees, not exceeding 4 persons, subject to community consultation;
- (e) occupies an area not exceeding 50 square metres. Council may approve; subject to community consultation; an area of up to 100 square metres, or one third of the floor area of the dwelling whichever is the lesser;
- (f) displays a sign describing the nature of the approved home occupation. The sign must not exceed 0.2 square metres, and a maximum 2 metres high;
- (g) will not result in the requirement for a greater number of parking facilities than those provided on the site so as to cause an unacceptable inconvenience for adjoining residents and road users;
- (h) will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not involve the servicing or repair for gain of motor vehicles; and
- (j) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

2. deleting Clause 3.24 Home Occupations, and inserting the following—

3.24. Home Business-Category 1

- (a) Subject to Clause 3.24.3, a person may conduct a Home Business-Category 1 within a dwelling without the need to submit an application for approval to commence development.

- (b) If in the opinion of the Council the activity is no longer consistent with the limits of a Home Business-Category 1, or is otherwise causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, Council may serve notice on the person requiring the person to cease using the dwelling for the occupation.
- 3.24.1 Home Business-Category 2
- (a) A person wishing to conduct a Home Business-Category 2 on residential premises is required to apply to Council for an approval to commence development, and such use or occupation may be approved by Council at its discretion.
- 3.24.2 Home Business-Category 3
- (a) A person wishing to conduct a Home Business-Category 3 on residential premises is required to apply to Council for an approval to commence development, and such use or occupation may be approved by Council at its discretion.
- (b) The provisions of the Residential Planning Codes and all other clauses in the Scheme relating to developments in a Residential Zone shall apply to a Home Business-Category 3. Council may exercise its discretion and vary a provision of the Codes, except the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.
- 3.24.3 Review
- (a) At any time Council may undertake a review of the status of an occupation being carried out in a dwelling as a Home Business-Category 1, by requiring the resident to submit a statement setting out the nature and extent of the occupation being carried out on the premises or, on reasonable notice, permitting inspection of the dwelling by Council.
- (b) Following completion of a review, Council may designate the occupation either as a Home Business-Category 1, Category 2 or 3 and require the resident to comply with the requirements of the Scheme in a manner applicable to that designation and if the designation has changed, then notwithstanding that the occupation may have been lawful up to the time of the review, such occupation shall be carried out only in conformity with is Council provisions of either a Home Business Category 2 or a Home Business-Category 3, whichever is applicable, once issued.”
3. replacing clause 7.1 “Council’s Approval Necessary” with the following—
“in addition to a building licence (where applicable) Council’s prior approval to commence development is required for all development except in the case of zoned land, for a ‘single house’ or such other proposals as are expressly excluded in this Scheme. For the purposes of this clause ‘single house’ does not include the development of Mast or Antenna in a Residential and Special Residential Zones where the Council’s prior approval to commence development will be required.”
4. Table 1 of the Town Planning Scheme No. 1 is amended by deleting “Home Occupation” from the table and inserting in place thereof the following—
- Home Business-Category 1. This use being a permitted use “P”, in zones 1, 2, 3, 10, 12, 13, 17; and an ‘X’ not permitted use in all other areas.
 - Home Business-Category 2. This used being inserted as a “P” use in zones 1, 2, 3, 10, 12, 13, 17, and ‘X’ in all other zones.
 - Home Business-Category 3. This use being inserted as an “AA” in Zones 1, 2, 3, 10, 12, 13, 17, and ‘X’ in all other zones.
5. In Clause 1.8 after the definition of the term “Extractive Industry” insert the following—
“Family Day Care Centre” has the same meaning as that in the Community Services (Child Care) Regulations 1988.

C. ANSELL, Chairman of Commissioners.
K. WHITE, Chief Executive Officer.

PD701

TOWN PLANNING AND DEVELOPMENT ACT 1928
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME
SHIRE OF BUSSELTON
TOWN PLANNING SCHEME No. 20

Ref: 853/6/6/21, Vol. 3.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the Shire of Busselton Town Planning Scheme No 20 on 11 August, 1999 - the Scheme Text of which is published as a Schedule annexed hereto.

B. MORGAN, President.
K. WHITE, Acting Chief Executive Officer.

Schedule

TOWN PLANNING AND DEVELOPMENT ACT 1928*BUSSELTON SHIRE COUNCIL*

DISTRICT TOWN PLANNING SCHEME No. 20

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ADOPTION**PART 1—PRELIMINARY****1. Citation**

This Town Planning Scheme may be cited as the Shire of Busselton District Town Planning Scheme No 20 (hereinafter called “the Scheme”).

2. Responsible Authority

The Shire of Busselton (the “Council”) is the responsible authority for implementing the Scheme.

3. Scheme Area

The Scheme shall apply to the whole of the District of the Shire of Busselton. The boundary of the Scheme is indicated where necessary by a broken black line. The said Area is hereinafter referred to as “the Scheme Area”.

4. General Objects of Scheme

The objects of this Scheme are—

- (a) to provide for the development and, where necessary, the betterment of the Shire of Busselton in physical, social and economic terms (and, in particular, to broaden its economic base) and for orderly and economic development and optimum use of its land and other resources, consistent with the conservation of important natural and man-made features, and to do so in such a way that the likely need and aspirations of the people of the Shire, the region and the State will be provided for and realised;
- (b) to provide a comprehensive planning instrument for the Shire that is clear and explicit but which provides flexibility in its application;
- (c) to provide a resourceful guidance to—
 - (i) the Council in the preparation of development guide plans;
 - (ii) public authorities in respect of the likely future needs of the Shire;
 - (iii) the private sector in terms of future development opportunities and requirements; and
 - (iv) the community in respect of the manner in which the effects of growth and change are proposed to be managed;
- (d) to ensure that rational decisions are made with regard to land use and that the assessment and classification of land resources on the basis of capability and suitability are an essential facet of the planning process;
- (e) to facilitate the provision of public amenities and community support services consistent with the development and growth of the Shire;
- (f) to ensure that growth and development of the Shire occurs in a way which preserves existing environmental qualities and minimises adverse environmental impacts;
- (g) to ensure that existing and future residents enjoy a range of attractive living environments and have access to the widest possible range of services and amenities;
- (h) to protect and enhance areas within the Shire identified as being of significant environmental value;
- (i) to encourage the conservation and extraction of geological resources so as to prevent sterilisation of known resources by inappropriate development; and
- (j) to generally implement and reflect the policies and strategies outlined in the Busselton Rural Strategy and (where not inconsistent with that Strategy and/or this Scheme) the Leeuwin Naturaliste Region Plan—Stage 1 and the Leeuwin-Naturaliste Ridge Statement of Planning Policy.

5. Arrangement of the Scheme

- (1) The Scheme is divided into the twelve parts specified hereunder—

Part 1: Preliminary
Part 2: Planning Consent
Part 3: Reserves
Part 4: Zones & Land Use
Part 5: General Development Requirements & Provisions
Part 6: Specific Residential Provisions
Part 7: Specific Commercial Provisions

- Part 8: Specific Industrial Provisions
- Part 9: Specific Rural Provisions
- Part 10: Non-Conforming Uses
- Part 11: Administration
- Part 12: Schedules

(2) The provisions of each Part of the Scheme shall be read in conjunction with the rest of the Scheme and shall not be deemed to limit or otherwise prejudicially affect any other Part.

(3) The Scheme Maps form part of the Scheme.

6. Relationship of Scheme to Residential Planning Codes (R-Codes)

(1) For the purpose of the Scheme, "Residential Planning Codes" shall mean the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No. 1, together with any amendments thereto. The Residential Planning Codes are hereinafter called "the R-Codes".

(2) A copy of the Residential Planning Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

(3) Except as otherwise provided for by the Scheme, the use or development of land for any of the residential purposes dealt with by the Residential Planning Codes shall conform to the provisions of those Codes.

(4) The Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the Residential Planning Code density numbers superimposed on the particular areas shown on the Scheme Map as being contained within the outer edges of the distinctive borders shown on the Map.

(5) Variations and exclusions of the Residential Planning Codes are outlined in Clause 57.

7. Relationship of Scheme to Bylaws

The provisions of the Scheme shall have effect, notwithstanding any Bylaw for the time being in force in the District and where the provisions of the Scheme are inconsistent with the provisions of any Local Law, the provisions of the Scheme shall prevail.

8. Statutes

A reference to an Act of Parliament or to a section thereof includes a reference to any Act by which it is re-enacted or amended for the time being in force and also includes all bylaws, regulations and orders made thereunder for the time being in force.

9. Revocation

The Shire of Busselton Town Planning Scheme No. 5—District Scheme published in the *Government Gazette* of 4 February 1983 and amended from time to time is hereby revoked.

10. Interpretation

(1) Words and expressions used in the Scheme shall have the respective meanings given to them in Schedule 1 or elsewhere in the Scheme and the Residential Planning Codes.

(2) Where a word or term is defined in the Residential Planning Codes then, notwithstanding anything else in the Scheme, that word or term, when used in respect of residential development, has the meaning given to it in the Residential Planning Codes.

(3) Words and expressions used in the Scheme, but not defined in Schedule 1 elsewhere in the Scheme or in the Residential Planning Codes shall have their normal and common meanings.

(4) Words used in the singular shall include the plural or implying a gender shall include every other gender and vice versa. Words implying natural persons shall include corporations and vice versa.

(5) In this Scheme—

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for that purpose;
- (b) a reference to a map is a reference to a map deposited in the office of the Council; and
- (c) a reference to land within a zone specified in Table 2 is a reference to land shown on the map in the manner indicated in Clause 19 as the means of identifying land of the zone so specified.

PART 2—PLANNING CONSENT

11. Application for Planning Consent

(1) Every application for Planning Consent shall be made in the form prescribed in Schedule 2 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

(2) Every application for Planning Consent shall include—

- (a) Details of the use proposed for the land or buildings.
- (b) A plan or plans to a scale of not less than 1:200 showing—
 - (i) street names, lot number(s), north point and the dimensions of the site;
 - (ii) the location and proposed use of any existing buildings to be retained and the location and use of buildings proposed to be erected on the site;
 - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;

- (v) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
- (vi) the location, dimensions and design of any landscaped, open storage or trade display area and particulars of the manner in which it is proposed to develop the same;
- (vii) the location of any underground services lines.
- (c) Plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (d) Any other plan or information that the Council may reasonably require to enable the application to be determined.

(3) Council may, at its discretion, waive any particular requirement of an application for Planning Consent if, in its opinion, that particular requirement does not have relevance to the proposals of the application.

12. Advertising of Certain Applications

(1) Before making a final determination in respect of an application for Planning Consent where the application is—

- (a) to use land for—
 - (i) more than two grouped dwellings pursuant to Clause 57; or
 - (ii) any development identified as being an “SA” Use Class in Table 2—Zoning Table;
- (b) to use land pursuant to Clause 21(b) for a particular purpose which is not specifically mentioned in Table 2—Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the Use Classes as defined in Schedule 1;
- (c) for the change of the use of any land from one non-conforming use to another non-conforming use under the provisions of Clause 91; or
- (d) for any other purpose which under the provisions of the Scheme or otherwise the Council may require notification of the public;

the Council shall forthwith give notice or require the applicant to give notice of the application to nearby landowners whom, in the opinion of the Council, may be affected by the proposal, and provide such notice in a local newspaper.

(2) The notice shall—

- (a) set out particulars sufficient to identify the land to which the application relates and the nature of the proposed development; and
- (b) state that comments may be lodged with the Council before a specified date, being not less than 21 days after the first display of the notice.

(3) The Council shall, after the date stated in the notices, consider the application, having regard to any comments received in pursuance of the notice.

(4) All expenses incurred by the Council in carrying out the foregoing advertising procedures shall be reimbursed by the applicant whether or not the application is approved.

13. Matters to be Considered

(1) In determining applications for planning consent the Council shall take into consideration such of the following matters as are of relevance to the development the subject of that application—

- (a) the provisions of—
 - (i) this Planning Scheme;
 - (ii) any draft Planning Scheme Amendment that is or has been placed on exhibition;
 - (iii) any Regional Planning Scheme or Statement of Planning Policy under the Act; and
 - (iv) any Development Guide Plan or Policy in force under Clauses 24, 77 or 101 respectively or referred to within Schedule 10 of this Scheme, applying to the land to which the development application relates.
 - (v) any Subdivision Guide Plan, Development Guide Plan, Structure Plan or other plan or Policy endorsed by Council applying to or that is considered to relate to the land to which the development application relates.
- (b) the impact of that development on the environment and, where harm to the environment is likely to be caused, any means that may be employed to protect the environment or to mitigate that harm;
- (c) the effect of that development on the landscape or scenic quality of the locality;
- (d) the social effect and the economic effect of that development in the locality;
- (e) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of that development;
- (f) the size and shape of the land to which that development application relates, the siting of any building or works thereon and the area to be occupied by that development;
- (g) whether the land to which that application relates is unsuitable for that development by reason of its being, or being likely to be, subject to flooding, tidal inundation, subsidence, slip or bush fire or to any other risk;
- (h) the relationship of that development to development on adjoining land or on other land in the locality;

- (i) whether the proposed means of entrance to and exit from that development and the land to which that application relates are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles within that development or on that land;
- (j) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system;
- (k) whether public transport services are necessary and, if so, whether they are available and adequate for that development;
- (l) whether utility services are available and adequate for that development;
- (m) whether adequate provision has been made for the landscaping of the land to which that application relates and whether any trees or other vegetation on the land should be preserved;
- (n) whether that development is likely to cause soil erosion;
- (o) whether adequate provision has been made for access to the development or facilities by disabled persons;
- (p) any representations made by a public authority in relation to that application, or to the development of the area, and the rights and powers of that public authority;
- (q) the existing and likely future amenity of the neighbourhood;
- (r) any submission made under Clause 12;
- (s) the circumstances of the case; and
- (t) the public interest.

(2) A reference in this Clause to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application.

14. Determination of Applications

(1) In determining an application for planning consent, the Council may consult with any other statutory, public or planning authority and with any other party it considers appropriate.

(2) The Council having regard to any matter which it is required by the Scheme to consider, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality, may refuse to approve any application for planning consent or may grant its approval unconditionally or subject to such conditions as it thinks fit.

(3) Planning Consent cannot be implied and is deemed to be granted only in the circumstance where the Council has issued a formal written document specifically to the applicant and/or landowner for the purposes of advising of the issue of such consent and any conditions attached thereto.

(4) Where the Council approves an application for planning consent under this Scheme, the Council may limit the time for which that consent remains valid.

15. Deemed Refusal

(1) Subject to Sub-Clause (2), an application for Planning Approval shall be deemed to have been refused where a decision in respect of that application is not conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

(2) An application for Planning Approval which is subject of a notice under Clause 12 shall be deemed refused where a decision in respect of that application is not conveyed to the applicant by the Council within 90 days of the receipt of it by the Council, or within such further time as agreed between the applicant and the Council.

(3) A request for approval of a Development Guide Plan or Structure Plan prepared pursuant to Clause 24 and 77 shall be deemed refused where a decision in respect of that application is not conveyed to the applicant by Council within 180 days of receipt of it by the Council, or within such further time as agreed between the applicant and the Council.

(4) Notwithstanding that an application for Planning Approval or a Development Guide Plan or Structure Plan may be deemed to have been refused under Sub-Clauses (1), (2) or (3), the Council may issue a decision in respect of the application at any time after the expiry of the 60 days, 90 days or 180 day specified in those Sub-Clauses, and that decision shall be regarded as being valid.

PART 3—RESERVES

16. Reservations

The land shown as Scheme Reserves on the Scheme Map (hereinafter referred to as “Reserves”) is land reserved under the Scheme for the purposes shown on the said Map.

17. Uses

Scheme Reserves may be used—

- (a) for the purpose for which the land is reserved under the Scheme;
- (b) where such land is vested in a public authority for any purpose for which such land may be lawfully used by that authority;
- (c) for the purpose for which it was used at the date upon which the Scheme came into operation unless the land shall have in the meantime become vested in a public authority, or unless such use shall have been changed with the approval of the Council.

18. Development

- (1) No person shall on a Scheme Reserve, without the approval of the Council—
- (a) demolish or damage any building or works;
 - (b) remove or damage any tree;
 - (c) change the use of the land or building;
 - (d) excavate, spoil or use the land so as to destroy, affect or impair its usefulness for the purpose for which it is reserved; or
 - (e) construct, extend or alter any building or structure, other than a boundary fence.
- (2)(a) The Council may, on written application of the owner of a Scheme Reserve, either grant its approval to the carrying out of any of the works mentioned in the Clause immediately preceding, or notwithstanding Clause 20, for any other purpose or refuse its approval or grant its approval upon such conditions as it thinks fit;
- (b) Where an application for Planning Consent is made with respect to land within a Reserve, the Council shall have regard to the ultimate purposes intended for the Reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that Authority before granting or refusing that consent.
- (3) Where the Council refuses approval for the development of land reserved under the Scheme on the ground that the land is reserved for public purposes, or grants approval subject to conditions, such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.
- (4) Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing approval or granting it subject to conditions that require the land to be used or developed for no purpose other than a public purpose.
- (5) In lieu of paying compensation, the Council, or the relevant public authority, may purchase the land affected by such decision of the Council at a price not exceeding the unaffected value of the land at the time of refusal of approval or of the grant of approval subject to conditions.
- (6) The Council may deal with a Reserve under its control upon such terms and conditions as it thinks fit, provided that the land is used for, or preserved for, the use for which the land is reserved.
- (7) Nothing said in this Part shall be used or construed as being capable of being used to deny any applicant his or her rights of appeal under the Town Planning & Development Act 1928.

PART 4—ZONES & LAND USE**19. Classification**

- (1) There are hereby created the 11 Zones and 8 Areas set out hereunder—

Zones—

Residential	Agriculture
Business	Viticulture & Tourism
Restricted Business	Rural Residential
Tourist	Rural Landscape
Industrial	Conservation
Special Purposes	

Areas—

Landscape Value	Wetland
Coastal Management	Special Character
Port Geographe Development	Airport Protection
Development Investigation	Special Provision

- (2) The Zones and Areas are delineated and coloured on the Scheme Map according to the reference appended thereto.

20. Zone Objectives, Zoning Table & Requirement for Consent

- (1) The objectives and policies of a zone are set out in Table 1 under the heading: "Objectives of Zone" and "Policies of Zone" appearing in the matter relating to the zone.
- (2)(a) In order to give full effect to the provisions and objectives of this Scheme, all development, including a change in the use of land, must comply with the provisions, standards and requirements herein;
- (b) Except as may otherwise be provided in this Scheme, no person shall commence or carry out any development, including a change in the use of any land, without first having applied for and obtained the planning consent of the Council pursuant to the provisions of this Part;
- (c) Except as otherwise provided by this Scheme, in relation to land within a zone specified in Table 2, the use (if any) which—
- (i) may be carried out without Planning Consent in a specific zone is shown by the symbol "P" in the specific zone column;
 - (ii) may be carried out only with Planning Consent in a specific zone is shown by the symbol "AA" in the specific zone column.
 - (iii) may be carried out only with Planning Consent issued after public advertising of the proposal pursuant to Clause 12 in a specific zone is shown by the symbol "SA" in the specific zone column.

(3) Where no symbol appears in the cross reference of a Use Class against a Zone in the Zoning Table, then a use of that class is prohibited unless elsewhere specifically permitted by this Scheme.

(4) A reference to a development which may be carried out only with Planning Consent includes a reference to any use ordinarily ancillary, subsidiary or incidental to the primary purpose for which consent is sought.

(5) Notwithstanding that a use referred to in Sub-Clauses 2(c)(ii) & (iii) is permissible with Planning Consent, the Council shall not grant consent to that use unless the provisions of this Scheme have been met.

(6) The Council shall not grant consent to the carrying out of development on land to which this Scheme applies unless the Council is of the opinion that the carrying out of the development is consistent with one or more of the objectives and policies of the zone within which the development is proposed to be carried out.

(7) Nothing in Sub-Clause (2) or in the Scheme generally can be used or be construed so as to nullify any requirement of the Local Government Act 1960 for the obtaining of a Building Licence prior to the commencement of any work.

21. Uses Not Listed

If the use of the land for a particular purpose is not specifically mentioned in Table 2 Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories, the Council may—

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and can therefore be carried out without Planning Consent; or
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and therefore may only be carried out after public advertising pursuant to Clause 12; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore prohibited.

22. Additional Uses

(1) Notwithstanding any other provision of the Scheme, the land specified in Schedule 4 and, as identified on the Scheme Maps may be used for the specific use that is listed for the respective lot. The use or uses so specified are in addition to the other uses permitted in the zone in which the land is situated unless any of those uses are excluded or modified by conditions specified in Schedule 4. These land uses may only be with the consent of the Council and subject to—

- (a) conditions (if any) as specified in the Schedule; and
- (b) provisions of this Scheme which are not inconsistent with the specified development or with a consent issued by the Council in respect of the development.

23. Environmental Conditions

(1) In accordance with Section 7A4 of the Act, environmental conditions imposed by the Minister for the Environment on the Scheme or amendments to the Scheme are incorporated into the Scheme by Schedule 9 of the Scheme.

(2) Where appropriate, the environmental conditions are indicated on the Scheme Maps by the symbol "EC" to indicate that environmental conditions apply to the land together with the amendment number.

TABLE 1—ZONE OBJECTIVES & POLICIES
RESIDENTIAL ZONE

Objectives of the Zone

- (i) To ensure, as a primary consideration, that the amenity and character of residential areas is maintained;
- (ii) To provide opportunity for the development of a wide range of housing stock commensurate with the changing characteristics of the Shire's population;
- (iii) To encourage residential development that will achieve efficient use of existing physical and social infrastructure; and
- (iv) To provide for new urban development in areas that can be economically serviced and that are environmentally suitable;
- (v) To provide for a wide range of housing stock for a variety of housing needs;
- (vi) To encourage the implementation of contemporary urban design principles in new urban areas.

In Medium Density areas (i.e those with R30 coding or greater)—

- (iv) To optimise housing choice and affordability in locations close to services and facilities;
- (v) Through (iv) above, to assist urban renewal and consolidation in areas sufficiently close to town centres and thereby to contain and strengthen town centre development.

Policies of the Zone

In Low Density areas (i.e those with R25 coding or lower)—

- (a) To encourage primarily detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings;

In Medium Density areas—

- (b) To encourage a wide range of housing types essentially domestic in scale and character;
- (c) To make allowance for residential-based tourist development;

Policies of the Zone (*continued*)

Generally—

- (d) To provide for other uses (including medium density in-fill development), only where they—
 - (i) are compatible with the residential environment and afford services to residents at a local level; and
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing; and
- (e) To provide for home-based employment where such will not—
 - (i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods; and
 - (ii) have a material, adverse impact on residents.

BUSINESS ZONE

Objectives of the Zone

- (i) To provide for conveniently-located shopping and other service-associated commercial activities which could reasonably be expected to be found in a centre servicing an ultimate trade area population in the order of 15,000 to 25,000 people;
- (ii) To maintain and reinforce the viability of existing commercial centres, including those supporting adjoining agricultural areas.

Policies of the Zone

- (a) To encourage the provision of retail and other business services and associated development to add to the strength and diversity of existing centres;
- (b) As far as is practical and appropriate to allow market forces to influence the location of retail and office uses within existing centres with minimal intervention by Council;
- (c) To allow residential development only where it is subsidiary to the primary commercial purpose.
- (d) To utilise and strengthen the existing Central Business Districts of Busselton and Dunsborough as the primary retail and commercial centres of the Shire by active discouragement of any new “out of town” shopping centres other than neighbourhood shopping centres, convenience stores and the like.

RESTRICTED BUSINESS ZONE

Objectives of the Zone

To make adequate provision for other commercial needs and opportunities not ideally located in the Town Centres within the Shire whilst having regard for the predominance of the Town Centres.

Policies of the Zone

- (a) To provide for development having relatively low traffic-generating characteristics but not high turnover shops and offices that might more properly be located in the Business zone;
- (b) To provide for relatively low intensity commercial and retail uses with extensive floor space requirements which, by the nature of the activity conducted, require relatively direct and easy access to motor vehicle parking areas for loading purposes; and
- (c) To provide for development which will not result in a detrimental impact on surrounding commercial centres or an overall adverse impact on commercial centres;
- (d) To restrict development which is likely to contribute to ribbon development, the spread of town centres or otherwise detrimentally impact the efficiency of main or arterial roads

INDUSTRIAL ZONE

Objectives of the Zone

- (i) To encourage and facilitate employment-generating development which will contribute to the economic and social well-being of the Shire;
- (ii) To provide for industrial, service and storage activities which, by nature of their operations, should be isolated from residential areas.

Policies of the Zone

- (a) To allow a broad range of industrial land uses so as to provide increased and diverse employment opportunities in the Shire;
- (b) To provide opportunities for non-industrial commercial activities that may reasonably be located in an industrial zone;
- (c) To allow for industrial development and any other purpose ordinarily incidental or subsidiary to industry in a manner which is compatible with other types of development in the vicinity;
- (d) To allow for any purpose primarily intended to service persons occupied or employed in purposes allowed in the zone;
- (e) As far as is practical and appropriate, to allow utilisation of existing premises for small operations and light industry, including change of use of those premises, with minimal intervention by Council.
- (f) To incorporate buffer areas within the zone as may be necessary to protect neighbouring residential or other sensitive land uses from the impacts of industry.
- (g) To ensure industrial subdivision and development does not adversely impact on the environmental values of the site, immediately surrounding area or the region in general.

SPECIAL PURPOSES ZONE

Objectives of the Zone

- (i) To provide a zone capable of accommodating a land use or combination of land uses which do not comfortably fall within the Objectives of other Zones or Reserves and which, by their nature or location, require specific consideration;
- (ii) To facilitate the provision of services and facilities by public authorities, charities and community-based organisations;
- (iii) To provide scope for the development of multi-purpose facilities, including accessibility by the broader community where appropriate.

Policies of the Zone

- (a) To permit land included within the zone to be used for the purpose as identified on the Scheme Map consistent with the proper planning and servicing of the community and the protection of the amenity of the locality.

AGRICULTURE ZONE

Objectives of the Zone

- (i) To conserve the productive potential of rural land;
- (ii) To provide for new forms of agricultural development (particularly agroforestry), and changing patterns of existing agricultural development;
- (iii) To regulate the subdivision of agricultural lands within this zone to ensure that land is not withdrawn from production or that the potential for land to be productive is not diminished;
- (iv) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or proposed nearby development;
- (v) To encourage low-key rural tourism associated with traditional forms of agriculture or rural retreat as a contributor to the overall rural economy of the Shire;
- (vi) To exclude urban development. (Any such land adjacent to existing urban areas and identified as generally suitable for urban expansion may be used for urban development after it has been suitably rezoned);
- (vii) To make provision for the subdivision of land and encourage the amalgamation of land so as to create allotments for commercial farming;
- (viii) To discourage ribbon development along Caves Road and other tourist roads and maintain the rural ambience of transport corridors generally;
- (ix) To encourage the development of cluster or communal farming;
- (x) To encourage sustainable farming practices; and
- (xi) To control the clearing of trees and encourage generally the retention of vegetation and vegetation corridors concomitant with the agricultural use of the land.

Policies of the Zone

- (a) To permit land included within the zone and shown by close investigation in consultation with Agriculture Western Australia not to be prime agricultural land to be utilised for other purposes not incompatible with adjacent uses;
- (b) To permit rural tourist facilities where these will not conflict or detrimentally impact established farming pursuits and/or associated with rural activities;
- (c) To apply restrictions whereby an allotment proposed to be created by subdivision for an agricultural purpose shall contain a minimum area of land that actually is useable for commercial farming. Depending upon the circumstances, the area of an allotment may be greater than the area necessary for the farm due to terrain, creeks, protection zoning, etc. As a general guide, the total allotment size for a commercial farm that will be recommended by Council to the WA Planning Commission is 30ha for viticultural pursuits and 20ha for horticultural pursuits. Any proposed agricultural activity shall be subject to assessment by the Council in consultation with the Agriculture Western Australia to establish the minimum area necessary;
- (d) To otherwise, where environmental conditions allow, positively consider subdivision of rural land into allotments comprising a minimum of 40 hectares;
- (e) To facilitate the creation of allotments for purely agricultural use and not to hinder the adjustment of boundaries between allotments;
- (f) To implement and adhere to the adopted recommendations and outcomes of the Shire of Busselton Rural Strategy, as endorsed by the WA Planning Commission.

VITICULTURE & TOURISM ZONE

Objectives of the Zone

- (i) To provide for development and expansion of the viticultural, winemaking and associated industries, in addition to general rural pursuits;
- (ii) To optimise the tourism potential of viticultural activities within the Shire in a manner that will sustain those industries and not frustrate their further development but will ensure that viticulture is predominant in the combination of land uses.

Objectives of the Zone (*continued*)

- (iii) To discourage ribbon development along Caves Road and other roads and to maintain the rural ambience of transport corridors generally.

Policies of the Zone

- (a) To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings, including galleries, eating facilities, chalets and holiday resorts, especially in association with established viticultural and related enterprises;
- (b) To achieve (a) above without prejudice to the scenic quality of land within this zone and without creating or increasing ribbon development on any road;
- (c) To apply restrictions whereby an allotment proposed to be created by subdivision for an agricultural or viticultural purpose shall contain a minimum area of land that actually is useable for commercial farming. Depending upon the circumstances, the area of an allotment may be greater than the area necessary for the farm due to terrain, creeks, protection zoning, etc. As a general guide, the actual minimum useable area for a commercial farm for viticultural pursuits is 30 hectares. Any proposed agricultural activity or a cluster farm shall be subject to assessment by the Council in consultation with the Agriculture Western Australia to establish the minimum area necessary;
- (d) To generally implement and adhere to the adopted recommendations and outcomes of the Shire of Busselton Rural Strategy as endorsed by the WA Planning Commission.

RURAL RESIDENTIAL ZONE

Objectives of the Zone

- (i) To encourage development for the purpose of closer rural settlement on land which is suitable for such a purpose, and is in reasonable proximity to existing town sites;
- (ii) To ensure that development maintains the rural character of the locality, maintains a high level of residential amenity and minimises disturbance to the landscape through construction of buildings and structures, clearing, earthworks and access roads;
- (iii) To enable a range of activities and land uses associated with the residential occupation of land;
- (iv) To discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone;
- (v) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and where such purposes would not detrimentally affect the rural residential character of nearby land;
- (vi) To direct and control the form rural residential subdivision takes to prevent a demand for the unreasonable and uneconomic provision or extension of services and facilities; and
- (vii) To promote and encourage cluster subdivision and other innovative rural residential designs, having consideration for conservation values.
- (viii) To discourage ribbon development along Caves Road and other roads and to maintain the rural ambience of transport corridors generally.

Policies of the Zone

- (a) To encourage rural residential subdivision by permitting a range of lot sizes in conventional subdivision subject to a general minimum lot size of 1 hectare with an average minimum lot size of approximately 2 hectares and providing greater flexibility for lots created within appropriate cluster subdivisions or by strata title subdivision, dependent upon the special physical characteristics of the land;
- (b) To ensure the provision of road, electricity, postal and telephone services and, where appropriate and practical, water services;
- (c) To ensure the provision of community facilities and emergency services in the vicinity of rural residential developments;
- (d) To ensure that services, facilities and recreation areas are centrally located;
- (e) To encourage generally, and require specifically in rural residential subdivision, the provision of vegetation and fauna corridors and the revegetation of the land;
- (f) To adequately protect any areas or sites of conservation value within the design of any development (including subdivision);
- (g) To provide flexibility for the development of appropriately located and scaled tourist facilities consistent with preservation of residential amenity;
- (h) To generally implement and adhere to the adopted recommendations and outcomes of the Shire of Busselton Rural Strategy as endorsed by the WA Planning Commission;
- (i) To encourage hobby farming and small lot agriculture of a type that will not lead to land use conflicts with rural residential and rural-retreat use of adjoining lands.

RURAL LANDSCAPE ZONE

Objectives of the Zone

- (i) To facilitate limited closer rural settlement on land which is recognised as being of high landscape or scenic value but generally unsuitable for agriculture or farming use, in order to protect and enhance those values;

Objectives of the Zone (*continued*)

- (ii) To ensure that development maintains the rural character of the locality and minimises disturbance to the landscape amenity through construction of buildings and structures, clearing, earthworks, firebreaks and access roads;
- (iii) To provide incentives for landowners to implement rural landscape improvements such as rehabilitation/revegetation and soil stabilisation in areas of significant landscape or scenic value;
- (iv) To enable a range of activities and land uses appropriate with the rural- retreat residential occupation of the land;
- (v) To discourage or prohibit development not compatible with the predominantly rural nature or high landscape value or visual quality of the Zone;
- (vi) To encourage the orderly development of rural-retreat residential designs having consideration for conservation and landscape values.

Policies of the Zone

- (a) To apply this Zone to land where rural landscape improvements such as revegetation, rehabilitation and soil stabilisation are necessary to visually improve or enhance the landscape values of the area, to the benefit of the local amenity, where such measures can be achieved through the subdivision process;
- (b) To encourage rural-retreat residential subdivision by recommending a range of lot sizes with a minimum average area of not less than 10 hectares and a minimum lot size of 5 hectares using the conventional Torrens Title System and providing greater flexibility for lots created by strata title or similar subdivision dependant upon the special physical and landscape characteristics of the land and only where it can be clearly established to be consistent with the Objectives of the Zone;
- (c) To encourage the achievement of the objectives of the Zone through private land ownership and management by the use of development guidelines, standards and covenants, on a site specific basis, to direct and manage the future and ongoing uses and development of lots within the Zone;
- (d) To encourage the preservation of vegetation and fauna and the protection of areas of visual or landscape quality;
- (e) To prohibit the clearing of any vegetation on the land, unless required for firebreaks, dwellings or associated outbuildings within defined building envelopes, or to allow for vehicular access to such buildings.
- (f) To ensure that where the keeping of livestock may be acceptable, stocking rates are controlled in order to avoid degradation and erosion of the landscape, and to ensure that the keeping of livestock does not occur where this would be inconsistent with the intent and objectives of the Zone;
- (g) To encourage the use of development guidelines and covenants, where appropriate, to further ensure that the objectives and policies of the Zone are achieved on a site-specific basis.

CONSERVATION ZONE**Objectives of the Zone**

To restrict the type and scale of development which will be considered on lands possessing special aesthetic, ecological or conservation values to those compatible with such environments.

Policies of the Zone

1. To allow development only where—
 - a. It can be demonstrated that such development can be carried out in a manner that minimises risks from natural hazards, functions efficiently and does not detract from the scenic quality of the land; and
 - b. Such development is unlikely to have a significant detrimental effect on the growth of native plant communities, the survival of native wildlife populations and the provision and quality of habitats for both indigenous and migratory species.
2. In satisfying 1a and 1b above, there is a general presumption that development shall be in a clustered form.
3. To support subdivision only where—
 - a. There is no detrimental impact on the aesthetic, conservation or ecological values of the land and where the objective of retention of these values of the land in perpetuity will be achieved; and
 - b. For a lot 40 hectares or greater at the date of gazettal of the Scheme, subdivision based on a ratio of one lot per 20 hectares, preferably in a clustered form; and
 - c. For a lot less than 40 hectares at the date of gazettal of the Scheme, subdivision of one additional lot, preferably in a clustered form; and
 - d. Consistent with the Leeuwin-Naturaliste Ridge Statement of Planning Policy.
4. There shall be a maximum of one dwelling per lot.
5. To prohibit the clearing of any vegetation on the land, unless required for fire breaks, dwellings or associated outbuildings within defined building envelopes, or to allow for vehicular access to such buildings.

TOURIST ZONE

Objectives of the Zone

- (i) To promote tourism as a major contributor to the diversification and strength of the Shire;
- (ii) To encourage tourism activity that will complement the existing natural and man-made features of the Shire and be of positive benefit to the Shire's economy;
- (iii) To encourage a range of tourist facilities in the Shire in localities where it would not result in the degradation of environmental or agricultural features of the Shire; and
- (iv) To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.

Policies of the Zone

- (a) To permit tourism development and uses associated with, ancillary to, or supportive of, tourism development, including retailing and service facilities where such facilities are an integral part of the tourism development and are of a scale appropriate to the needs of that development;
- (b) To control, by means of Town Planning Scheme Policies and Development Guide Plans, the location, form, character and density of permissible development;
- (c) To permit the subdivision and development of land so as to create allotments and developments the size and type of which are justified based upon the topographical and ecological character of the land;
- (d) To ensure that tourism development has access to natural areas within proximity of the tourism development; and
- (e) To enable the development of land for other purposes compatible with tourism development in the area where it can be demonstrated by the applicant that suitable land for buildings for the proposed purposes are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or proposed nearby development.

TABLE 2—ZONING TABLE

Use Class	Residential*	Business	Restricted Business	Industrial	Special Purposes	Agriculture	Viticulture and Tourism	Rural Residential	Tourist	Rural Landscape	Conservation
Abattoir				SA		SA					
Aged Persons Home	SA					SA					
Agriculture						P	P	SA		AA	AA
Amusement Parlour		AA	SA	SA					AA		
Animal Establishment						AA	AA	SA		SA	
Animal Husbandry						AA	SA				
Aquaculture				AA		AA	AA	SA		SA	SA
Bed & Breakfast Establishment	SA	SA				SA	SA	SA	AA	SA	SA
Boarding House	SA	SA							AA		
Boatel		AA							AA		
Bulk Store			AA	P							
Bus Depot			AA	P							
Bus Station		P	AA	AA		SA			AA		
Caravan Park & Camping Grounds	SA					SA	SA		AA		
Chandlery		AA	AA	P					AA		
Chalet Development						SA	SA		AA	SA	SA
Child Care Centre	SA	AA	AA			AA	SA	SA	SA		
Club		AA	AA						AA		
Conservation Tourism										SA	SA
Convenience Store		P	AA	AA					SA		
Corner Shop	SA	P		AA		SA	SA	SA			
Community Centre	SA	P	AA	AA		AA	SA	SA	AA		
Cottage Industry						AA	AA	SA	AA	AA	SA
Display Home	AA							SA			
Display Home Centre	SA										
Educational Establishment		AA	AA	AA		AA	AA	AA			
Extractive Industry				SA		SA					
Forestry						AA	AA				
Factory Unit Building				AA							
Grouped Dwelling	AA	AA									
Guesthouse						SA	SA	SA	AA	SA	SA
Home Occupation	P					P	P	P		P	

*Refer also to Clause 59

TABLE 2—ZONING TABLE—*continued*

Use Class	Residential*	Business	Restricted Business	Industrial	Special Purposes	Agriculture	Viticulture and Tourism	Rural Residential	Tourist	Rural Landscape	Conservation
Hospital	SA		AA			SA					
Hotel		SA	SA						SA		
Industry				P							
Intensive Agriculture						P	AA				
Light Industry			AA	P							
Liquid Fuel Depot				P							
Marina		AA	AA						AA		
Marine Facilities		AA	AA	AA					AA		
Marine Filling Station		AA	AA	AA					AA		
Market		AA				AA	AA		SA		
Medical Centre		P	AA	AA							
Mineral Resource Development				SA		SA					
Motel		SA	SA						AA		
Motor Vehicle & Marine Sales Premises		AA	P	AA							
Motor Vehicle Repair			AA	P							
Multiple Dwelling	AA	AA									
Offensive or Hazardous Industry											
Office		P									
Place of Assembly		AA	AA	AA					AA		
Place of Public Worship	SA	AA	AA			SA	SA	SA			
Plant Nursery		SA	SA	AA		AA					
Poultry Farm						SA					
Private Recreation		AA	AA	SA		SA	SA		AA	SA	AA
Professional Consulting Rooms	SA	AA	SA								
Public Utility	AA	AA	AA	P		P	P	AA	AA	AA	AA
Reception Centre		P	AA			SA	SA		AA		
Recreation Agriculture						P	P	P		P	P
Recreation Area	P	P	P	P		P	P	P	P	P	SA
Recreation Establishment						SA	SA		AA	SA	SA
Recreation Facility		AA	AA	AA					AA		
Research Establishment		AA	AA	AA		AA					
Residential Building	SA						SA		AA		
Residential Enterprise	SA							SA		SA	SA
Restaurant		P	AA				AA		P		
Restricted Premises		AA									
Roadside Stall						AA	AA	SA		SA	
Rural Enterprise						AA	AA			SA	SA
Rural Holiday Resort							SA		AA		
Rural Industry				AA		AA	SA				
Rural Workers Dwelling						AA	AA				
Salvage Yard				AA							
Sawmill				AA		SA					
Service Station		P	AA	AA		SA					
Shop		P									
Showroom		P	P	AA							
Single House	P°	AA				P	P	P	AA	P+	P+
Stock & Sale Yard				SA		AA					
Takeaway Food Outlet		SA	SA						SA		
Tavern		SA	SA	SA			SA		SA		
Timber Yard			AA	AA		AA					
Tourist Accommodation		AA					SA		AA		
Transport Depot		AA	AA	AA							
Veterinary Hospital			AA	AA		SA	SA				
Warehouse		AA	AA	P							
Winery						SA	SA		SA	SA	

*Refer also to Clause 59

°Refer also to Clause 86

°Refer also to Clause 54

24. Development Investigation Area & Development Guide Plans

(1) The purpose of identifying land on the Scheme Map as being within a Development Investigation Area is to enable the planned and progressive development of the land for Rural Residential, Residential, Tourism and/or Industrial purposes, as the case may be; in a manner and at a time appropriate to the orderly and proper planning and development of the land, the locality and the District.

(2) Subject to Sub-Clause (9), where land is identified on the Scheme Map as being within a Development Investigation Area, the Council shall require the rezoning of the land consistent with the proposed uses and the preparation of a comprehensive Development Guide Plan for the land and the endorsement of the Plan by it and the WA Planning Commission prior to approving any subdivision or development of the land.

(3) The Council may require the Development Guide Plan to have regard for adjacent lands. Such Development Guide Plan shall show, in a comprehensive manner, how the land is to be developed including, but without limiting, the generality of the foregoing—

- (a) the proposed allocation of land uses, the residential codes applying and typical lot sizes;
- (b) the management of environmentally sensitive locations, including identification of buffers, vegetation and habitat corridors;
- (c) the allocation, management and treatment of buffers as necessary to surrounding agricultural land;
- (d) the proposed principal road and other transport and movement systems, including relationship with regional infrastructure, such as the Outer Busselton Bypass, where appropriate;
- (e) the proposed provision of community and service facilities;
- (f) proposals for the provision of public utilities and services, including the management of stormwater to ensure there is no greater volume or loss of quality of stormwater leaving a site following its development;
- (g) proposed staging;
- (h) adequate data identifying the physical and environmental characteristics of the land; and
- (i) such other information as, in the circumstances of the case, the Council requires.

(4) Following receipt of a Development Guide Plan which, in the opinion of the Council, adequately addresses the orderly and proper planning of the land, the Council shall cause the Development Guide Plan to be advertised for a minimum period of 28 days.

(5) The Council shall consider any submissions made and may refuse or adopt the Development Guide Plan with or without modifications and subject to such conditions as it thinks fit.

(6) The Council shall, following its adoption of the Development Guide Plan, cause the Plan to be forwarded to the Western Australian Planning Commission, together with any comments the Council may wish to make on the Plan.

(7) The Western Australian Planning Commission may refuse or adopt, with or without modification, the Development Guide Plan so forwarded to it by the Council subject to any conditions that the Commission thinks fit.

(8) The Development Guide Plan so adopted shall be endorsed by the Council and the Western Australian Planning Commission and shall have no effect until such endorsements are made thereon. The subdivision or development of the land the subject of the Development Guide Plan shall be in accordance with the endorsed Development Guide Plan.

(9) Notwithstanding the foregoing, the Council may approve any development in a manner consistent with the underlying zone without requiring a Development Guide Plan where, in the opinion of the Council, such development is of a minor nature and will not adversely affect the future subdivision or development of land within the Zone.

(10) A dwelling house may be erected on an existing allotment of land within a Development Investigation Area where the Council is satisfied that the siting of the dwelling house is unlikely to prejudice the future development of the land or other land in the vicinity.

(11) A proposed modification to a Development Guide Plan shall, for the purposes of Sub-Clauses (2) to (8) inclusive, be a Development Guide Plan.

(12) Notwithstanding Sub-Clause (11), the Council may reduce or waive the advertising period required under Sub-Clause (4) where, in the opinion of the Council and the Commission, the proposed modification does not materially alter or adversely affect the endorsed Development Guide Plan.

(13) Nothing in this Scheme prevents the Council from approving development of land in accordance with the provisions of a Development Guide Plan formally adopted pursuant to this Part.

25. Special Provisions Area

Notwithstanding any other provisions of the Scheme, use and development of land specified in Schedule 7 and as identified on the Scheme Maps as within a Special Provisions Area, shall be subject to those provisions listed within Schedule 7 specific to the land in addition to any provisions which are generally more applicable to such land under this Scheme.

26. Landscape Value Area

(1) No person shall on any land in a Landscape Value Area clear any land without the written consent of Council.

(2) The Council shall not grant consent to the clearing of land or any other development on land identified on the Scheme Maps as being within a Landscape Value Area, unless it has considered—

- (a) whether the development will be compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the locality.

- (b) whether the development will materially affect any wildlife refuge, significant wetland, coastal environment or any identified site containing Aboriginal archaeological relics;
- (c) disturbance to the natural environment, including—
 - (i) visual effects of clearing for development;
 - (ii) maintenance of rural character;
 - (iii) habitat disturbance.

(3) The Council shall not consent to the carrying out of development on land within the Landscape Value Area or on land on or near any ridgelines where, in the opinion of the Council, that development is likely to substantially detract from the visual amenity of the area, having regard to the cumulative visual effect of the development related to other development that may be anticipated in the locality and in the area generally.

(4) Before giving its consent to the erection of a building on land to which this Clause applies, the Council shall make an assessment as to whether it should impose conditions relating to—

- (a) the use of prescribed materials on the external surfaces of the building;
- (b) the number, type and location of existing trees and shrubs which are to be retained and the extent of landscaping to be carried out on the site; and
- (c) the siting of the proposed building.

(5) In this Clause—

“External surfaces”, in relation to a building or work, includes the external walls and cladding (if any), external doors, external door and window frames, columns, roofs, fences and any surface of that building or work visible from the exterior of that building or work;

“Prescribed materials” means materials with dark tones or dark colouring and of low reflective quality or materials which are painted or similarly treated with dark-toned or dark-coloured paint or pigment of low reflective quality.

27. Wetland Areas

(1) The aim of this Clause is to ensure that the wetlands are preserved and conserved in environmental and economic interests.

(2) This Clause applies to land shown by a broken blue border on the map.

(3) A person must not fill, clear, drain or carry out earthworks on any land to which this Clause applies or, on any such land, construct any building or a levee for any purpose, or damage a tree, except with the consent of the Council.

(4) Subject to Sub-Clause (6), if land the subject of a development application includes land to which this Clause applies—

- (a) the development shall, wherever possible, be carried out on that part of the land which is not referred to in Sub-Clause (2); and
- (b) in the case of an application to subdivide the land, the Council shall not support the application unless each allotment to be created and intended to be used for the purpose of the erection of buildings includes land on which the buildings are intended to be erected which is not land referred to in Sub-Clause (2).

(5) Without limiting the Council's ability to grant consent, the Council may grant consent to the carrying out of development on land to which this Clause applies where it is satisfied that—

- (a) the characteristics of the land are different from the general characteristics on which the delineation of the land was based; and
- (b) there are no other reasonable or practical alternatives in the circumstances.

(6) The Council shall not grant consent to the carrying out of development on land to which this Clause applies unless it is satisfied that—

- (a) the development is essential for the reasonable economic use of the land, the provision of utility services or to reduce the risk of bushfires; and
- (b) the development is proposed to be carried out in a manner which minimises—
 - (i) visual and scenic impact; and
 - (ii) the risk of soil erosion (including erosion by wind); and
 - (iii) the risk of water pollution, through increased siltation or otherwise; and
 - (iv) the destruction of rare or locally important vegetation systems; and
- (c) appropriate measures are proposed to retain parts of existing vegetation or to landscape the site.

(7) The Council may require that a statement of environmental effects prepared in accordance with Schedule 3 accompany a development application required by this Clause to enable the Council to consider fully the environmental effects of the proposed development.

(8) In deciding whether to grant a consent required by this Clause, the Council must consider—

- (a) Advice on the proposal as may be provided by the Department of Environmental Protection, the Department of Conservation & Land Management, the Water & Rivers Commission and the Water Corporation.
- (b) the environmental effects of the proposed development, including the effect of the proposed development on—
 - (i) the growth of native plant communities;
 - (ii) the survival of native wildlife populations;

- (iii) the provision of quality of habitats for both indigenous and migratory species; and
- (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including acidity, salinity and water quality;
- (c) whether feasible alternatives to the proposed development (either on other land or by other means) exist and, if so, the reasons given for choosing the proposed development;
- (d) whether adequate safeguards and rehabilitation measures have been, or will be, taken in respect of the effect of the proposal on the wetland; and
- (e) the public interest (if any) in the carrying out of the proposal compared with the public interest in the preservation of the wetland.

28. Coastal Management Area

(1) This Clause applies to all land depicted as being within a "Coastal Management Area" on the Scheme Maps.

(2) A person shall not carry out development for any purpose on land to which this Clause applies except with the consent of the Council.

(3) Where the Council receives an application for consent to the carrying out of development on land to which this Clause applies, the Council shall, within 7 days of its receipt of the application, forward a copy of the application to the Department of Transport, the Water & Rivers Commission and the Ministry for Planning for comment.

(4) In deciding whether to grant consent to development referred to in Sub-Clause (2), the Council shall take into consideration—

- (a) the likelihood of the proposed development adversely affecting, or being adversely affected by, coastal processes;
- (b) the likelihood of the proposed development adversely affecting any dune or beach of the shoreline or foreshore;
- (c) the likelihood of the proposed development adversely affecting the landscape or the scenic or environmental quality of the land in the locality;
- (d) whether adequate safeguards and rehabilitation measures have been, or will be, taken to protect the environment;
- (e) any comments made by the Department of Transport, Water & Rivers Commission and the Ministry for Planning

29. Special Character Area

(1) This clause applies to land designated on the Scheme Map as being within a "Special Character Area".

(2) The Council may devise development objectives, provisions and/or controls to reinforce, retain or change the characteristics, form and nature of a designated Special Character Area, with such objectives, provisions and/or controls being specified in Schedule 6 to this Scheme.

(3) Where such objectives, provisions and/or controls are specified in Schedule 6 in relation to a designated Character Area, then those objectives, provisions and/or controls act in conjunction with the other provisions of this Scheme relevant to that area with the exception that the provisions of Schedule 6 will take precedence over any other provisions of this Scheme.

30. Airport Protection Area

(1) This clause applies to land depicted as being within the "Airport Protection Area" on the Scheme Map and adjoining land as deemed appropriate by Council.

(2) The Airport Protection Area generally contains all lands likely to be within the predicted 55dB(A)Ldn noise contour for the Busselton Regional Aerodrome.

(3) Notwithstanding any other provisions of this Scheme, the Council will not consent to land uses in the Airport Protection Area that involve residential use, schools, hospitals, overnight tourist accommodation or activities of a like nature.

(4) Notwithstanding Sub-Clause (3) above, the Council may consent to residential and/or tourist accommodation uses of a nature ancillary to the operations of the Busselton Regional Aerodrome and/or where the proponent for the use can demonstrate that the design of buildings is such that noise not louder than 55dB(A)Ldn will be experienced by residents or occupants of those buildings.

(5) Notwithstanding any other provisions of this Scheme, the Council shall not grant consent to any development unless it is satisfied, that such development will not constitute an obstruction, hazard or potential hazard to aircraft flying in the vicinity and may consult with and consider the advice of the Commonwealth Department of Aviation in making such determination.

31. Port Geographe Development Area

(1) The Council, in considering development within the "Port Geographe Development Area" shall be mindful of the following—

- (a) The need to ensure appropriate standards of development and maintenance are achieved within the zone;
- (b) The need to control and enhance the health, safety, convenience and general welfare and amenity of the locality;
- (c) The need to ensure that development control within the Port Geographe Development Area is guided by the Port Geographe Development Plan, the Port Geographe Landscape Master Plan and the Village Centre Precinct Plan.

(2) The following provisions shall apply to all land included within the Port Geographe Development Area in addition to any provisions which are more generally applicable to such land uses under the Provisions of the Scheme—

- (a) Subdivision and development of the land within the Port Geographe Development Area shall be generally in accordance with the Port Geographe Development Plan, the Village Centre Precinct Plan and the Port Geographe Landscape Master Plan and as amended from time to time and as endorsed by the Shire of Busselton and the WA Planning Commission.
 - (b) Given that the boundary of each water frontage lot will be generally defined as being 0.5 metres beyond the toe of the stabilised canal edge, the maintenance of all water frontage walling, including rip rap, reinforced, reeded slopes, beaches and other structures shall be the responsibility of each water frontage lot owner.
 - (c) The minimum lot area for the purpose of all residential developments shall exclude the water portion of the lot and shall be calculated on the effective lot area only.
 - (d) The stabilised canal edge, as specified in engineering and landscape drawings and as approved by Council, shall be maintained by the owner of the subject water frontage lot in a structurally sound condition, to the satisfaction of Council, and shall not be altered, extended or removed without the prior, written approval of Council being applied for and obtained.
 - (e) For the purpose of applying and enforcing the relevant setback and development standards, the front of any lot is that boundary which abuts the road reserve. The boundary abutting a waterway is the rear of the lot.
 - (f) No retaining wall or fencing shall be erected within 1.0 metres of the landward side of the stabilised canal edge without the prior consent of Council.
 - (g) No side or rear fence situated within 6.0 metres of the landward side of the stabilised canal edge shall exceed 1.0 metres in height.
 - (h) No retaining wall, fencing, decking or structure other than those included on the engineering and landscape drawings and specifications (as approved by Council) shall be permitted within the area defined as the stabilised canal edge unless approval is applied for and obtained from Council and the Department of Transport.
 - (i) Any side or rear fencing situated within 6.0 metres from the landward side of the stabilised canal edge shall be of open grill construction and solid fencing shall not be permitted.
 - (j) All fencing, other than that which is required to be of an open grill standard, shall be manufactured of materials and be of a construction standard which Council considers to be compatible with the overall objective of creating a high standard of visual amenity in the Area. In reaching any decision in this regard, Council will be mindful of the recommendations and Guidelines contained within the Landscape Master Plan. Fibro and Colorbond fencing shall not be permitted.
 - (k) The Council may permit any dwelling or structure, including retaining wall, stabilised canal edge or fencing, building or outbuilding that does not comply with a standard prescribed in Sub-Clauses (e) to (j) above, provided that—
 - (i) Council is satisfied that there will be an improved architectural amenity resulting from reduced setbacks between buildings and the canal frontage in the particular case;
 - (ii) Council is satisfied that the overall amenity and appearance of the canal frontage will be maintained or improved;
 - (iii) A professional Structural Engineer provides certification as to the structural soundness of the proposed works (i.e Council is satisfied that no erosion or soil instability will result);
 - (iv) Council has obtained and considered the comments of adjoining and adjacent landowners.
 - (l) All proposed or existing clothes drying areas and utility areas, which, in the opinion of the Council, detract from, or have the potential to detract from, the amenity of either the canal frontage or the road frontage, shall be screened from view to the satisfaction of Council.
- (3)(a) Any modification to the Port Geographe Development Plan shall be subject to the provisions of Clause 24 of the Scheme relating to Development Guide Plans.
- (b) Notwithstanding any modifications made pursuant to subclause 31 (3) (a) the endorsed Port Geographe Development Guide Plan shall contain at least the following elements—
 - i. The requirement for Public Open Space for the development south of Layman Road is to reflect the Development Guide Plan at the time of gazettal of this Scheme or any Plan subsequently endorsed by Council and the Western Australian Planning Commission.
 - ii. Provision of a high level of direct public access to waterways/canals.
 - iii. A general presumption against residential lots backing onto conservation/foreshore reserves.
 - (c) Notwithstanding any other Provision of this Scheme, the Council may consent to development for the purposes of dwellings, group dwellings and multiple dwellings in those Tourist and Business Zones situated within the Port Geographe Development Area;
 - (d) The Council shall not approve development for residential purposes within the Business or Tourist Zones situated within the Port Geographe Development Area, unless it is satisfied that such development is consistent with the overall objectives of the Port Geographe Village Precinct Plan and that the predominance of Business and Tourist uses is maintained within the zones and is to be developed generally in accordance with the Village Centre Precinct Plan.
 - (e) Notwithstanding any other provision of this Scheme, the Council may consent to development for the purposes of “Retirement Village” in the “Tourist” Zone situated within the Port Geographe

Development Area where it is consistent with the Port Geographe Development Plan and the predominance of "Tourist" use is maintained within the Zone.

- (4) The following provisions shall apply to the Village Centre Precinct Plan—
- (a) Development shall be generally in accordance with a Village Centre Precinct Plan and Performance Standards prepared by the proponent and approved by Council to promote innovative development and ensure that the amenity and general appearance of the Village Centre is of a high standard;
 - (b) A comprehensive range of commercial uses, including uses serving the requirements of marine operators, shall be permitted, together with other residential and tourist accommodation, recreation and community purposes regarded by Council as being compatible with the intent of the Scheme;
 - (c) The areas identified for residential purposes on the Village Centre Precinct Plan shall be consistent with the Guidelines and Performance Standards developed in conjunction with the Village Centre Precinct Plan. Council shall require that the comprehensive development proposals are prepared which take into account—
 - (i) The effect any proposal will have on the residential amenity of the locality by reason of streetscape, building form, servicing, privacy between buildings, overshadowing and traffic circulation, both on and off-site;
 - (ii) Any other matter required to be taken into account under the provisions of the appropriate Residential Planning Code;
 - (d) Vehicular and pedestrian access and carparking within the centre shall be in accordance with the Village Centre Precinct Plan and the Scheme provisions relating to such matters;
 - (e) Landscaping within the centre shall comply with the landscape performance standards and maintenance requirements of the Port Geographe Landscape Master Plan;
 - (f) The Village Centre Precinct Plan shall incorporate and make provision for the following elements to be created in the Precinct—
 - (i) 5000m² Gross Floor Area maximum commercial/retail floor space;
 - (ii) 200m² floor area/hall meeting space;
 - (iii) 6 boat ramps and parking at the rear of 40 trailer bays for ramps (240 bays; incorporating both permanent and temporary bays);
 - (iv) Located in close proximity, part sealed and part informal;
 - (v) Recreation and public waterfront access and parking adjacent to beach foreshore, harbour and marina areas;
 - (vi) A mix of residential resort and commercial uses in accordance with architectural guidelines and performance standards;
 - (g) Council shall, in considering the Village Centre Precinct Plan and any variations to that Plan, be satisfied, prior to approval, that the following matters have been addressed—
 - (i) The objectives of the Village Centre Precinct Area have been followed;
 - (ii) The mix of residential, tourist and business uses, as indicated in the Village Centre Precinct Plan and as adopted, have not been adversely affected by any subsequent version of the Village Centre Precinct Plan;
 - (iii) That the marine-related facilities and the marina(s) within the boundary of the Village Centre Precinct are to be developed in accordance with the Village Centre Precinct Plan and are in accordance with the intent of the Port Geographe Residential Zone, the Port Geographe Business Zone and the Port Geographe Tourist Zone;
 - (iv) In adopting any subsequent Village Centre Precinct Plans which vary the Village Centre Precinct Plan, Council shall ensure that adequate public consultation is carried out by the proponents to allow for local community input and government agency responses or, in the case of minor changes, make the decision in its own right;

32. Wastewater Treatment Plant Exclusion and Buffer Areas

(1) This Clause applies to all land shown on the Scheme Map as being within either a Wastewater Treatment Plant Exclusion or Buffer Area.

(2) Notwithstanding any other provision of this Scheme, land indicated on the Scheme Map as being within a Wastewater Exclusion Area shall not be used for purposes other than Open Space, public roads, natural bush/forest and agriculture (excluding dwellings).

(3) Notwithstanding any other provision of this Scheme, land indicated on the Scheme Map as being situated within a Wastewater Buffer Area shall not be used for purposes other than Open Space, specifically permitted commercial and business uses, public roads, light industry and agriculture and, in the case of the Dunsborough Light Industrial Area, will be subject to such restrictions and controls as may be specified in any Structure Plan approved by Council and the Western Australian Planning Commission pursuant to Clause 77.

PART 5—BUILDING STANDARDS AND PARTICULAR ZONING REQUIREMENTS

33. Discretion to Modify Development Standards

(1) Except for development in respect of which the Residential Planning Codes apply under this Scheme, if a development the subject of an application for planning approval does not comply with a standard prescribed by the Scheme or respective policy pursuant to the Scheme with respect to minimum lot sizes, building height, setbacks, site coverage, car parking, landscaping and related matters, the

Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. The power conferred by this clause may only be exercised if the Council is satisfied that—

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality;
- (c) the non-compliance is consistent with the policies and objectives of the relevant Council policy pursuant to the Scheme;

(2) Any person who wishes Council to vary any particular provision of the R-Codes relating to the erection of a single house shall, at the time of lodging an application for a building licence or earlier, make application for planning consent for the variation.

The Council may approve the variation with or without conditions or may refuse to approve the variation. The Council shall, before granting its approval, satisfy itself that—

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

34. Subdivision of Land/Boundary Adjustments

- (1)(a) For the purposes of this Scheme, a boundary adjustment is defined as the rearrangement or adjustment of boundaries between allotments that does not result in the creation of any additional allotments.
- (b) The Council will recommend to the WA Planning Commission for approval, either conditionally or unconditionally, a plan of subdivision submitted to it for the purposes of a boundary adjustment.
- (2)(a) The Council will recommend to the WA Planning Commission for approval, either conditionally or unconditionally, a plan of subdivision submitted to it for the purposes of creating an allotment or allotments for the purposes of agriculture, being a purpose that does not involve and will not result in the erection of any additional dwellings.
- (b) The erection of a dwelling on any allotment created pursuant to Clause 35(2)(a) of the Scheme is prohibited where the size of such allotments is less than that prescribed in the Policies of the "Agriculture" Zone;

35. Heritage—Precincts and Places of Cultural Significance

Purpose and Intent

- (1) The purpose and intent of the heritage provisions are—
 - (a) To facilitate the conservation of places of cultural heritage value;
 - (b) To ensure that development occurs with due regard to heritage values;
 - (c) To enable the application and implementation of Council's Heritage Conservation Policy.

Heritage List and Heritage Policies

(2) The Council shall establish and maintain a Heritage List of places considered by the Council to be of heritage significance and worthy of conservation.

(3) For the purposes of this Clause, the Heritage list means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended).

(4) The Council shall prepare and maintain its Heritage Conservation Policy which may be amended from time to time to assist and guide Council and landowners in achieving the conservation of places which have significant heritage values and to assist Council in meeting its responsibilities pursuant to the Heritage of Western Australia Act 1990.

(5) The Council shall keep copies of the Heritage List and Heritage Conservation Policy with the Scheme documents for public inspection.

Designation of Heritage Precincts

(6) The Council may designate an area of land to be a Heritage Precinct where, in the opinion of Council, special planning control is needed to conserve and enhance the heritage values and character of the area.

(7) The Council shall adopt for each Heritage Precinct a Policy Statement which shall comprise—

- (a) A map showing the boundaries of the Precinct;
- (b) A list of places of heritage significance;
- (c) Objectives and guidelines for the conservation of the Precinct.

(8) The Council shall list each adopted Heritage Precinct and the Policy Statement for such in Council's Heritage Conservation Policy.

(9) The procedure to be followed by the Council in designating a Heritage Precinct shall be as follows—

- (a) The Council shall notify, in writing, each owner of land affected by the proposal;
- (b) The Council shall advertise the proposal by way of a notice in a newspaper circulating in the district, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council considers necessary to ensure widespread notice of

the proposal, describing the area subject of the proposed designation and where the Policy Statement which applies to the Precinct may be inspected;

- (c) The Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to immediately above;
- (d) The Council shall carry out such other consultations as it thinks fit;
- (e) The Council shall consider any submissions made and resolve to designate the Heritage Precinct with or without modification or reject the proposal after consideration of submissions;
- (f) The Council shall forward notice of its decision to the Heritage Council of WA and the Ministry for Planning.

(10) The Council may modify or may cancel a Heritage Precinct or any Policy Statement which relates to it by following the procedure set out in Sub-Clause (9) above.

Applications for Planning Approval

(11) Notwithstanding any other provision of the Scheme, no person shall commence or carry out any development affecting any building, object, structure or place listed in the Heritage list without first having applied for and obtained the planning approval of the Council.

(12) In dealing with any matters which may affect a Heritage Precinct or individual entry on the Heritage List, including any application for Planning Approval, Council shall have regard to the Heritage Conservation Policy or any other Heritage Policy of the Council.

(13) The Council may, in considering any application that may affect a Heritage Precinct or individual entry on the Heritage List, solicit the views of the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.

(14) Notwithstanding any existing assessment on record, Council may require a heritage assessment to be carried out prior to the approval for any development proposed in a Heritage Precinct or individual place listed on the Heritage List and may require a conservation plan be prepared. The heritage assessment and conservation plan is to determine the extent of the cultural heritage significance of the place and how the place is to be conserved.

(15) For the purposes of Sub-Clause 11 of the Scheme, the term "development" shall have the meaning as set out in the Town Planning & Development Act (as amended) but shall also include, in relation to any place entered on the Heritage List or contained within a Heritage Precinct, any act or thing likely to cause significant change to the external character of the building, structure or place.

Formalities of Application

(16) In addition to the application formalities prescribed in Sub-Clauses (11) to (15) above, formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a Heritage Precinct, to provide one or more of the following to assist the Council in its determination of the application—

- (a) Street, rear and side elevations as required drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application and drawn as one continuous elevation;
- (b) In addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
- (c) A detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
- (d) An assessment of the likely impact the proposal may have on the cultural heritage values of the heritage place or precinct, including structural, aesthetic and social impacts during the construction phase;
- (e) Any other information which the Council indicates that it considers relevant.

Variations to Scheme Provisions

(17) Where desirable to facilitate the conservation of a heritage place or to enhance or preserve heritage values, the Council may vary any provision of the Scheme provided that, where in the Council's opinion, the variation of a provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall—

- (a) Consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to Clause 12 and
- (b) Have regard to any expressed views prior to making its decision to grant the variation.

(18) In granting variations under Sub-Clause (17), the Council may enter into a Heritage Agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the variation. The agreement may specify the owner's obligations and contain memorials noted on relevant Certificates of Title.

(19) In granting variations, incentives and entering into heritage agreements, Council shall utilise the guidelines outlined in its Heritage Conservation Policy.

36. Flood Prone Land

(1) Notwithstanding any other provision of this Scheme—

- (a) the Council shall not grant consent to the carrying out of any development on land that is shown on the Scheme Map as being within, or partly within, a Floodway, unless it has made an assessment of—
 - (i) the effect of the proposed development on the efficiency and capacity of the floodway to carry and discharge floodwaters;
 - (ii) the safety of the proposed development in time of flood; and
 - (iii) whether the proposed development involves any possible risk to life, human safety, or private property in time of flood.
- (b) A person shall not carry out any development on land identified as flood prone land on a map prepared or adopted by the Council or on other land which, in the opinion of the Council, may be liable to flooding, unless—
 - (i) where no works have been carried out to protect the land from flooding, the floor of any dwelling house or other habitable building is, or will be, raised 500 millimetres above the 1 in 100 year flood level, as determined by the Council, or where a 1 in 100 year flood level has not been determined, above the maximum recorded flood level; or
 - (ii) in any other case, the Council is satisfied that adequate measures have been taken to offset the likely effects of flooding on the development concerned.

(2) For the purposes of Sub-Clause (1), the Council shall consult with, and take into consideration, the advice of the Water & Rivers Commission, in relation to the delineation of floodways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.

(3) For the purposes of this Clause, “habitable building” means a building designed primarily for housing and/or overnight accommodation for persons.

(4) Any decision made by the Council in pursuance of this Clause is deemed to be a decision made in “good faith” and the Council is hereby forever indemnified against any claim made by any person and relating to any loss whatsoever arising from such decision.

37. Disposal of Wastes

No person shall, without the approval of the Council, use privately-owned land for the disposal or dumping of any form of rubbish or waste matter, either temporarily or permanently.

38. Roadside Services

The Council may grant consent to development on land within the Agriculture Zone and which has frontage to a main or arterial road for the purposes of providing services to motorists, tourists and the travelling public, including development for the purposes of a motel, general store, refreshment room, tourist facility, transport terminal or service station, where—

- (a) The Council has made an assessment of the demand for the development, having regard to the nature and volume of traffic using the road, any existing development of a similar type and the location of and distance from other land on which development of a similar type may be carried out; and
- (b) The development comprises, or is part of, a planned roadside service area that has been located and designed so as to minimise interference with the free flow of traffic on the road and to minimise traffic hazards.
- (c) The Council is of the opinion that the development is not in conflict with the Policies and Objectives for the Agriculture Zone or other zones as relevant, the General Objects of the Scheme and does not create the potential for ribbon development.
- (d) With respect to a development application for land fronting Caves Road, Council is of the opinion that the proposal is consistent with the Caves Road Visual Management Policy pursuant to Section 101 and Schedule 10 of the Scheme.
- (e) Council has considered the comments and advice of Main Roads WA; and
- (f) Council has advertised the application and has considered submissions received pursuant to Clause 12 of the Scheme.

39. Development on a Public Road

(1) A person shall not carry out development on a public road shown uncoloured on the map or part of such road lawfully closed without the consent of the Council.

(2) The Council shall only grant its consent under Sub-Clause (1) for a purpose which may be carried out either with or without the consent of the Council on land adjoining that road.

40. Development Below High Water Mark

A person shall not carry out development on any land—

- (a) below high water mark;
- (b) forming part of the bed of a river, creek, bay, lagoon or other natural watercourse shown uncoloured on the map; or
- (c) which has been reclaimed;

without the consent of the Council.

41. Corner Shop

(1) A person shall not erect or use a building for the purposes of a corner shop on an allotment of land, where such allotment has a frontage to a main or arterial road or is less than 5 kilometres in the case of a Rural Zone or 1 kilometre in the case of a Residential Zone from any other allotment of land on which is erected or approved as a shop or general store, or which is zoned for that purpose.

(2) A building for the purposes of a corner shop shall not be located closer to the alignment of a road than the existing building line of the allotment or, where no such building line exists, consistent with other premises having frontage to such road.

42. Residential Occupation of Tourist Developments

(1) No person shall occupy a residential unit, chalet, caravan, camp or any other form of tourist accommodation for more than a total of 3 months in any one 12 month period.

(2) Notwithstanding the provisions of Sub-Clause (1), and subject to consideration of the need to make available adequate tourist accommodation the Council may permit the permanent occupancy of a proportion of caravan sites within a caravan park only on land zoned residential or tourist where the caravan park is registered under the Caravan and Camping Ground Regulations 1997.

43. Community Use of School Facilities or Sites

(1) Where land to which this Scheme applies is used for the purposes of an educational establishment, the site and facilities of the establishment may, with the consent of the Council, be used for the purposes of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.

(2) Nothing in this Clause requires planning consent to be granted for the carrying out of development on any land if that development could, but for this Clause, be carried out on that land without development consent.

44. Services

(1) The Council shall not grant its consent to the carrying out of any development on any land unless—

- (a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land; or
- (b) arrangements satisfactory to it have been made for the provision of that supply and those facilities.

45. Ancillary Dwellings

Except as otherwise provided for by Clause 64, the Council shall not grant consent to dwellings on land within any Business or Industrial Zone unless they are ancillary to the primary commercial or industrial use of the land.

46. Height of Buildings

(1) A dwelling house, having more than two storeys, shall not be erected on land to which this Scheme applies, except with the consent of the Council.

(2) A building (including a dwelling house) shall not be erected on land to which this Scheme applies where—

- (a) in the case of land within 150 metres of the Mean High Water Mark—
 - (i) the building contains more than two storeys; or
 - (ii) the perpendicular distance from its highest point to the natural ground level of the land on which it is to be erected exceeds 7.5 metres;
- (b) in all other cases—
 - (i) the building contains more than three storeys; or
 - (ii) the perpendicular distance from its highest point to the natural ground level of the land on which it is to be erected exceeds 10 metres.

(3) Notwithstanding Sub-Clauses (2)(a)(i) and (2)(b)(i), the Council may approve a building containing more than two or three storeys, as the case may be, provided that the additional storey or storeys are of the nature of a basement or similar structure and that they do not protrude more than 1 metre above finished ground level at the perimeter of the building.

(4) A reference in this Clause to a building does not include a reference to—

- (a) an aerial;
- (b) a chimney stack;
- (c) a mast;
- (d) a pole;
- (e) a receiving tower;
- (f) a silo;
- (g) a transmission tower;
- (h) a utility installation;
- (i) a ventilator;
- (j) a building within the Industrial Zone.

(5) Nothing in this Scheme prevents the Council from specifying a limitation on the height of buildings which is lower than that specified in Sub-Clauses (2) & (3) above in circumstances where topography, environmental values or views warrant.

47. Development by the Council or a Public Authority

(1) Nothing in this Scheme shall prevent the Council or a public authority from carrying out development on land within any zone for the purposes of roads, stormwater drainage, recreation areas, landscaping, gardening, bushfire hazard reduction, parking, amenities buildings, river bank stabilisation or beach rehabilitation.

(2) The reference in Sub-Clause (1) to the carrying out of development for the purpose of roads includes a reference to the winning of extractive material by a public authority for the purpose of public road construction.

(3) Nothing in this Scheme shall restrict or prohibit the Council from carrying out any development required in connection with the construction, reconstruction, improvement, maintenance, repair or widening (where Council has acquired the land) of any road except the realignment or relocation of the road.

48. Temporary Use of Land

Notwithstanding any other provision of this Scheme, the Council may, at its discretion, subject to consideration of the matters set out in Table 1 and Clause 13, grant consent to the carrying out of development on land for any purpose for a maximum period of 28 days, whether consecutive or non-consecutive, or a maximum of 12 separate occasions which do not exceed 28 days in total in any one year subject to advertising of the application pursuant to Clause 12 of the Scheme where deemed necessary by Council.

49. Untidy Sites

To maintain an acceptable standard of amenity, the Council may, by written notice as provided for in Clause 98 require the owner, occupier or lessee of that land to undertake such works as may be necessary to restore or upgrade the conditions of that property to a standard commensurate with those generally prevailing in the vicinity.

50. Transportable Homes

A person shall not erect or place a relocated, transportable or prefabricated home on a lot without the consent of Council, which will only be granted where the design of the building is to the satisfaction of the Council and, in its opinion, does not adversely affect the amenity of other properties in the vicinity.

51. Derelict Vehicles

The storage and/or wrecking of any vehicle on any street verge anywhere, or on any lot other than a lot within the Industrial Zone is prohibited.

PART 6—SPECIFIC RESIDENTIAL PROVISIONS

52. Preliminary

This part of the Scheme shall apply to the development of all residential dwellings and to the development of other uses which are permitted or may be permitted by the Council in any of the Residential Zones within the Scheme Area.

53. Classification

(1) The Residential Zones created under Part 1 of the Scheme are set out hereunder—

Residential

(2) The Zones are delineated and coloured on the Scheme Map according to the reference appended thereto.

54. Exemptions from Planning Consent

The erection on a residential zoned lot of a single house, including ancillary outbuildings and swimming pools are exempt from the requirement to make application for planning consent except where the proposal—

- (i) Necessitates the exercise of a discretion by Council under the Scheme to vary the provisions of the Residential Planning Codes or;
- (ii) Is inconsistent with any other provisions of the Scheme or;
- (iii) Is inconsistent with a Scheme policy;
- (iv) Is located in a Heritage precinct or;
- (v) Is the subject of Building and Access Guidelines or;
- (vi) The lot on which the development is proposed is within an Area Designation under Part 4 of the Scheme.

55. Residential Enterprise

(1) Where the Council approves of an application to conduct a Residential Enterprise, such approval—

- (a) shall be personal to the person to whom it was granted;
- (b) shall not be transferred or assigned to any other person without the further specific consent of the Council;
- (c) shall apply only in respect of the land specified in the approval; and
- (d) does not run with the land in respect of which it was granted.

56. Vehicles, Caravans, Trailers in Residential Areas

Except as hereinafter provided, no person within any lot within a Residential Zone may, without the written approval of the Council—

- (a) allow any commercial vehicle or truck to remain or park for a period of more than 4 hours consecutively;
- (b) repair, maintain, service or clean a commercial vehicle or truck;
- (c) keep, park, repair or store any boat, trailer, caravan or any material not specifically for the immediate use by the occupant forward of the front setback line.

57. Residential Planning Codes: Variations & Exclusions

Notwithstanding any other provision of the Scheme—

- (a) the Council may consent to the development for the purposes of the erection of not more than two grouped dwellings at density R20 on any allotment comprising not less than 900m² within any area coded R10 or greater;
- (b) subject to Sub-Clauses (d) & (e), the Council may, for the purposes of urban consolidation, consent to the development of any lot created by the amalgamation of two smaller lots or of any land comprising greater than 1,500m² for the purposes of Grouped Dwellings at density R20, R25 or R30 within any area coded R10 to R20 or R20/30 on the Scheme Map;
- (c) subject to Sub-Clauses (d) & (e), the Council may, for the purposes of urban consolidation, consent to the development of any lot created by the amalgamation of two smaller lots or of any land comprising greater than 1,500m² for the purposes of Grouped Dwellings at density R20, R25, R30 or R40 within any area coded R20/40 on the Scheme Map;
- (d) in determining any application lodged pursuant to Sub-Clauses (a), (b) & (c) above, the Council shall consider, in addition to those matters listed in Clause 13, Clause 29 and Schedule 6, the likely impacts of the proposed development on the identifiable or special character and amenity of the immediate locality in which the proposed development is to be situated;
- (e) Sub-Clauses (b) & (c) above do not apply in circumstances where more than 20% of existing, similarly zoned and R-coded allotments within a radius of 200 metres of the proposed development site are currently developed or are subject of a current planning consent for grouped dwelling development for 3 or more dwellings.
- (f) Those "Special Character Areas" provided for in Schedule 6 and pursuant to Clause 29 are excluded as necessary from the provisions of the Residential Planning Codes to the extent of any conflict between the standards set out in Schedule 6 and the Residential Planning Codes.

58. Sewerage Connection Requirements

If no reticulated sewerage system is available, development in excess of a single house is not permitted unless—

- (a) the Public Health Department agrees with the Council that adequate and appropriate provision can be made for the on-site disposal of effluent; or
- (b) the development replaces an existing lawful development and redevelopment does not represent an increase of more than 10% over and above the density of the existing development.

59. Other Uses in Medium Density Areas

Notwithstanding the provisions of Clause 20 or the Zoning Table, and subject to advertising pursuant to Clause 12 of the Scheme, the Council may consent to the use of land with an R-Coding of R30 or greater for the purposes of a Boarding House, Guesthouse, Multiple Dwelling or Residential Building.

60. Low Density Residential Development

Notwithstanding any other provision of the Scheme, all subdivision and development of land with an R-Coding of R2, R2.5 or R5 shall comply with the following—

- (1) Subdivision and development shall be generally in accordance with a Development Guide Plan, Subdivision Guide Plan or other plan approved and adopted by Council and the WA Planning Commission to guide the subdivision and development of the land where such plan exists.
- (2) All building development is to be contained within a building envelope area which does not exceed 1000m², or as otherwise required by Sub-Clause (1).
- (3) No vegetation may be felled, removed or damaged except for—
 - (a) clearing associated with approved development within the building envelope;
 - (b) establishment of firebreaks as may be required by a Local Law or a notice issued by the Council or Bush Fires Board;
 - (c) establishment of driveways and fencelines in association with approved development;
 - (d) removal of vegetation that is dead, dying or dangerous with the written approval of the Council.
- (4) All buildings shall be constructed of non-reflective materials (with the exception of glazed areas) and shall be of colours and textures which are essentially natural and earthy.

PART 7—SPECIFIC BUSINESS PROVISIONS**61. Preliminary**

This part of the Scheme shall apply to all developments of a business commercial nature or which are permitted by the Council in any of the Business Zones within the Scheme Area.

62. Classification

The Business Zones created under Part 1 of the Scheme are set out hereunder—

- Business
- Restricted Business

The Zones are delineated and coloured on the Scheme Map according to the reference appended thereto.

63. Development Without Consent (Shop to Shop, Office to Office)

(1) This clause applies to any land within the Business Zone which has been lawfully erected and occupied for the purposes of a shop or commercial premises.

(2) Notwithstanding any other provision of this Scheme, a person may occupy premises to which Sub-Clause (1) relates for the purposes of a shop (in the case of an existing shop) or a commercial premises (in the case of an existing office) without the consent of the Council.

(3) A person intending to occupy existing premises pursuant to Sub-Clause (2) shall provide notification of his or her intention to the Council in the manner prescribed in Schedule 5 prior to occupying those premises.

64. Residential Development in the Business Zone

The Council shall not consent to development for the purpose of a Single House, Grouped Dwellings or Multiple Dwellings on land in the "Business" Zone where the dwellings proposed to be erected do not form a component only of a commercial development unless Council is satisfied that approval of the development would not be inconsistent with the Policies and Objectives of the "Business" Zone.

65. Service Access

(1) Provision shall be made for service access to the rear of a shop, showroom, restaurant or other commercial use for the purpose of loading and unloading of goods. Where alternative access is provided and such access is considered acceptable by the Council, the Council may waive the requirements of this Clause.

(2) Service access shall be provided in accordance with the provisions set out hereunder—

- (a) The accessway shall be so constructed that vehicles using it may return to a street in forward gear;
- (b) If there exists a right-of-way to the rear of the lot, an area shall be paved on the lot so that vehicles, when loading or unloading, shall not remain in the right-of-way. The area shall be of such a size that, if no alternative route exists, vehicles may turn so as to return to a street in forward gear;
- (c) Insofar as is practical, the accessway shall be designed so as to segregate service vehicles, both moving and stationary, from parking areas and accessways provided for customer parking.

66. Service Courts

One or more service courts, as determined by the Council, shall be provided in any commercial development for the storage and concealment of refuse disposal bins, crates and other materials of trade. A service court shall be—

- (a) accessible from the rear access provided under Clause 65.
- (b) of an area and dimensions to the satisfaction of the Council but, in any case, shall be not less than 10m² in area with a minimum internal dimension of 3.5 metres; and
- (c) screened to the satisfaction of the Council.

67. Parking

Provision shall be made for the off-street parking of motor vehicles without charge to the general public in all development in a Business Zone or in all development of a commercial nature.

Parking areas shall be paved, drained and marked to the satisfaction of the Council and maintained thereafter and shall be designed so as to enable all vehicles to return to the street in forward gear.

68. Cash-in-lieu of Parking

(1) The Council may, in respect of a use or development proposed within the Business or Restricted Business Zone, require or accept the payment of cash-in-lieu of the provision of parking spaces on the lot of the proposed use or development. The intent of providing for the payment of cash-in-lieu of the provision of parking is to encourage comprehensive, consolidated and co-ordinated development within the Zone, to enable better and safer management of pedestrian and vehicular traffic within the Zone and to facilitate the provision of strategically and conveniently-located public parking facilities within the Zone.

(2) The cash payment in lieu of the provision of parking shall not be less than the estimated cost to Council of—

- (a) constructing, sealing and draining the number of carparking spaces as a consequence of the development;
- (b) the value of the land to be acquired by the Council and occupied by the number of carparking spaces and associated manoeuvring areas as estimated by an appropriately qualified Land Valuer;
- (c) all associated additional costs to Council as estimated by an appropriately qualified Land Valuer of purchasing an equal area of land identified by Council in reasonable proximity to the development site.

(3) In the event of a dispute in respect to a valuation pursuant to Sub-Clause (2), the matter shall be referred by the Council for determination under the Commercial Arbitration Act 1985.

(4) Cash payment in lieu of the provision of parking shall be paid into a special purpose fund for the acquisition of land and construction of parking facilities in accordance with a carparking strategy adopted by the Council and shall be expended within a reasonable period of receipt.

(5) The Council may require or accept the payment of cash-in-lieu of the provision of carparking for the retrospective provision of carparking areas by the Council in anticipation of development.

PART 8—SPECIFIC INDUSTRIAL PROVISIONS

69. Preliminary

This Part of the Scheme shall apply to all developments of an industrial nature or which are permitted or may be permitted by the Council in the Industrial Zones within the Scheme Area.

70. Classification

(1) The Industrial Zones created under Part 1 of the Scheme are set out hereunder—

Industrial

(2) The Zones are delineated and coloured on the Scheme Map according to the reference appended thereto.

71. Retailing in the Industrial Zone

(1) In this Clause: "Bulky goods" refers to that definition contained within Schedule 1 of the Scheme.

(2) Subject to Sub-Clauses (3) and (4), nothing in this Scheme prevents a person, with the consent of the Council, from carrying out development for the purposes of commercial premises for the retailing of bulky goods on the land to which this Clause applies.

(3) The Council shall not grant consent to an application under this Clause to carry out development for the purposes of the retailing of bulky goods unless it is satisfied that—

- (a) suitable land for the development is not available in any nearby business centre;
- (b) the development would not, by reason of the number of retail outlets which exist or are proposed on land within the Industrial Zone, defeat the predominantly industrial nature of the zone; and
- (c) the proposed development will not detrimentally affect the viability of any business centre.

(4) Notwithstanding Sub-Clause (3), a person may otherwise offer for sale goods or product by retail or wholesale to the public from land in the Industrial Zone, provided that—

- (a) the goods or produce are manufactured or stored in bulk on the lot;
- (b) not more than 50% of the gross floor area of building on the lot is used for the sale of such goods or produce; and
- (c) the goods or produce sold are not foodstuffs, liquor or beverages; items of clothing or apparel; magazines, newspapers, books or paper products, medicinal or pharmaceutical products; china, glassware or domestic hardware other than building supplies; or items of personal adornment; unless such goods are manufactured on the lot.

72. Use of Setback Areas

(1) No person shall use the land between the building setback line and the street alignment for any purpose other than one or more of the following—

- (a) a means of access;
- (b) the daily parking of vehicles by employees and customers;
- (c) the loading and unloading of vehicles;
- (d) trade display;
- (e) landscaping;

and shall only do so with the consent of the Council.

(2) Setback areas shall not be used for the parking of vehicles which are being wrecked or repaired, the storage of materials, products, by-products or wastes or the storage of fuel, except in underground tanks.

(3) A trade display may be conducted within the area between the building setback line and the street alignment, provided that—

- (a) the trade display does not occupy more than one-fifth of the area of the street setback within which it is proposed to be located; and
- (b) the trade display is not located closer than 1.5 metres to the street alignment.

73. Parking

(1) Provision shall be made for the off-street parking of motor vehicles without charge to the general public in all development in an Industrial Zone or of an industrial nature. Parking areas shall be paved, drained and marked to the satisfaction of the Council and maintained thereafter, and shall be designed so as to enable all vehicles to return to the street in forward gear.

(2) Parking areas may be located between the building setback line and the street alignment subject to adequate screen landscape treatment as determined by the Council.

74. Factory Units

74. Land in an Industrial Zone may be used for Factory Unit Buildings, provided that—
- there is not more than one occupancy per industrial unit; and
 - no industrial unit is used for automotive wrecking or automotive and marine sales;
 - industrial units shall be separated from each other by an internal wall or walls constructed of brick, stone or concrete in accordance with the Building Code of Australia. Where Strata Titles are involved, these walls shall form a parapet through the roof;
 - internal partitions within a factory unit building are not altered or removed without the consent of the Council; and
 - each unit the subject of a Strata Title contains its own toilets within the “lot” and not in the “common property”. Communal facilities, such as a canteen, may be provided as part of the “common property” with the consent of the Council, but the common property shall not be used for that purpose without that consent.

75. Development Without Consent—(Use of Factory Units)

(1) Notwithstanding any other provision of this Scheme, individual units created in a Factory Unit complex erected pursuant to Clause 74 may be occupied for the purposes of industry or light industry without the consent of the Council.

(2) A person intending to occupy a factory unit pursuant to Sub-Clause (1) shall provide notification of his or her intention in the manner prescribed in Schedule 5 prior to occupying the premises.

76. Façades

(1) The street façades of buildings erected in an Industrial Zone shall be constructed of brick, stone or concrete or, in respect of that portion of the building higher than 3.6 metres from ground level, of such other material as may be approved by the Council.

(2) Alternative materials to those specified in Sub-Clause (1) may be approved by Council where it is satisfied that the design of the building and materials proposed will not have a detrimental impact on the amenity of the locality.

77. Dunsborough Industrial Park

(1) This clause applies to that land identified as the “Dunsborough Industrial Park” on the Scheme Maps.

Intent of the Park

(2) The intent of the Dunsborough Industrial Park is to establish an innovative, industrial estate which caters for a wide range of service and industrial activities together with other urban-based, service commercial and industrial activities which are required to cater for the existing and future industrial and service needs of the Dunsborough and surrounding districts.

Guide Plan to be Prepared

- (3)(a) Prior to approving the subdivision or development of land within the Dunsborough Industrial Park, the Council shall require the preparation and adoption, under the provisions of Clause 101 of the Scheme, of a Structure Plan for the land in the form of a Town Planning Scheme Policy;
- (b) The Structure Plan must obtain the endorsement of the Western Australian Planning Commission prior to coming into effect.
- (c) Where the Council rejects the Structure Plan, or attaches conditions or requires modification which the applicant considers unreasonable, the applicant shall have the right of appeal pursuant to Part V of the Act.
- (d) Prior to exercising any right of appeal pursuant to Part V of the Act, against a decision of Council the proponent shall submit the Structure Plan and Council's resolution to the Western Australian Planning Commission and request the Western Australian Planning Commission to make a determination.
- (e) Where the Commission or Council attaches conditions or requires modification which the applicant considers unreasonable, the applicant shall have the right of appeal pursuant to Part V of the Act.
- (4) The Council shall require the Structure Plan to have regard for adjacent lands and such Plan shall show how the land is to be subdivided and developed, including—
- The proposed size and distribution of lots;
 - The proposed allocation of land uses, where appropriate;
 - The proposed provision and treatment of buffer areas required by the Council to protect the amenity of surrounding land uses;
 - The proposed provision and treatment of buffer areas to the sewerage treatment plant situated to the north of the land, in the event that the plant is not relocated;
 - The proposed provision and treatment of buffer areas required to protect important watercourses traversing the site;
 - The provision to be made for the control and management of stormwaters and the management of nutrients;
 - The proposed road system, including road reserve and carriageway widths;
 - The proposed provision of community and public utilities and services;

- (i) Any special provisions applying to the subdivision and development of the land where not otherwise provided for by the Scheme; and
 - (j) Such other information as, in the circumstances of the case, the Council considers appropriate.
- (5)(a) All necessary buffers to all adjoining lots required as a result of industries located on the Estate shall be provided on Lot 6 of Sussex Location 362 & 802;
- (b) The Plan shall make provision for buffer areas to the eastern and southern boundaries of the site so as to maintain the amenity of adjoining residences.

Subdivision & Development of Land

(6) The subdivision and development of land within the Dunsborough Industrial Park shall be generally in accordance with the Structure Plan adopted by the Council, the provisions of the Scheme, any special provisions applying to the land as specified in the Structure Plan and any Council Policy applying to the land.

(7) Notwithstanding anything to the contrary in the Scheme, the following uses, including those that are Prescribed Premises under the provisions of the Environmental Protection Act 1986, are prohibited in the Dunsborough Industrial Area—

- Abattoirs
- Biocides Production
- Bitumen Batching Plants
- Brick Manufacture Works requiring Kilns for Drying
- Bulk Warehousing of Volatile Organic Compounds
- Cement Manufacture Works
- Charcoal Production
- Chemical Fertilisers Production
- Coal Production
- General Chemical Production
- Glass Manufacture Works
- Industrial Gases Production
- Iron & Steel Production
- Mineral Sands Processing
- Motor Vehicle Wrecking
- Non-Ferrous Metals Production
- Paints & Inks Production
- Paper & Pulp Production
- Petroleum Production
- Pharmaceutical & Veterinary Products Production
- Plaster Production
- Polyester Resins Production
- Printing Works with Heated Curing Ovens
- Production of Artificial Fibres & Textiles
- Rendering & Casing Works
- Sewerage Works
- Sheetmetal Production
- Stoneworks
- Storage of Wet Salted & Unprocessed Hides
- Synthetic Resins & Rubber Works & Production
- Temporary Storage of Industrial Wastes; and
- Tile Manufacture Works
- Timber Mills
- Treatment of Organic Waste
- Treatment or Production of Textiles
- Waste Incinerator
- Wool Scouring

PART 9—SPECIFIC RURAL PROVISIONS

78. Preliminary

This Part of the Scheme shall apply to all developments of a rural nature or which are permitted or may be permitted by the Council in any of the Rural Zones in the Scheme Area.

79. Classification

(1) The Rural Zones created under Part 1 of the Scheme are set out hereunder—

- Agriculture
- Viticulture and Tourism
- Rural Residential
- Rural Landscape
- Conservation

(2) The Zones are delineated and coloured on the Scheme Map according to the reference appended thereto.

80. Additional Dwelling House

(1) On land zoned "Agriculture" or "Viticulture and Tourism", the Council may permit the construction of an additional single dwelling house provided that—

- (a) the lot has an area of not less than 20 hectares. For the purposes of this Sub-Clause, the term "lot" shall not include a lot created under the Strata Titles Act 1985;
- (b) the total number of dwelling houses on the lot will not exceed two; and
- (c) where the second dwelling is to be used for purposes other than a rural worker's dwelling, the Council is satisfied that the second dwelling is to be used solely for the purposes of the principal place of residence of an owner or immediate past owner of the land, provided further that such person has been actively engaged for a significant period of time in the day-to-day management and operation of a substantive rural pursuit on the land and the balance of the land is to be retained in rural production.

(2) On land zoned "Agriculture" or "Viticulture and Tourism", the Council may permit the construction of a maximum of one additional dwelling house on the lot where the allotment comprises less than 20 hectares or where the total number of dwelling houses on a lot would exceed two, provided that—

- (a) the land, in the opinion of the Council, is substantively under production for viticultural or horticultural purposes;
- (b) other dwellings on the lot are occupied as principal place of residence by an owner of the land actively involved on a day-to-day basis in the operation and management of the viticultural or horticultural activity on the lot; and
- (c) such additional dwelling is to be occupied only by a person actively involved on a day-to-day basis in the operation of the viticultural or horticultural activity on the land.

(3) The Council, prior to determining an application for more than two dwelling houses on land zoned "Agriculture" or "Viticulture and Tourism" shall consult the Department of Agriculture with respect to such application and shall have regard to comments made by that Department.

(4)(a) Except as provided by Sub-Clause (b) hereunder, the Council shall not support the subdivision of a lot upon which there are two or more dwelling houses, where the area of any proposed lot would be less than that recommended under the Rural Strategy adopted by the Council and the Western Australian Planning Commission for the district.

(b) Where a lot upon which there are two or more additional dwelling houses is proposed to be subdivided and that lot has an area less than that provided under the Rural Strategy, the Council may recommend to the Western Planning Commission the subdivision of the land under the Strata Titles Act 1985, provided that—

- (i) where the land is in rural production, that portion of the land cleared and under production or capable of being under production is substantively retained within a single Strata Title; or
- (ii) where the land is substantively uncleared and not in rural production, the Council may recommend a more equitable division of the land.

(5) Notwithstanding the provisions of Sub-Clause 4, where there is constructed on land two dwelling houses, the Council may recommend the subdivision of land under the Strata Titles Act 1985, provided that—

- (a) the Certificate of Title of the land was registered in the ownership of more than one person prior to 1 July 1990; and
- (b) the applicants for subdivision were registered as the owners of the land on the Certificate of Title prior to 1 July 1990.

(6) Nothing in this Scheme shall prevent the erection of a dwelling house on land on which another dwelling house is erected where the first mentioned dwelling house is intended to replace the other dwelling house and is not to be occupied until the other dwelling house has been rendered uninhabitable or demolished and its occupation has permanently ceased.

81. Management of Nutrients and Off-site Impacts

(1) In considering an application for the use or development of land for purposes requiring the extensive application of fertilisers or the concentration in any location of effluents and, in particular, intensive agriculture or the erection of a dairy shed, shall not be undertaken without prior approval of Council, shall have regard for the measures proposed to manage the application of fertilisers or the methods proposed for the disposal of effluent, with the objective of minimising the movement of any associated nutrients into the water table or other waters off the lot.

82. Development Of Dams

(1) Dams associated with Tourism, Intensive Agriculture or Rural Residential development shall not be constructed, nor the flow of any surface water in a defined creek or that forms the source of a defined creek be artificially retarded without the prior approval of Council.

(2) All dams requiring approval pursuant to Sub-Clause (1) shall be constructed so as to maintain water flow so that the rights of downstream users are protected, and any spoil associated with the construction of a dam shall be removed or levelled and the site rehabilitated.

(3) The Council, in determining applications pursuant to Sub-Clause (1) shall take into consideration any advice provided by the Water & Rivers Commission to whom an application may be referred.

83. Setback Requirements

(1) The provisions of this Clause shall apply to the "Agriculture" and "Viticulture and Tourism" Zones.

(2) No dwelling shall be located closer than 30 metres or such other distance as may be specified in a Town Planning Scheme Policy to any boundary.

(3) No building shall be constructed on a lot with a common boundary to Caves Road closer than 100m to that boundary without the written consent of Council pursuant to this Scheme.

(4) Where the Council receives a development application for a building within 100 metres of Bussell Highway or 60 metres of Vasse Highway, the Council shall, within 7 days of receipt of the application, forward the application to Main Roads WA for comment and take such comments into consideration when determining the application.

(5) No person shall use the land between the building setback line and the street alignment for any purpose other than a means of access, landscaping or a rural activity permitted in the zone.

84. Rural Residential Subdivision & Development Requirements

(1) Subdivision and development shall be generally in accordance with the Rural Strategy adopted by the Council and the Western Australian Planning Commission for the district and, where applicable, the Development Guide Plan approved and adopted by the Council and the Western Australian Planning Commission.

(2) Except in the case of expressly approved staged subdivision, no further subdivision of lots created pursuant to Sub-Clause (1) will be permitted.

(3) Where subdivision of lots either—

(a) Not included within an approved Subdivision or Development Guide Plan; or

(b) Where no lot size is prescribed in the Rural Strategy adopted by Council and the WA Planning Commission; or

(c) Comprising resubdivision of lots included within an approved Subdivision or Development Guide Plan is proposed,

Council shall not recommend approval of such subdivision prior to approval by Council and the WA Planning Commission of a Development Guide Plan prepared consistent with Clause 24 of this Scheme.

(4) Each lot shall be provided with legal and practical access. The Council will recommend to the Western Australian Planning Commission that the subdivision be connected to a constructed and sealed public road connected to the road system in the district.

(5)(a) Dwellings and outbuildings must be located within any building envelopes or in such other manner that may be identified on the Development Guide Plan referred to in Sub-Clause (1) above;

(b) Where a building envelope has not been specified, then all buildings must be contained within a circular area of land of radius 30 metres measured from the centroid of the innermost building or as otherwise required within an approved Development Guide Plan.

(6)(a) Each dwelling shall be provided with a supply of potable water, either from a reticulated system, an underground bore or a rainwater storage system with a minimum capacity of 135,000 litres to the satisfaction of Council. Where the supply of potable water is by rainwater storage system only, such rainwater storage system shall be directly connected to a suitable means of rainfall catchment having an area of not less than 150m²;

(b) All water tanks shall be fitted with couplings to the specification of the Bush Fires Board;

(c) Water tanks which are visible from outside of the lot on which they are located shall be painted green in the first instance and shall be suitably screened by planted vegetation to the satisfaction of Council.

(7) Each dwelling shall be provided with an effluent disposal system to the satisfaction of the Council and the Health Department.

(8) Where conventional and/or reticulated energy sources are to be used, then each dwelling shall be connected to the power supply in the locality by means of underground cable.

(9) The external surfaces of all buildings must comprise prescribed materials as described in Clause 26(5) or as otherwise prescribed on an approved Development Guide Plan relating to the land.

(10) No development, clearing of vegetation or fencing is to occur within 30 metres of the centre line of any creekline.

(11) In areas of remnant vegetation, fencing will be permitted only within and on the perimeter of a cleared area.

(12) No dams or lakes shall be created in locations other than those that may be shown on the Development Guide Plan.

(13) The height of any building shall not exceed the height as may be specified on the relevant Development Guide Plan, or if the height has not been specified, shall not exceed 7.5 metres and in either case shall be a measurement of the perpendicular distance from any point of the building to the natural ground level.

(14) An appropriate bush fire management plan will be submitted and implemented to the satisfaction of Council and the Bush Fires Board.

(15) Unless specified otherwise on the Development Guide Plan, dwellings and outbuildings shall not be located—

- (a) Within 100 metres of Caves Road, Commonage Road, Wildwood Road, Biddles Road or Hayes Road;
- (b) Within 20 metres of any other road or a front or rear boundary;
- (c) Within 15 metres of a side boundary.

(16) Not more than one dwelling house may be constructed on any allotment. This provision shall not prevent the Council from consenting to the development of ancillary accommodation for the exclusive use of family members, provided such is integral to the house, contains not more than one bedroom, utilises shared laundry facilities and does exceed 40m² of floor area.

(17) No trees or substantial vegetation may be felled, removed or damaged except for—

- (a) clearing associated with approved development within the building envelope;
- (b) establishment of firebreaks as may be required by a Local Law or a notice issued by the Council or Bush Fires Board;
- (c) establishment of driveways and fencelines in association with approved development;
- (d) removal of vegetation that is dead, dying or dangerous with the written approval of the Council.

(18) Where not specified on an approved Development Guide Plan, the keeping and rearing of stock is prohibited on any lot less than 4 hectares in area, except for domestic purposes and, in such case, shall not exceed one horse or one cow or two sheep. Stock may be permitted with the consent of Council on allotments of larger than 4 hectares providing that this does not require removal of vegetation and that stock numbers are maintained at levels in accordance with stocking rates to the satisfaction of Agriculture WA.

(19) The keeping and rearing of any stock is prohibited on any lot less than 1 hectare.

(20) No lot of less than 4000m² in area shall be used for a purpose other than a single house, ancillary buildings, recreation agriculture, home occupation, bed and breakfast establishment, public utility, recreation area, and residential enterprise which uses shall only be undertaken consistent with the requirements of the Scheme.

(21) Notwithstanding any other provision of this Scheme, the provisions of the "Agriculture" Zone shall apply to all lots greater than 20 hectares within the "Rural Residential" Zone except for the use of "Intensive Agriculture".

(22) Notwithstanding any other provisions of this Scheme, "Intensive Agriculture" may be permitted within the "Rural Residential" Zone only where such lots are greater than 20 hectares or are identified for rural or primary production on an approved Subdivision or Development Guide Plan with such application being subject to advertising procedures consistent with Clause 12 of the Scheme.

85. Rural Tourist Accommodation

The Council shall not consent to the development of any form of Rural Tourist Accommodation except Bed & Breakfast Establishments on Prime Agricultural Land.

86. Single House Approvals—Conservation and Rural Landscape Zones

Notwithstanding any other provision of the Scheme, an application for planning consent is required for the development of a single house on a lot in the Conservation or Rural Landscape zone. Where a proposal the subject of an application under this clause is consistent with the provisions of the Scheme and Council policy approval will not be unreasonably withheld.

87. Rural Landscape Zone—Subdivision and Development

The following specific provisions shall apply to all land within "Rural Landscape" Zone in addition to any provisions which are more generally applicable to such land under this Scheme—

- (1) Subdivision and development of land within the "Rural Landscape" Zone shall be generally in accordance with a "Subdivision & Development Guide Plan" adopted for that land by Council and the Western Australian Planning Commission. The Western Australian Planning Commission may approve minor variations which conform with the objectives of the zone and the general intent of the adopted Guide Plan, but no further subdivision of any lot shall be permitted.
- (2) Dwellings and associated outbuildings shall not be constructed within 30 metres of any stream or creek without the prior approval of Council.
- (3) Building Envelopes shall be defined in accordance with the following guidelines—
 - (a) A minimum building setback of 30 metres from adjacent roadways;
 - (b) A minimum building setback of 20 metres from the front and rear lot boundaries and 15 metres from the side boundaries;
 - (c) All building development to be confined to within the Building Envelope as delineated on the Subdivision & Development Guide Plan.
- (4) Dwelling houses and all ancillary buildings shall comprise walls and roofing constructed of non-reflective materials and in a colour other than white or silver and shall be of colours and textures which are essentially natural and earthy. All such materials shall be compatible with the rural character of the locality. Water storage tanks which are viable from any location outside the allotment on which they are situated shall be painted to match adjacent dwellings or outbuildings and shall be suitably screened by planted vegetation to the satisfaction of Council.

- (5) An appropriate bush fire management plan shall be submitted and implemented to the satisfaction of Council and the Bush Fires Board.
- (6) Each dwelling house shall be provided with a supply of potable water, in the form of a water tank with a minimum capacity of 135 kilolitre and shall be linked to a suitable rainfall catchment with a surface area of not less than 150m².
- (7) Liquid and/or solid wastes shall be disposed of on-site by means of an effluent disposal system approved by the Council. Effluent disposal areas shall be set back a minimum of 30 metres from any watercourse or dam or as otherwise approved by Council. No house shall be occupied without the prior approval and installation of such a disposal system.
- (8) No dams or lakes shall be created except with the approval of Council.
- (9) Radio masts, television antennae, satellite dishes and air conditioners shall be located such that they do not detract from the local visual amenity or cause offence to neighbouring properties.
- (10) The height of any building shall not exceed the height as may be specified on the relevant Development Guide Plan, or if the height has not been specified, shall not exceed 7.5 metres and in either case shall be a measurement of the perpendicular distance from the building's highest point to the natural ground level.
- (11) No trees or substantial vegetation may be felled, removed or damaged except for—
 - (a) clearing associated with approved development within the building envelope;
 - (b) establishment of firebreaks as may be required by a Local Law or a notice issued by the Council or Bush Fires Board;
 - (c) establishment of driveways and fencelines in association with approved development;
 - (d) removal of vegetation that is dead, dying or dangerous with the written approval of the Council.
- (12) On land within the fire control buffer shown on Subdivision & Development Guide Plans, fuel reduction measures shall be implemented and maintained where required, strategic firebreaks shall be constructed in accordance with a Fire Management Plan proposed by the subdivider in consultation with CALM, the Bush Fires Board of WA and Council.
- (13) All dwellings are required to incorporate bush fire protection measures in accordance with SAAHB 36-1993 to the satisfaction of Council, possibly including ember-proof and water curtain techniques and fuel-free areas.
- (14) In areas of indigenous vegetation, fencing will be permitted only within and on the perimeter of a cleared area for the building.
- (15) Keeping of stock is not permitted other than on cleared land, where the approval of Council will be required for fencing to allow limited grazing for the purpose of minimising fire risk through fuel reduction measures. All fencing to be of farm standard post and wire construction.

88. Conservation Zone—Subdivision and Development

The following specific provisions shall apply to all land within the "Conservation" Zone in addition to any provisions which are more generally applicable to such land under this Scheme—

- (1) All development shall be contained within the building envelope designated on each lot. Each building envelope is to be located to the satisfaction of Council which shall, in determining such, ensure—
 - (a) the preservation of remnant vegetation is maximised
 - (b) maintenance of landscape values of the site and the general area
 - (c) there is no adverse or potential impact on watercourses, wetlands, river or estuary systems or groundwater.
- (2) Not more than one dwelling house may be constructed on any allotment.
- (3) Dwelling houses and all ancillary buildings shall comprise walls and roofing constructed of non-reflective materials and in a colour other than white or silver and shall be of colours and textures which are essentially natural and earthy, and shall be compatible with the character of the locality. Water storage tanks which are visible from any location outside the allotment on which they are situated shall be painted to minimise visibility and shall be suitably screened by planted vegetation to the satisfaction of Council.
- (4) An appropriate Bush Fire Management Plan shall be submitted and implemented to the satisfaction of Council and the Bush Fires Board.
- (5) Each dwelling house shall be provided with a supply of potable water, in the form of a water tank with a minimum capacity of 135 kilolitres and shall be linked to a suitable rainfall catchment with a surface area of not less than 150m².
- (6) Liquid and/or solid wastes shall be disposed of on-site by means of an effluent disposal system approved by the Council. Effluent disposal areas shall be set back a minimum of 50 metres from any watercourse or dam or as otherwise approved by Council. No house shall be occupied without the prior approval and installation of such a disposal system.
- (7) No dams or lakes shall be created except with the approval of Council.
- (8) Radio masts, television antennae, satellite dishes and air conditioners shall be located such that they do not detract from the local visual amenity or cause offence to neighbouring properties.
- (9) The height of any building shall not exceed the height specified on the relevant Development Guide Plan. Where the maximum height has not been specified, it shall be determined by Council to ensure the landscape values of the site and general area are maintained.

- (10) No trees or substantial vegetation may be felled, removed or damaged without the approval of Council which shall only be granted where the clearing is essential for achieving adequate fire protection, for vehicle access to buildings and for construction of a dwelling.
- (11) Prior to subdivision, where deemed appropriate by Council, subdividers shall undertake a Vegetation Survey to identify rare, endangered or otherwise significant vegetation and provide for its appropriate conservation to the satisfaction of the Department of Conservation & Land Management and Council.

PART 10—NON-CONFORMING USES

89. Non-conforming Use Permitted

(1) If, at the gazettal date, any land, building or structure is being lawfully used for a purpose not permitted by the provisions of the Scheme (hereinafter called a “non-conforming use”) or if any land is built on or any building or structure is built in a manner not permitted by the Scheme, such land, building or structure may continue to be used for that purpose or in that manner.

(2) No provision of the Scheme shall prevent the carrying out of any development on land for which, immediately prior to the gazettal date, a permit or permits required under the Act, the Shire of Busselton Town Planning Scheme No. 5 (revoked by the Scheme) or any other law authorising the development to be carried out, have been duly obtained and are current.

90. Discontinuance or Change of Non-Conforming Use

If, at the gazettal date, any land, building or structure is being lawfully used for a non-conforming use, or any land is built on in a manner not permitted by the Scheme, and such non-conforming use shall, after such date, be discontinued for a period of 12 months or longer or changed or the building removed without the consent of the Council, then no person shall thereafter use the land or any building or structure thereon, for any purpose or in a manner not permitted by the Scheme, as any rights which might pertain to the land as a non-conforming use will be forfeited.

91. Council’s Approval for Change or Rebuilding of Non-Conforming Use

- (a) The Council may grant its approval to the change of the use of any land from one non-conforming use to another non-conforming use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the neighbourhood than the existing use and is, in the opinion of the Council, closer to the intended use of the zone.
- (b) Nothing in this Scheme prevents the Council from approving the rebuilding or extension of a non-conforming use provided that such rebuilding or extension is contained wholly within the lot or location on which the non-conforming use was situated at the gazettal date.

92. Acquisition & Agreements to Discontinue Use

The Council may, for the purpose of discontinuing any particular non-conforming use, acquire the lot and buildings (if any) on or in which the use is, or is permitted to be, carried on, to make agreements relating to the payment of compensation or moneys to persons willing to discontinue a non-conforming use.

PART 11—ADMINISTRATION

93. Delegation of Authority

(1) The Council may delegate to an officer or to a Committee of the Council all or any part of the powers conferred on the Council by virtue of the Scheme.

(2) A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.

(3) The performance of the function by a delegate under Sub-Clause (1) shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

(4) Without affecting the generality of the provisions of this clause, where in the exercise of any power under this Scheme the Council is required to form any opinion or view or have any state of mind or to consider to have due regard to any matter, then that requirement shall be satisfied if a person exercising delegated authority in respect of that power performs the function.

(5) A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.

(6) An officer or committee exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power by the Council, insofar as such provisions are reasonably applicable.

(7) A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.

94. Right of Appeal

(1) A person who is an applicant for the Council’s approval or consent under the Scheme, and who is aggrieved by a decision of the Council to refuse that person’s application or to attach conditions to an approval of that person’s application under the Scheme, may appeal under, and in accordance with, Part V of the Act. In this Clause, “applicant” includes the owner of land in respect to which an application was made.

(2) Sub-Clause (1) above applies to an application for approval of a Development Guide Plan or Structure Plan pursuant to Clauses 24 and 77 in the same manner as it applies to applications for

Council's approval or consent and may be applied to a determination of the Western Australian Planning Commission made pursuant to Clause 24 and 77.

95. Prohibition

(1) No person shall use any land or any building or structure otherwise than in accordance with the provisions of the Scheme. No person shall use any land, building or structure contrary to the provisions of the Scheme.

(2) If, pursuant to the provisions of the Scheme, approval has been granted by the Council upon conditions, no person shall fail to comply with, or shall commit a breach of, any such conditions.

(3) A person who fails to comply with any of the provisions of this Scheme or with the conditions of any approval or notice issued thereunder, is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed in the Act.

96. Disposal of Land

The Council may deal with, or dispose of, any land which it owns or which it has acquired pursuant to the provisions of the Scheme, in accordance with the Act and in conformity with the provision of the Scheme, upon such terms and conditions as it shall think fit and, for such purpose, may make such agreements with other owners and parties as it deems fit.

97. Powers of Council

The Council may—

- (a) by an authorised officer, enter at all reasonable times any building or land within the Scheme Area;
- (b) remove, alter or demolish any building which obstructs the observance or carrying out of the Scheme;
- (c) make arrangements with the Government of the State or the Commonwealth or any public or statutory body or authority;
- (d) by virtue of the provision of Clause 18 of the First Schedule to the Act, acquire land or buildings or make any agreement or proposal in respect thereto.

98. Notices

Twenty-eight (28) days' written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act. Any expenses incurred by the Council under the said Section may be recovered from the person in default as a simple contract debt in such Court of Civil Jurisdiction as is competent to deal with the amount of the claim.

99. Agreements

The Council may enter into agreements with the owners of land within the Scheme Area or with any other person in respect of any matters pertaining to the Scheme.

100. Compensation

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

101. Power to Make Policies

(1) The Council may prepare a planning policy (herein after called "a Policy") which may make a provision for any matter related to the planning or development of the Scheme Area and which may be prepared so as to apply—

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

and may amend, or add to, or rescind a Policy so prepared.

(2) A Policy shall become operative only after the following procedures have been completed—

- (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, and in what form and during what period (being not less than 21 days) submissions may be made.
- (b) Policies which the Council considers may be inconsistent with other provisions of the Scheme or with State and regional planning policies are to be submitted to the Commission for consideration and advice.
- (c) The Council shall review the draft Policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.
- (d) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.

(3) Policies prepared and adopted pursuant to the Scheme shall be specified in Schedule 10.

(4) The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.

(5) An amendment or addition to a Policy may be made after the Policy has become operative and shall be made in the same manner as provided for the making of a Policy in Sub-Clause (2).

(6) A Policy may be rescinded by—

- (a) preparation or final adoption of a new Policy pursuant to this Clause, specifically worded to supersede an existing Policy; and
- (b) publication of a formal notice of rescission by the Council twice in a local newspaper circulating in the district.

(7) A Policy shall not bind the Council in respect of any application for Planning Approval but the Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its decision.

(8) Any Policy prepared under this Clause shall be consistent with the Scheme and where any inconsistency arises, the Scheme shall prevail.

102. Control of Advertisements

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

(2) Applications for Council's planning approval pursuant to this Part shall be submitted in accordance with the Provisions of Clause 11 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Schedule 8 giving details of the advertisement(s) to be erected, placed or displayed on the land.

103. Suspension of Certain Laws, etc.

(1) For the purpose of enabling development to be carried out in accordance with this Scheme (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, any covenant, agreement or instrument which purports to impose restrictions on the carrying out of the development to the extent necessary to serve that purpose shall not apply to the development.

(2) Nothing in Sub-Clause (1) shall affect the rights or interests of any public authority under any registered instrument.

PART 12—SCHEDULES

Schedule 1

INTERPRETATIONS

Subject to the provisions of Clause 10, terms and expressions shall have the meanings set out hereunder—

"Abattoir" means any land or buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

"The Act" means the Town Planning & Development Act 1928 (as amended).

"Advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements.

"Aged Persons' Home" means a building or group of buildings used primarily as a residence for aged persons and may include a hostel and/or nursing home.

"Agriculture" means any land or buildings used for the raising of stock or crops, but excludes intensive agriculture, poultry farms and feed lots.

"Animal Establishment" means a building or place principally used for the breeding, boarding, training, keeping or caring of animals for commercial purposes, and may include a veterinary clinic and/or riding schools whether or not the trainer/caretaker resides on the premises.

"Animal Husbandry" means any land or buildings used for the breeding, keeping, rearing, fattening of pigs or rabbits (for either meat or fur production) on an intensive basis and other livestock in feed lots.

"Amusement Machine" means any machine, game or device whether mechanical or electronic or a combination of both operated by one or more players for amusement and recreation.

"Amusement Parlour" means any land or building, open to the public, where the predominant use is amusement by amusement machines and where there are more than two amusement machines operating within the premises.

"Aquaculture" means any fish farming operation for which a fish farm licence issued pursuant of the provisions of Part V of the Fisheries Act 1905 (as amended) and the Fisheries Regulations 1938 (as amended) is required.

"Bed & Breakfast Establishment" means an existing detached dwelling house in which one or two bedrooms are utilised to provide overnight holiday accommodation to the travelling public.

"Boarding House" means a building or place—

- (a) where accommodation, meals and laundry facilities are provided to the residents of the building or place; and
- (b) which is not licensed to sell liquor.

"Boatel" means a building, or group of buildings, or place used or intended to be used to accommodate patrons in a manner similar to a hotel or guest house but in which special provision is made for the accommodation of patrons with boats.

- “Building”* means any structure or appurtenance thereto, whether fixed or moveable, temporary or permanent, placed or erected upon land, and the term shall include dwellings and buildings appurtenant to dwellings such as carports, garages, verandahs and retaining walls but shall exclude a boundary fence, pergolas, garden sheds and the like, and swimming pools where no part is more than 600mm above surrounding ground level.
- “Bulk Store”* means a building or place used for the bulk storage of goods where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.
- “Bulky Goods”* means large goods which are, in the opinion of the Council, of such a size and shape as to require—
- (a) a large area for handling, storage or display; or
 - (b) easy and direct vehicular access to enable the goods to be collected by customers after sale but does not include a building or place used for the sale of foodstuffs or clothing.
- “Bus Depot”* means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus service.
- “Bus Station”* means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.
- “Canal Frontage”* means a boundary line between the canal and adjacent lots and shall be defined by a surveyed line on the approved Subdivision Plans.
- “Caravan Park”* means a property licensed for the placement of caravans and may also include camping sites.
- “Chalet Development”* is development (not being a “Rural Holiday Resort”) designed for single occupancy and which comprises detached accommodation units, which may be fully self-contained or not, and which are generally of single storey or split level construction and a character not dissimilar to farm dwellings or cabins.
- “Chandlery”* means the manufacture, repair, maintenance and modifications of boats and marine equipment.
- “Child Care Centre”* means a building or place used for the purpose of supervising or caring for children which—
- (a) caters for five or more under school age children whether or not those children are related to the owner or operator of the building or place;
 - (b) may include an educational function; and
 - (c) may operate for the purposes of gain;
- but does not include a building or place providing residential care for those children.
- “Club”* means any land or buildings used or designed for use by a legally constituted club or associations or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Licensing Act 1988 (as amended) or not and which building or premises are not otherwise classified under the provisions of the Scheme.
- “Communal or Cluster Farming”* means the pursuit of a viable agricultural enterprise by a group of individuals, families or business entities on a multiple occupation basis of a property identified and having high agricultural potential for such activity on a sustainable basis.
- “Community Centre”* means a building or place owned or controlled by a public authority or a body of persons which may provide for the physical, social, cultural or intellectual development or welfare of the local community, and may include—
- (a) public hall;
 - (b) public library;
 - (c) public health service;
 - (d) rest rooms;
 - (e) meeting rooms;
 - (f) indoor recreation;
 - (g) child-minding facilities;
- or any other like building or service, but does not include a building or place elsewhere specifically defined in this Clause.
- “Conservation Tourism”* means any land or buildings used to undertake a business primarily involved with promoting, preserving and utilising the conservation, aesthetic, ecological and environmental attributes of the land which may have facilities for the convenience of patrons, such as restaurants, convention areas, sales of arts and craft and souvenirs and rural tourist accommodation, provided that these uses are incidental to the predominant use of the land and buildings for a conservation purpose.
- “Convenience Store”* means land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents, but including the sale of petrol and operated during hours which include, but which may extend beyond, normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300m² gross leasable area.
- “Corner Shop”* means a shop used for the sale of daily grocery needs to persons in the immediate locality, with a gross floor area not exceeding 100m², attached to a dwelling and which is operated as an additional use thereto by the permanent tenants of the dwelling.

“*Cottage Industry*” means an industry which consists of workshop or studio and sales outlet located within a dwelling unit or outbuilding from which arts and crafts are produced and sold, and is subject to the following requirements—

- (a) The only goods that may be sold on-site are those which are specifically produced in the workshop or studio located on the lot subject to application.
- (b) Does not cause injury to, or prejudicially affect, the amenity of the locality, including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the omission of light, noise, vibration, electrical interference, smell, fumes, smoke, steam, soot, ash, dust, grit, oil, liquid wastes or waste products.
- (c) Does not employ any person not a member of the occupier’s family.
- (d) Does not occupy an area greater than 55m².
- (e) Does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located.
- (f) Does not display a sign exceeding 1 square metre in area.
- (g) May take place in an outbuilding which blends with the character of the area and does not detract from the area.

“*Council*” means the Council of the Shire of Busselton.

“*Development*” means the use or development of any land and includes the erection, construction, alteration or carrying out, as the case may be, of any building, excavation or other works on any land.

“*Display Home*” means a dwelling intended to be open for public inspections as an example of a dwelling design.

“*Display Home Centre*” means more than one dwelling on the same lot or adjoining, or adjacent lots that are intended to be open for public inspections as examples of dwelling design.

“*Dwelling*” means a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by—

- (a) a single person;
- (b) a single family; or
- (c) no more than six persons who do not comprise a single family.

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

“*Extractive Industry*” means an industry which involves the extraction of sand, gravel, clay, turf, soil, rock, stone, or similar substance from the land, and also includes the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products;

“*Factory Unit Building*” means a building or structure, or group of buildings or structures designed, used or adapted for use as two or more separately occupied production or storage areas.

“*Floodway*” means the channel of a river or stream and those portions of the flood plain adjoining the channel which are required to carry and discharge floodwaters, and includes land determined in consultation between the Council and the Water & Rivers Commission to be a floodway.

“*Forestry*” includes arboriculture, silviculture, plantations and the destruction of trees for the purpose of—

- (a) afforestation, forest protection and cutting, dressing and preparing (otherwise than in a sawmill) wood and other forest products;
- (b) establishing roads necessary for the removal of wood and forest products; or
- (c) forest protection.

“*Generating Works*” means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

“*Guesthouse*” means a building utilised for the purpose of providing holiday accommodation and typically offering full board for guests. The building would be characterised by individual suites which are serviced by centralised dining (not being a public restaurant) and other facilities. Suites would not be self-contained and occupation would generally be reliant on services provided by management.

“*Grouped Dwelling*” means a dwelling as defined in the Scheme which is one of a group of two or more dwellings on the same lot, such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise.

“*Health Care Professional*” means a person who renders professional health services to members of the public, and includes—

- (a) a chiropodist registered under the Chiropodists’ Registration Act 1962;
- (b) a chiropractor or an osteopath or a chiropractor and an osteopath registered under the Chiropractic Act 1978;
- (c) a physiotherapist registered under the Physiotherapists’ Registration Act 1945;
- (d) an optometrist registered under the Optometrists’ Act 1930.
- (e) a naturopath, herbalist or practitioner of a like nature.

“*Home Occupation*” means a business or activity carried out within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that—

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

“*Hospital*” means a building or place used as a—

- (a) hospital
- (b) sanatorium;
- (c) health centre;
- (d) nursing home; or
- (e) home for aged persons, infirm persons, incurable persons or convalescent persons;

whether public or private, and includes a shop or dispensary used in conjunction therewith.

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

“*Industry*” means the carrying out of any process in the course of trade or business for gain, for and incidental to one or more of the following—

- (a) the winning, processing or treatment of minerals;
 - (b) the making, altering, repairing, or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;
 - (c) the generation of electricity or the production of gas;
 - (d) the manufacture of edible goods;
- and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include—
- (a) the carrying out of agriculture;
 - (b) on-site work on buildings or land; and
 - (c) in the case of edible goods, the preparation of food for retail sale from the premises.

“*Intensive Agriculture*” means any land or buildings used for trade or commercial purposes for the following—

- (a) The production of grapes, vegetables, flowers, fruit and nuts;
- (b) Cultivating plants in a wholesale plant nursery.

“*Jetty and Mooring Envelope*” means an area designated on the Subdivision Plan and set aside for the construction of a jetty/mooring facility and may be located within a canal or a lot with water frontage or adjacent to a lot with water frontage.

“*Light Industry*” means an industry—

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

“*Liquid Fuel Depot*” means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

“*Major Road Frontage*” in relation to land means the frontage of that land to—

- (a) a main or arterial road; or

(b) a road connecting with a main or arterial road, if the whole or any part of the frontage is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the main or arterial road.

“Marina” means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings appurtenant thereto and all offices and storerooms used in connection therewith.

“Marine Facilities” means any maritime facility forming part of a Harbour, Marina, Canal or waterway system and includes marina jetties, wharves, boat ramps, slipway, boat lifting facilities, hardstand, chandlery, marine filling station and boat storage.

“Marine Filling Station” means a facility designed specifically for the refuelling and minor servicing of watercraft.

“Market” means any land or buildings used for a fair, a farmer’s or producer’s market or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stallholders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental.

“Medical Centre” means consulting rooms and professional accommodation for duly qualified and registered medical practitioners, dentists, physiotherapists, optometrists, chiropractors and pharmacists.

“Mineral Resource Development” means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef whereon, wherein or whereby any operation is carried on for, or in connection with, the purpose of obtaining any metal or mineral by, and mode or method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated but does not include a quarry.

“Motel” means a building or buildings (other than a chalet development, guesthouse, hotel, boarding house, multiple dwelling or grouped dwelling substantially used for the overnight accommodation of travellers and the vehicles used by them, whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

“Motor Vehicles and Marine Sales Premises” means any land or buildings used for the display and sale of new or second-hand motorcycles, cars, trucks, caravans and boats or any one or more of them and may include the servicing of motor vehicles sold from the site.

“Motor Vehicle Repair” means any land or buildings used for the mechanical repair and overhaul of motor vehicles, including tyre recapping, retreading, panel beating, spray painting and chassis reshaping.

“Multiple Dwelling” means a dwelling as defined in the Scheme in a group of more than one where any part of a dwelling is vertically above part of any other.

“Offensive or Hazardous Industry” means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

“Office” means any land or buildings used for the administration of clerical, technical, professional, financial or other like business activities, but does not include administration facilities which are required in association with a separate predominant use on the site.

“Owner”, when used in relation to any land means and includes the Crown and every person who, jointly and severally, whether at law or in equity—

(a) is entitled to the land for any estate in fee simple in possession; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land or;

(c) is a lessor or licensee from the Crown; or

(d) is entitled to receive, or is in receipt of, or, if the lands were let to a tenant, would be entitled to receive the rents and profits thereof, whether as a beneficial owner, trustee, mortgagee in possession or otherwise.

“Place of Assembly” means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship or an educational establishment.

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

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

“Poultry Farm” means any land or buildings used for hatching, rearing or keeping of poultry for either egg or meat production on an intensive basis and which does not constitute an offensive trade within the meaning of the Health Act 1911.

“Prime Agricultural Land” means land that is identified as being within Class I or II for the purposes of market gardening, orchards or viticulture within the “Busselton/Margaret River, Augusta Land Capability Study” prepared by the Department of Agriculture. Land identified as being within Class I for the purposes of grazing may also be deemed to be Prime Agricultural Land (and subject to the restrictions applying thereto) following specific site assessment and by decision of Council. Land containing remnant vegetation or subject to other environmental

or biological influences that render its use for agriculture undesirable is deemed not to be Prime Agricultural Land.

“*Private Recreation*” means the use of land for parks, gardens, playgrounds, sports arenas or for recreation which are not normally open to the public without charge.

“*Professional Consulting Rooms*” means a room or a number of rooms forming either the whole of, or part of, attached to or within the curtilage of a dwelling house and used by not more than three legally-qualified medical practitioners or by not more than three dentists, or by not more than three health care professionals, who practise therein the profession of medicine, dentistry or health care respectively and, if more than one, practise in partnership and who employ not more than three employees in connection with that practice.

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

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

“*Recreation Agriculture*” means the cultivation of land already cleared of the original native vegetation within a specified area of a property for crops and flowers, and other horticultural practices and the keeping of animals and birds for consumption and enjoyment of the occupants of the subject allotment only. The activity is not undertaken on a commercial basis.

“*Recreation Area*” means—

- (a) a children’s playground;
- (b) an area used for sporting activities or sporting facilities; or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by—
 - (i) the Council; or
 - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community;but does not include a racecourse or a showground;

“*Recreation Establishment*” means health farms, religious retreat houses, rest homes, youth camps and the like, but does not include a building or place elsewhere specifically defined in this Clause or a building or place use or intended for use for a purpose elsewhere specifically defined in this Clause.

“*Recreation Facility*” means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

“*Research Establishment*” means a laboratory or other place where scientific or technological development or research is carried out.

“*Residential Building*” means a building or portion of a building, together with rooms or outbuildings separate from such building being used or intended, adapted or designed to be used for the purpose of human habitation—

- (a) temporarily by two or more persons;
- (b) permanently by seven or more persons;

who do not comprise a single family; but does not include a hospital or sanatorium, a prison or hotel, a motel or a residential school.

“*Residential Enterprise*” means a business or activity carried out that—

- (a) is conducted at the normal residence of the person under whose name the activity or business is registered;
- (b) does not occupy an area greater than 40m² or one-third the gross floor area of the dwelling, whichever is the lesser, provided further that the area within which the Enterprise is conducted is not visible from the street or a public place;
- (c) does not employ more than one person on a part-time, full-time or casual basis. For the purposes of this clause, the person under whose name the activity or business is registered shall not be deemed to be an employee nor shall any other person whose duties are normally conducted away from the residence;
- (d) does not involve the sale or display of goods at the residence except where those goods are manufactured or produced at the residence. For the purposes of this clause, the packaging or repackaging of goods or any process that does not involve a substantial material alteration to the primary article shall not be deemed to be a manufacturing or production process;
- (e) does not involve visits to the residence by clients other than by appointment only;
- (f) is conducted only between the hours of 8.00am and 6.00pm on weekdays, 9.00am and 5.00pm on Saturdays and is not conducted on Sundays and public holidays;
- (g) does not have more than one advertising sign and the sign displayed does not exceed 0.2m² in area;
- (h) does not require the provision of any service main of a greater capacity than normally required for the zone in which the residence is located;

- (i) does not cause injury to, or prejudicially affect, the amenity of the neighbourhood, including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of light, vibration, smell, fumes, smoke, soot, dust, grit or waste products; and
- (j) does not result in the emission of any noise or any intermittent noise which, by virtue of its volume or pitch, is likely, in the opinion of the Council, to cause a nuisance to surrounding residents.

“*Restaurant*” means a building wherein food is prepared for sale and consumption on the premises and the expression shall include a licensed restaurant.

“*Restricted Premises*” means any premises, part or parts thereof, used or designed to be used primarily for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—

- (a) publications that are classified as restricted publications pursuant to the Indecent Publications & Articles Act 1902 (as amended); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;
- (c) but shall not include the sale of condoms from any premises or, in the case of a supermarket or pharmacy, the sale of any product which is usually sold from such an outlet.

“*Retirement Village*” means any land or buildings used to accommodate retirees, together with ancillary facilities, but does not include a “Park Home Park”.

“*Roadside Stall*” means a place or temporary structure used for selling by retail agricultural produce produced on the allotment of land on which it is situated.

“*Rural Enterprise*” means the use of rural land and buildings for business activities, the operations of which are related to or are dependent on rural and agricultural activity in the locality in which they are situated.

“*Rural Holiday Resort*” is any form of Rural Tourist Accommodation, except Caravan Parks and Camping Grounds, comprising more than 10 accommodation units, whether they be rooms, suites or chalets.

“*Rural Industry*” means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality and includes dairy milking sheds.

“*Rural Tourist Accommodation*” is defined as comprising Bed & Breakfast Establishments, Caravan Parks and Camping Grounds, Guesthouses and Chalet Development.

“*Rural Worker’s Dwelling*” means a dwelling which is on land upon which there is already erected a dwelling and which is occupied by persons engaged in rural occupation on that land.

“*Salvage Yard*” means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures, including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

“*Sawmill*” means any land or buildings where logs or large pieces of timber are sawn but does not include a joinery works.

“*Scheme*” means the Shire of Busselton District Town Planning Scheme 1998.

“*Service Station*” means any land or buildings used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking.

“*Shop*” means any building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food outlet or any other premises specifically defined elsewhere in this part.

“*Showroom*” means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.

“*Single House*” means an independently-constructed dwelling standing wholly on its own lot created pursuant to the Town Planning & Development Act.

“*Stabilised Canal Edge*” means a structural or other measure which separates a canal from dry land, excluding a separately constructed jetty but which may include a retaining wall, whether vertical or sloping; beaches; reinforced reeded slopes; or other structure indicated on Council approved engineering or landscape drawings and specifications.

“*Stabilised Surface Level of a Lot*” means originally constructed surface established over the entire lot, in accordance with the drawings and specifications approved by Council at the time of subdivision.

“*Stock Yard*” means any land, building or other structure used for holding and/or sale of animal stock.

“*Takeaway Food Outlet*” means any land or buildings used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises.

“*Tavern*” means any land or buildings the subject of a Tavern Licence granted under the provisions of the Liquor Licensing Act 1988.

“*Timber Yard*” means a building or place for the purpose of handling, cutting and dressing timber and timber products in association with their sale by retail.

“*Tourist Accommodation*” means a building or group of buildings substantially used for the temporary accommodation of tourists, visitors and travellers which may have facilities for the convenience of patrons such as restaurants, convention areas and the like but does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a purpose elsewhere specifically defined in this Schedule.

“*Transport Depot*” means any land or buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one motor vehicle to another of such motor vehicle and includes maintenance, management and repair of the vehicles used, but not of other vehicles.

“*Veterinary Hospital*” means a building or place used for diagnosing or surgically or medically treating animals, whether or not the veterinary surgeon resides on the premises but does not include an animal establishment.

“*Warehouse*” means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

“*Waterway Frontage*” shall have the same meaning as Stabilised Canal Edge.

“*Winery*” means premises for the production and/or sale to the public of viticultural produce.

Schedule 2

DEVELOPMENT APPLICATION

Shire of Busselton

Telephone: (08) 97810 444
Facsimile: (08) 97524 958

Address Applications to: Chief Executive Officer
Shire of Busselton, PO Box 84 BUSSELTON 6280

Details of Applicant:

NAME:
ADDRESS: TELEPHONE NO:
SIGNATURE:

Consent of Owner(s): (Consent of all owners must be submitted)

OWNER'S NAME:
ADDRESS: TELEPHONE NO:
SIGNATURE:

Land on which Development/Use is Proposed:

LOT NO: LOC NO: STREET:
PLAN OR DIAGRAM: LOCALITY:
EXISTING BUILDINGS/USE:
NEAREST INTERSECTING ROAD:

Description of Proposed Development/Use:

DETAILS OF PROPOSAL:
USE OF ANY EXISTING OR PROPOSED BUILDINGS:
ESTIMATED COST OF DEVELOPMENT:
SERVICES KNOWN TO BE AVAILABLE: ELECTRICITY: Yes No
SCHEME WATER: Yes No
DEEP SEWER: Yes No
STORMWATER DRAINAGE: Yes No
SEALED ROAD ACCESS: Yes No

Note: Your application must be completed in full and be accompanied by FOUR (4) copies of the plans and the application fees or it will be returned unacted upon.

To avoid unnecessary delay and modification of detailed plans, it is recommended that an application for a building licence be made only after receipt of Development Approval and resolution of conditions.

OFFICE USE ONLY:

Assessed Fee: Plans Attached: Yes No
Advertising: Owner Verified: Yes No
TOTAL: Receipt No:
Checked by:

Schedule 3
WETLAND AREAS
DIRECTIONS FOR MATTERS TO BE INCLUDED IN A
STATEMENT OF ENVIRONMENTAL EFFECTS

CLAUSE 25

The following matters are to be included—

1. A full description of the proposed development.
2. A statement of the objectives of the proposed development.
3. A full description of the existing environment likely to be affected by the proposed development if carried out.
4. An identification and analysis of the likely interactions between the proposed development if carried out.
5. An identification and analysis of the likely interactions between the proposed development and the environment.
6. An analysis of the likely environmental impacts or consequences of carrying out the proposed development, including the effect on—
 - (a) the growth of native plant communities;
 - (b) the survival of native wildlife populations;
 - (c) the provision and quality of habitats for both indigenous and migratory species; and
 - (d) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including acidity, salinity and water quality.
7. Whether adequate safeguards and rehabilitation measures have been, or will be, taken to protect the environment.
8. Any feasible alternatives to the carrying out of the proposed development and the reasons for choosing the latter.
9. The consequences of not carrying out the proposed development.
10. Details of any wetlands surrounding the land to which the development application relates and the appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetlands.

Schedule 4
ADDITIONAL USES

CLAUSE 22

No.	Particulars of Land	Land Use Permitted/Specified	Conditions
1	Lot 9 of Lot 7 of Sussex Location 2, Bunyip Road	The only Land Uses permitted shall be: A. Arts & Crafts studio and sales outlet with associated tearoom wherein the maximum floor area of the building to accommodate these activities shall be 260m ² B. Passive recreation activities C. Wildlife and farm displays D. Caretaker's residence E. Rural pursuits and associated farm buildings	Development of the land shall be generally in accordance with the Development Plan endorsed by the Chief Executive Officer.
2	Lot 1 of Sussex Location 751, Commonage	Land Use 1. The only Land Uses permitted shall be: A. Kiosk, souvenir shop, information centre and associated tearooms wherein the maximum floor area of the building to accommodate these activities shall be 160m ² B. Passive recreation activities C. Rural pursuits and associated farm buildings D. Caretaker's residence and 2. The development of an Arts, Craft and local product showroom and sales use may be permitted subject to Council Approval.	
3	Portion of Sussex Loc 1403 on Diagram 4226, Certificate of Title Vol. 1422 & Folio 611 Rendezvous Rd	A. 5 chalets B. Rural pursuits and associated farm buildings C. One dwelling house	<ol style="list-style-type: none"> 1. No person shall occupy the chalets for more than 3 months in any one 12 month period. 2. Development of the land shall be generally in accordance with the Development Plan endorsed by the Chief Executive Officer. 3. Buildings shall be designed and constructed of materials which allow them to blend into the landscape of the lot. 4. No tree or substantial vegetation shall be felled or removed from the lot except where— <ol style="list-style-type: none"> i. required for approved development works ii. required for fire prevention purposes by regulation or by laws; or iii. trees are diseased, dead or dangerous. 5. Effluent disposal systems are to be located a minimum of 100m from the high watermark of the drainage channel. 6. A minimum depth of 2m is to be maintained between the base of each leach drain and groundwater or bedrock.

Schedule 4—*continued*
ADDITIONAL USES—*continued*

No.	Particulars of Land	Land Use Permitted/Specified	Conditions
			7. A minimum of 30m clearance is to be maintained between the effluent disposal systems and any bore or well which is intended or available for animal or human consumption.
4	Lot 1, Sussex Loc 4526 Hayes Rd	1. Pottery Workshop & Sales 2. Arts & Crafts Workshop/Gallery & Sales Tea Room 3. Wine Tasting & Wine Sales	
5	Lot 1, Gunyulgup Valley Drive/Koorabin Drive	Tourist Development The Additional Uses permitted on the specified land are— 1. Chalets & Holiday Cabins 2. Guesthouse 3. Restaurant 4. Public Amusement 5. Private Recreation 6. Art & Craft Studio 7. Workshop & Sales 8. Boutique Brewery 9. Winery 10. Museum 11. Club	The additional uses specified shall be deemed to be "AA" uses for the purpose of Clause 20 of the Scheme
6	Sussex Loc 556, Portion of Sussex Loc 474 & Lot 1, Butterly Rd/Millbrook Rd as identified on the Scheme Maps	Tourist Development The Additional Uses permitted on the specified land are— 1. Chalets & Holiday Cabins 2. Guesthouse 3. Restaurant 4. Public Amusement 5. Private Recreation 6. Art & Craft Studio 7. Workshop & Sales 8. Boutique Brewery 9. Winery 10. Museum 11. Club	The additional uses specified shall be deemed to be "AA" uses for the purpose of Clause 20 of the Scheme
7	Portions Sussex Loc 1043 & Lot 58 being part of Sussex Loc 3132, Bronzewing Rd/Biddle Rd as identified on the Scheme Maps	Tourist Development The Additional Uses permitted on the specified land are— 1. Chalets & Holiday Cabins 2. Guesthouse 3. Restaurant 4. Public Amusement 5. Private Recreation 6. Art & Craft Studio 7. Workshop & Sales 8. Boutique Brewery 9. Winery 10. Museum 11. Club	The additional uses specified shall be deemed to be "AA" uses for the purpose of Clause 20 of the Scheme
8	Lot 111, Nicholson Rd/ Marrinup Drive	Tourist Development The Additional Uses permitted on the specified land are— 1. Chalets & Holiday Cabins 2. Guesthouse 3. Restaurant 4. Public Amusement 5. Private Recreation 6. Art & Craft Studio 7. Workshop & Sales 8. Boutique Brewery 9. Winery 10. Museum 11. Club	The additional uses specified shall be deemed to be "AA" uses for the purpose of Clause 20 of the Scheme
9	Lot 21, Sussex Loc 1411, Vasse/Yallingup Rd	1. Restaurant 2. Ancillary Tourist Convenience Retail Sales (with a maximum floor area of 50m ²) 3. Arts & Crafts Sales	
10	Lot 3 of Loc 876, Hemsley Rd, Yallingup	1. 15 chalets for Short Stay Accommodation 2. Private Recreation 3. Manager's Dwelling 4. Owner's Dwelling 5. Cottage Industry, except that employment of up to 3 persons is permitted	
11	Lot 119, Locke St	Retailing of Fish	1. Limiting of on-site processing to the packaging of ready prepared fish. 2. The Additional Use will only be permitted whilst the subject lot is owned by G G Lear and occupied by G G & R Lear. 3. Should the circumstances specified in Paragraph 2 change, the "Additional Use" zone will be deleted and the rezoning of the subject lot will revert back to "Residential" only and the use immediately cease.
12	Lot 13, Sussex Loc 731, Caves Rd	1. Restaurant 2. Art Gallery & Sales 3. Ancillary Tourist Convenience Retail Sales (maximum floor area of 100m ²) 4. Open Air Theatre	1. The use of "Open Air Theatre" to be restricted as follows— (a) Category 1 Events limited to 300 patrons as, and when desired; and (b) Category 2 Events limited to 301-2,500 patrons with each event subject to Council approval, and to occur on a maximum of two days per 12 month period only
13	Lot 4 of Sussex Loc 2589, Carter Rd, Metricup	1. Restaurant 2. Ancillary Tourist Convenience Retail Sales (maximum floor area of 100m ²) associated with the lavender industry 3. Arts & Crafts Sales	

Schedule 4—*continued*
ADDITIONAL USES—*continued*

No.	Particulars of Land	Land Use Permitted/Specified	Conditions
14	Portion of Pt Lot 4 of Sussex Locs 803 & 2995, Chapman Hill Rd	Tourist Development: 1. Botanical Gardens 2. Restaurant 3. Shops—Arts & Crafts Sales limited to locally produced products (maximum floor area of 100m ²) 4. Reception Establishment	
15	Loc 296 Cape Naturaliste Tce, Dunsborough	Residential R2.5	1. Subdivision of a range of lot sizes down to an R2.5 standard will be permitted in the central, cleared portion of Loc 296 in accordance with a Development Guide Plan to be adopted by Council and endorsed by the WA Planning Commission
16	Lot 11 Forrest Beach Rd, Wonnerup	Restaurant	
17	Lot 134 Marrinup Drive, Yallingup	Arts and Crafts Studio, Workshop and Sales	Development of the land shall generally be in accordance with a Development Plan endorsed by the Chief Executive Officer which is to ensure that any development does not establish a commercial frontage to Marrinup Drive.
18	Lot 2 Metricup Rd, Wilyabrup	Rural Holiday Resort	Development shall be in accordance Council's Rural Tourist Accommodation Policy
19	Lot 73, Redgum Way	Transport Depot	1. A maximum of 4 trucking vehicles and associated trailers may be garaged on the site at any one time, all of which must be owned by the Harbeck family. 2. Storage on the site is to be restricted to potato crates and fertiliser bins which are owned by Mr & Mrs Harbeck, subject to these items being stored in an area agreed to by Council (only) with that area suitably screened to prevent viewing of the items from surrounding areas. 3. No items (other than referred to in (2) above) that are transported by the said vehicles may be brought back to the property for unloading, sorting, distribution, storage or sale. 4. The "Additional Use" will only be permitted while the subject lot is owned and occupied by G A & M L Harbeck. 5. Should the circumstances specified in paragraph 3 change, the "Additional Use" zone will be deleted, the zoning of subject lot will revert back to "Special Rural" only and the use must immediately cease. 6. Condition 4 must be secured, prior to issue of Council's Planning Consent, by placing a caveat on the Certificate of Title, Volume 1616, Folio 906. 7. That the subject property is not to be used as base for employment other than members of the Harbeck family.
20	Lot 4, Sussex Loc 1354, Cnr of Canal Rocks Rd & Caves Rd	Restaurant, Caretaker/Staff Accommodation and Guesthouse Accommodation.	Development of the land shall be in accordance with a detailed Development Guide Plan approved by Council which addresses the following matters— <ul style="list-style-type: none"> • Vehicle access, parking and servicing • The siting of buildings and storage areas; and • Provisions for landscaping
21	Lot 4 of Sussex Loc 550, Kaloorup Rd	1. Museum, Souvenir Shop and Associated Tearoom wherein the maximum floor area of the building to accommodate these activities shall be 160m ² 2. Passive Recreation activities 3. Rural Pursuits and Associated Farm Buildings 4. Caretaker's Residence 5. Display of Farm Equipment and Demonstration of Farming Practices	1. Development of the land shall be generally in accordance with the Development Plan endorsed by the Chief Executive Officer. 2. The planting and continued maintenance of a multi-row windbreak along the eastern boundary of Lot 4 to the specifications and satisfaction of Agriculture WA and the Water & Rivers Commission shall be established on the development of the Tourist Facilities.
22	Portion Sussex Loc 89, Cnr of Caves Rd & Quindalup Siding Rd	1. Arts & Crafts 2. Studio, Sales Outlet for goods manufactured in the general locality 3. Tearoom not exceeding 100m ² floor area 4. Arts & Crafts Workshop 5. Wildlife Display 6. Caretaker's Residence 7. Passive Recreation Activities, including BBQ areas.	Development shall be generally in accordance with a Development Guide Plan approved by Council and endorsed by the Chief Executive Officer.
23	Lot 1 of Portion Sussex Loc 1298, Cnr of Gunyulgup Valley Drive & Caves Rd	1. Arts & Crafts Studio and Sales Outlet 2. Workshop for the purposes of manufacturing Arts & Crafts only, wherein the floor area of the building to accommodate these activities shall be 140m ² 3. Refreshment servery building with associated outdoor seating with a maximum kitchen servery floor area to be no greater than 20 m ² in area	Development of the land shall be generally in accordance with the Development Plan endorsed by Council and the WA Planning Commission.
24	Eastern Portion of Sussex Loc 1684, Harman's Road South	1. Restaurant 2. Private Recreation 3. Arts & Crafts Workshop 4. Arts & Crafts Sales Outlet (with a maximum floor area of 100m ²) 5. One Manager's Residence	
25	Proposed Lot 1, Sussex Loc 4336 & Portion 2877, Cnr of Johnson & Pusey Rds	1. Production and Sale of Wine and Beer 2. Arts & Crafts Showroom and Sales; and 3. One Manager's/Caretaker's House	Development of the site shall be generally in accordance with a Development Guide Plan endorsed by Council and the Western Australian Planning Commission.
26	Lot 21, Caves Rd, Naturaliste	Restaurant	
27	Lot 58, Curtis St, Dunsborough	Cafe & Tourist Accommodation—Chalets	Development to be generally in accord with a Development Guide Plan endorsed by Council and the WA Planning Commission.

Schedule 4—*continued*
ADDITIONAL USES—*continued*

No.	Particulars of Land	Land Use Permitted/Specified	Conditions
28	Lot 3 of Sussex Loc 748 & Portion Locs 165 & 187 Caves Rd	1. Chalets 2. One Manager's House 3. Accommodation for staff working on the property 4. Reception Establishment	1. Strata titling shall be in accordance with an Approved Plan and no further strata titling will be permitted. 2. Chalets to be used for short stay purposes only. Maximum stay to be 3 months within any 12 month period. 3. Management and maintenance of the short stay chalets to be undertaken by a single manager.
29	Lot 4 of Sussex Loc 748 & Portion Locs 165 & 187 Caves Rd	1. One Dwelling House 2. One Manager's/Caretaker's House 3. Arts & Crafts Showroom and Sales 4. Reception Establishment 5. Ancillary Recreation Facilities	
30	Lot 18 Queen Elizabeth Ave	1. Church Complex, including a Sports Hall and Auditorium	Development of the site shall be generally in accord with a Development Guide Plan endorsed by Council.
31	Sussex Loc 4421 & 4422, North Side of Yallingup Beach Rd only, being Caves House and its immediate surrounds as zoned "Special Purpose—Hotel"	Backpackers' Accommodation, Camping & Caravan Park, Club, Convenience Store, Community Centre, Guesthouse, Market, Motel, Hotel, Place of Public Worship, Private Recreation, Reception Establishment, Recreation Area, Recreation Establishment, Recreation Facility, Refreshment Room, Rural Tourist Facility, Service Station, Shop, Tourist Accommodation, Tavern, Utility Installation, Winery, Open Space, Landscape Protection	Any development shall have regard for the heritage, landscape, environmental and cultural value of the location and shall be consistent with the principles of the Conservation Plan (September 1996), subsequent amendments and additions thereto, and shall be in accord with a Development Guide Plan prepared for the land and endorsed by Council and the Western Australian Planning Commission.
32	Part Lot 100 Caves Rd, Yallingup	Rural Holiday Resort	1. Development limited to a maximum number of accommodation units equivalent to 22 chalets. 2. Development limited to Strata Lot 1 to be as shown on plan dated May 1997.
33	Lot 42 Wisteria Drive, Quindalup	1. Tourist Accommodation 2. Arts & Crafts Sales 3. Health Farm incorporating a Meditation Centre	1. A maximum of 10 chalets shall be permitted as tourist accommodation 2. A maximum floor area of 55m ² shall apply to the Arts & Crafts Sales
34	Lots 23 & 24 Bussell Hwy, Busselton	Veterinary Hospital	1. Development shall generally be in accordance with the Development Plan endorsed by the Chief Executive Officer. 2. Overnight accommodation is restricted to animals in emergency situations or those recuperating from surgery or treatment only.
35	Pt Lot 10 Vasse Hwy, Yalyalup	1. Local Shopping 2. Liquor Store 3. Takeaway Food Outlet 4. Service Station	Total nett leasable Floorspace shall not exceed 200m ² .
36	Sussex Loc 413 Smiths Beach	Residential	In addition to Clauses 24 & 26 of the Scheme, the following provisions shall apply to Loc 413 in preparation of a Development Guide Plan: 1. Preparation of a detailed Visual Impact Analysis and Management Plan for the site and to be endorsed by Council. 2. Development shall be in accordance with comprehensive Design Guidelines to be prepared for the land in recognition of the outcomes of (1) above, its high landscape value and prominent location to be endorsed by Council prior to any development being approved.
37	Portion Loc 4208 Biddle/McLachlan Rds	1. Guesthouse 2. Private Recreation 3. Arts & Crafts Studio, Workshop & Sales 4. Permaculture Display & Education	Development of the land shall be generally in accordance with a Development Guide Plan endorsed by the Chief Executive Officer
38	Portion Loc 4107 Biddle/Commonage Rds	Art & Craft Workshop & Sales; Rural Holiday Resort; Private Recreation; Restaurant	The additional uses specified shall be deemed to be "AA" uses for the purpose of Clause 20 of the Scheme
39	Portion Loc 4207 McLachlan Rd	Community Centre; Child Care Centre; Recreation Facility; Art & Craft Studio & Sales; Rural Holiday Resort; Private Recreation; Licensed Restaurant; Reception Centre; and Shop having a gross leasable area of 150m ²	The additional uses specified shall be deemed to be "AA" uses for the purpose of Clause 20 of the Scheme
40	Lot 42 Country Rd, Busselton	1. Licensed Restaurant 2. Ancillary Arts & Crafts Sales 3. Guesthouse	1. Development shall be in accordance with a Development Guide Plan endorsed by the Chief Executive Officer, which shall take into consideration the following— – Retention of stormwater on-site – Preservation of remnant vegetation – Buffers to the future bypass – Development and effluent disposal system setbacks from the Vasse River 2. Development shall be subject to preparation of a Foreshore Management Plan to the satisfaction of the Chief Executive Officer. 3. Access to the site via Farmhouse Court shall be restricted to private and service vehicles. All other commercial traffic is to gain access to the site via the right-of-way on the eastern boundary. A gate at the entrance to Farmhouse Court shall be constructed to achieve this. 4. Landscaping and revegetation of the portion of the right-of-way adjoining Lot 102 to the satisfaction of Council.
41	Portion Lot 340 Vasse Hwy, Yalyalup	Aviation Research; Education & Training including Incidental Accommodation	Development shall be in accordance with the Busselton Airport Business Park Development Guide Plan and the Shire of Busselton Industrial Development Code.

Schedule 4—*continued*
ADDITIONAL USES—*continued*

No.	Particulars of Land	Land Use Permitted/Specified	Conditions
42	Lots 397 & 398 Armitage Drive	Child Care Centre	
43	Pt Lot 2/Pt Lot 7 & Lot 4 Bussell Hwy, Gale St, Busselton	Restaurant	
44	Part of Lot 17 (Proposed Lot 500) West St, Busselton	The only land use permitted shall be Motor Vehicles and Marine Sale Premises	<ol style="list-style-type: none"> 1. Development shall be restricted to an overall single tenancy which is predominantly comprised of a single large floorspace. 2. Development and subdivision shall generally be in accordance with the Subdivision Guide Plan endorsed by the Chief Executive Officer.
45	Portion of Sussex Location 422 Bunker Bay Road, Naturaliste	Permanent Residential occupation of up to a maximum of 15% of tourist units developed on the site or 30 units whichever is the least, to be dealt with as "AA" uses under the Scheme.	<ol style="list-style-type: none"> 1. Any unit developed on the site or approved by Council for use for permanent residential occupation shall form an integrated component of the overall development in terms of the type, style and character of the building, the landscaping of the building and shall be managed on an integrated basis with the overall resort and located to form part of the resort. 2. All development on the site shall ensure the visual integrity of Bunker Bay is retained.
46	Lot 382 Freycinet Drive, Geographe	Shop, Restaurant	Development shall generally be in accordance with a Development Guide Plan approved by Council and shall comply with the requirements of Council's Dual Occupancy Development Policy and comprise a maximum of 6 residential/dwelling units.
47	Portion of Sussex Location 4422 south side of Yallingup Beach Road only	Chalet Development	<ol style="list-style-type: none"> 1. Chalet development shall comprise a maximum of 10% of development on the site. 2. Development shall be in accordance with a Development Guide Plan prepared and adopted pursuant to Clause 24 of the Scheme which shall maximise the retention of vegetation and in particular pine trees on the site and shall have regard to the landscape, cultural values and predominant land use of the site for camping and caravan park.
48	Lot 33 Caves Road, Marybrook	Caravan Park and Camping Grounds	Development shall be in accordance with Council's Rural Tourist Accommodation Policy.
49	Portion of Lots 2 and 5 Bussell Highway and Lyddy Road, Yalyalup	Industrial	<ol style="list-style-type: none"> 1. Notwithstanding Table 2 of the Scheme, the following uses shall not be permitted— <ul style="list-style-type: none"> • Amusement Parlour • Bulk Store • Bus Depot • Bus Station • Caravan Sales Premises • Service Station • Car Wash • Laundry and/or Dry Cleaning Premises • Chandlery • Convenience Store • Community Centre • Medical Centre • Funeral Parlour • Place of Assembly • Place of Public Worship • Private Recreation • Radio and TV Studio Installation • Showroom • Warehouse • Motor Vehicle Repair • Motor Vehicle and Marine Sales Premises • Recreation Facility • Salvage Yard • Stock and Sale Yard • Tavern • Timber Yard • Veterinary Hospital • Premises for the Temporary or Permanent Storage of Engineering Equipment and Material and the Parking of Earth Moving Equipment and Machinery • Liquid Fuel Depot • Extractive Industry • Saw Mill • Marine Facilities, Marine Filling Station • Prescribed Premises • Corner Shop • Abattoir • A Factory Showroom or an Office upon the Premises of or adjoining the Factory 2. Development shall only be permitted generally within those building envelopes specified on the endorsed Busselton Airport Structure Plan dated August 6, 1998. 3. In considering any proposal for development, Council will require an overall site plan demonstrating the relationship between the residential use and the industrial use. 4. Council may seek advice from the Department of Environmental Protection prior to determining any development application on these lots.

Schedule 5

NOTIFICATION OF USE WITHOUT CONSENT

CLAUSES 65 AND 75
The Chief Executive Officer
Busselton Shire Council
Southern Drive
BUSSELTON WA 6280

Dear Sir

NOTICE OF INTENTION TO OCCUPY SHOP - OFFICE - FACTORY UNIT
(Delete whichever is inapplicable)

I hereby give notice pursuant to the Shire of Busselton District Town Planning Scheme 1998 of my intent to occupy the following premises—

NATURE OF PREMISES:	Shop <input type="checkbox"/> Office <input type="checkbox"/> Factory Unit <input type="checkbox"/>
ADDRESS:	Lot/Location
	Street
	Locality
PROPOSED USE:
EXISTING TENANT/USE:	Tenant
	Use
PROPOSED DATE OF OCCUPATION:
NAME OF NEW OCCUPANT:
BUSINESS NAME: (if applicable)
	Signed:

Note: This notice will not be replied to by Council unless there is some problem with your proposal

OFFICE USE ONLY:

Approved Premises:	YES <input type="checkbox"/> NO <input type="checkbox"/>	Outstanding Conditions:	YES <input type="checkbox"/> NO <input type="checkbox"/>
Existing Use Approved:	YES <input type="checkbox"/> NO <input type="checkbox"/>		
Proposed Use Permissible:	YES <input type="checkbox"/> NO <input type="checkbox"/>	Follow-up	YES <input type="checkbox"/> NO <input type="checkbox"/> Date:
		Signed:

Schedule 6

SPECIAL CHARACTER AREAS

CLAUSE 29

1. QUINDALUP SPECIAL CHARACTER AREA

The following provisions shall apply to subdivision and development within the Quindalup Special Character Area as defined on the Scheme Map—

- (a) All residential development, including the development of two grouped dwellings at a density of R20 within Sectors 1 and 2, and that part of Section 3 containing Ollis Street and the northern side of Wilson Street, as described in the Quindalup Special Character Area Policy, shall comply with the standards of the R12.5 Code of the Residential Planning Codes, with the exception that front setbacks in the area shall be a minimum of 10 metres;
- (b) Council will only permit the construction of grouped housing development of three or more dwellings at a density not exceeding R12.5 with a minimum lot size of 2,100m²;
- (c) No residential development shall exceed a maximum height limit of two storeys or a maximum of 9 metres, with the exception that no building is to exceed crown/canopy height of peppermint trees in the immediate vicinity of the proposed dwelling. The height of buildings to be measured vertically from any given point of the building to the natural surface level of the site;
- (d) In the determination of any development application within the Quindalup Special Character Area Policy, Council shall have regard for the provisions of that policy.

2. YALLINGUP SPECIAL CHARACTER AREA

The following provisions shall apply to subdivision and development within the Yallingup Special Character Area as defined on the Scheme Map—

- (a) Council may permit group housing development at Density R20 on sites comprising 900m² or more where it is satisfied that—
 - (i) buildings shall have an appearance of lightweight construction and fit with the site topography which will normally require the use of a stumped construction;

- (ii) Site coverage should be no more than 40% of the lot area and, where possible, remnant vegetation should be used to reduce the visual mass/bulk of dwellings;
 - (iii) Clearing shall only be permitted within approved footprint areas and the immediate surrounds;
 - (iv) Building style shall be reflective of, and sensitive to, the existing residential character through the use of prominent windows, lightweight and prominent balconies, relatively steep and multi-pitched roofs.
- (b) No residential development shall exceed a maximum height of 10 metres measured vertically from natural ground level at any point of the building except for Lot 105 Dawson Drive, which shall be limited to a maximum height that ensures that the building will not intrude into the skyline created by the dunal system when viewed from beach areas;
- (c) In the determination of any development application within the Yallingup Special Character Area, Council shall have regard for the general provision of that policy.

Schedule 7

SPECIAL PROVISION AREAS

CLAUSE 25

Particulars of Land	Zone	Special Provisions
Part of Sussex Locs Pt 70, 660, 829, 1045 & 1046 Naturaliste	Rural Residential	<ol style="list-style-type: none"> 1. Subdivision shall be generally in accordance with the Ridgeland Precinct Concept Subdivision Guide Plan endorsed by Council and approved by the WA Planning Commission. Prior to subdivision of any land within the Specified Area, a Subdivision Guide Plan(s) shall be prepared and thereafter subdivision shall be generally in accordance with the Subdivision Guide Plan(s) endorsed by Council and approved by the WA Planning Commission. 2. Houses and associated buildings shall be contained within a 50 metre x 50 metre cleared and fuel-reduced building envelope on each lot. 3. No part of a building (except a chimney) shall be higher than the maximum building height. The maximum building height is a plane parallel to the natural grade of a site at a specified distance measured vertically from the natural ground level prior to earthworks. Maximum building heights shall be those indicated on the Subdivision Guide Plan and shall not exceed 7.5 metres except for Lots 2, 3, 10, 13, 14, 15, 16, 19, 20, 21, 22, 23, 25 & 26 of Sussex Loc Pt 829 which shall have a maximum building height of 5.0 metres. 4. Building materials and colours must be as approved by Council, in accordance with the following guidelines— <ul style="list-style-type: none"> Roofs—Non-reflective materials only Colours—No primary colours. Range of dark to medium tones of brown/green/olive, deep red/brown, ochre/brown 5. All ancillary buildings and outbuildings shall be located within 30 metres of the residence. 6. Council may require, as a condition of subdivision, additional planting and maintenance of indigenous trees and shrubs capable of growing to a height of not less than 2 metres. Additional planting will be required in areas of revegetation shown on the Subdivision Guide Plan. 7. On land within the fire control buffer shown on Subdivision Guide Plans, fuel reduction measures shall be implemented and maintained where required, strategic firebreaks shall be constructed in accordance with a Fire Management Plan proposed by the subdivider in consultation with the Department of Conservation & Land Management, the Bush Fires Board of WA and Council. 8. On cleared land, the approval of Council will be required for fencing to allow limited grazing for the purpose of minimising fire risk through fuel reduction measures. All fencing to be of farm standard post and wire construction. 9. The Subdivision Guide Plan(s) required to be prepared for the land shall address visual impacts resulting from required firebreaks and take into consideration the landscape impacts of any development, especially from the proposed tourist road.
Part of Sussex Locs Pt 70, 660, 1045 & 1046, Naturaliste	Conservation	<ol style="list-style-type: none"> 1. Subdivision shall be generally in accordance with the Ridgeland Precinct Concept Subdivision Guide Plan endorsed by Council and approved by the WA Planning Commission. Prior to subdivision of any land within the Specified Area, a Subdivision Guide Plan(s) shall be prepared and thereafter subdivision shall be generally in accordance with the Subdivision Guide Plan(s) endorsed by Council and approved by the WA Planning Commission.

Schedule 7—*continued*
SPECIAL PROVISION AREAS—*continued*

Particulars of Land	Zone	Special Provisions
		<p>2 Further subdivision of lots will not be permitted. The Subdivision Guide Plan shall provide allotments consistent with remnant vegetation and landscape protection. A variety of lot sizes are encouraged, but no lot shall be less than 10 hectares.</p> <p>3. Council will request the nomination of building envelopes on the Subdivision Guide Plans to be finalised as a condition of subdivision approval.</p> <p>4. Houses and associated buildings shall be contained within a 50 metre x 50 metre fuel-reduced building envelope on each lot.</p> <p>5. No part of a building (except a chimney) shall be higher than the maximum building height. The maximum building height is a plane parallel to the natural grade of a site at a specified distance measured vertically from the natural ground level prior to earthworks. Maximum building heights shall be those indicated on the Subdivision Guide Plan and shall not exceed 5.0 metres.</p> <p>6. Building materials and colours must be as approved by Council, in accordance with the following guidelines—</p> <p style="padding-left: 2em;">Roofs—Non-reflective materials only</p> <p style="padding-left: 2em;">Colours—No primary colours. Range of dark to medium tones of brown/green/olive, deep red/brown, ochre/brown.</p> <p>7. Council may require, as a condition of subdivision, additional planting and maintenance of indigenous trees and shrubs capable of growing to a height of not less than 2 metres. Additional planting will be required in areas of revegetation shown on the Subdivision Guide Plan.</p> <p>8. Keeping of stock on any lot in the zone must be approved by Council and, where stock is permitted, adequate measures will be required to prevent incursion into, and damage to, areas of remnant vegetation or replanted areas.</p> <p>9. The Subdivision Guide Plan(s) required to be prepared for the land shall address visual impacts resulting from required firebreaks and take into consideration the landscape impacts of any development, especially from the proposed tourist road.</p>
Portion of Lot 340 Vasse Hwy, Yalyalup	Industry	<p>1. Subdivision and development shall generally be in accordance with the Busselton Airport Business Park Development Guide Plan and the Shire of Busselton Industrial Development Code.</p> <p>2. The following uses shall not be permitted—</p> <ul style="list-style-type: none"> – Abattoir – Amusement Parlour – Auctioneer's Premises – Builder's Yard – Chandlery – Depots for the Sale and Distribution of Coal, Coke and Cut Firewood – Extractive Industry – Fish Processing and Storage – Hardware Store – Laundromat – Marine Collectors Yard – Marine Facilities – Marine Filling Station – Motor Vehicle and Marine Sales – Motor Vehicle Repair – Other Offensive Trade – Place of Assembly – Prescribed Premises
Land bounded by the Busselton Bypass Reserve to the north, the eastern boundaries of Lots 183 & 12 to the east, Rendezvous Rd to the south and the western boundary of Lots 176 & 37 and including that portion of Lot 0 within the "Rural Residential" Zone to the west	Rural Residential	<p>At the time of subdivision, Council will recommend to the Western Australian Planning Commission that the subdivider be required to submit, to the satisfaction of the Department of Environmental Protection, Water and Rivers Commission and the Health Department of Western Australia, a drainage and effluent disposal management plan indicating—</p> <ol style="list-style-type: none"> 1. That all lots can achieve a minimum 500mm vertical separation between the winter water table and aerobic treatment unit irrigation areas; 2. That the aerobic treatment units will not adversely impact on surface water quality; and 3. Site works required to achieve 1 and 2 above. <p>Where individual lots cannot meet the requirements of 1 and 2 above, a minimum lot size of 4000 square metres shall apply.</p>

Schedule 7—*continued*
SPECIAL PROVISION AREAS—*continued*

Particulars of Land	Zone	Special Provisions
Lots 1 & 2 Tuart Drive, Wonnerup	Rural Residential Conservation	<ol style="list-style-type: none"> 1. Subdivision and development shall not occur prior to approval and adoption of a Subdivision & Development Guide Plan by Council and the WA Planning Commission. 2. Council will request, as a condition of subdivision, the preparation of a building envelope plan to the satisfaction of the Department of Conservation & Land Management and the Shire of Busselton to ensure no removal of Tuart trees and to minimise visual impacts of development from Tuart Drive. 3. At the time of making application for subdivision, the subdivider shall be required to submit an Effluent Disposal Management Plan to the satisfaction of the Shire of Busselton and the Health Department of WA.
Lot 5 & Portion of Lot 50 Eagle Bay Rd, Eagle Bay	Residential (R2.5)	<ol style="list-style-type: none"> 1. Subdivision and development of the lots shall generally be in accordance with the Subdivision & Development Guide Plans adopted by Council and approved by the WA Planning Commission. 2. The standard minimum building setbacks shall be 15 metres from the front boundary and 10 metres from all other boundaries where setbacks are not specified on the Subdivision & Development Guide Plan 3. No building shall be constructed closer to Eagle Bay Rd than the setback line shown on the Subdivision & Development Guide Plan. This line is located between 40 metres and 60 metres from Eagle Bay Rd except for Lots 12, 13 & 14 which shall have a 30 metre minimum building setback from Eagle Bay Rd. 4. No effluent disposal area or buildings on lots abutting Meelup Reserve shall be set back less than 40 metres from the common boundary within Meelup Reserve. 5. All outbuildings are to be contiguous with the main dwelling in terms of building materials, colour and form and shall be located within the building envelope indicated for each lot on the Subdivision Guide Plan and shall be limited to single storey development. 6. Unless otherwise approved by Council, each dwelling shall be connected to a water storage tank of not less than 135,000 litre capacity. The total catchment for the tank shall be not less than 150 m². Water tanks shall be fitted with couplings compatible with Bush Fires Board requirements so that the total tank capacity is available for fire fighting purposes at any given time. 7. Rain water storage tanks are to be sited within the building envelope and form part of the dwelling and outbuilding group. Such tanks shall be painted mist green or similar and screened with vegetation to the satisfaction of Council. 8. Council shall require each application for a building licence to be accompanied by a landscaping plan for the lot unless such lot is substantially vegetated, indicating the areas to be subject to tree planting and revegetation in accordance with the Subdivision Guide Plan. 9. Pre-fabricated kit homes, relocated and transportable dwellings are not permitted. 10. Dwelling houses shall be limited to a maximum height of 7.5m above the natural surface level at any point, with no more than 50% of the building to be 2 storey development. On Lots 12, 13 & 14 the maximum dwelling height shall be limited to the general tree canopy height on the lot and in any event shall not exceed 7.5 metres.
Lots Pt 2, Pt 10, 19 & 20 Vasse Hwy, Yalyalup	Residential (R2 & R5)	<ol style="list-style-type: none"> 1. Duplexes shall not be permitted on any allotment. 2. Council may require, as a condition of building approval, the planting and maintenance of 20 native trees and/or shrubs per allotment. 3. No building shall be constructed less than 60 metres from Bussell Hwy or 40 metres from Vasse Hwy, provided that the 60 metre setback from Bussell Hwy may be reduced to 50 metres at the discretion of Council where site conditions are appropriate. 4. Development of lots adjacent to the saleyards on Pt Lot 2 shall be subject to the closure or relocation of the saleyards or establishment of an appropriate buffer if necessary.
Lots 541, 542, 543, 544 and 545 Keel Retreat, Geographe	Residential (R15)	<p>Triplex development of those lots may be permitted subject to compliance with Council's Residential Development Policy.</p>

Schedule 7—*continued*
SPECIAL PROVISION AREAS—*continued*

Particulars of Land	Zone	Special Provisions
Lots 529 and 530 William Drive, Broadwater	Special Purpose— Aged Persons Housing	Development of the land shall be in accordance with a Development Guide Plan prepared and adopted pursuant to Clause 24 of the Scheme with such to specifically address coastal management, habitat protection, landscape issues, provision of adequate foreshore reserves and public access.
Portion Lots 2 and 5 Bussell Highway, Yalyalup	Tourist	<p>1. Development of the site shall only take place after the preparation and endorsement by Council of a Development Guide Plan pursuant to Clause 24 of the Scheme. Such a Plan shall address the following issues—</p> <ul style="list-style-type: none"> (i) Inter-relationship of the various land uses; (ii) Access to Bussell Highway, the Ludlow Deviation and the Busselton Outer Bypass in consultation with Main Roads WA and Western Australian Planning Commission. (iii) Landscaping and buffering to Bussell Highway; <p>2. Development shall be connected to reticulated sewer.</p> <p>3. Prior to subdivision or development of the land the developer shall provide suitable evidence that the proposal will not constrain existing or future mining of this site, or adjoining land to the east, to the satisfaction of the Western Australian Planning Commission, Department of Minerals and Energy, Department of Environmental Protection and the Shire of Busselton.</p> <p>4. At time of the subdivision/development, if prior to mining of adjoining land, a memorial shall be placed on all created titles within 500m of the southern/eastern boundary of the site advising that mining on the adjoining land (being Location 3819) subject to obtaining the necessary approvals.</p> <p>5. At the time of subdivision, a memorial shall be placed on all created titles within the boundary of the Controlled Airspace associated with the Busselton Regional Airport identifying that the lot is within that boundary.</p> <p>6. The only uses permitted on the site are—</p> <ul style="list-style-type: none"> • Recreation Area, Recreation Establishment, Recreation Facility and Private Recreation • Tourist Accommodation comprising Caravan Park and Camping Grounds and Chalet Development <p>7. The following uses are permitted and shall be restricted to a combined maximum floorspace of 200 m² GLA—</p> <ul style="list-style-type: none"> • Market • Arts and Craft Studio, Workshop and Sales, and Cottage Industry • Wine Tasting and Sales • Tourist Information Centre
Portion of Lots 2 and 5 Bussell Highway and Lyddy Road, Yalyalup	Residential R2.5/5	<p>1. Subdivision and development shall be generally in accordance with a Subdivision and Development Guide Plan adopted by Council and approved by the Western Australian Planning Commission pursuant to Clause 24 of the Scheme which shall—</p> <ul style="list-style-type: none"> (i) Provide for single residential lot subdivision to maximum R Code density of R5 with the exception of those areas comprising remnant vegetation which shall be subdivided in accordance with the R2.5 density. (ii) Address in detail the land required on the site for stormwater retention. <p>2. On any lot which has been denuded of natural vegetation by previous agricultural clearing Council may require as a condition of building approval, the planting and maintenance of 50 native trees or shrubs or approved species. The planting shall be concentrated around the proposed buildings and between the road reserve boundary and the buildings.</p> <p>3. Duplexes shall not be permitted on any allotment.</p> <p>4. Prior to subdivision or development of the land the developer shall provide suitable evidence that the proposal will not constrain existing or future mining of this site, or adjoining land to the east, to the satisfaction of the Western Australian Planning Commission, Department of Minerals and Energy, Department of Environmental Protection and the Shire of Busselton</p> <p>5. At the time of subdivision and/or development, if prior to mining on adjoining land, a memorial shall be placed on all created titles within 500 metres of the south/eastern boundary of the site advising that mining may occur on the adjoining land, (being Location 3819) subject to obtaining the necessary approvals.</p>

Schedule 7—*continued*
SPECIAL PROVISION AREAS—*continued*

Particulars of Land	Zone	Special Provisions
Portion of Lots 2 and 5 Bussell Highway and Lyddy Road, Yalyalup	Rural Residential	<p>6. At the time of subdivision, a memorial shall be placed on all created titles within the boundary of the Controlled Airspace associated with the Busselton Regional Airport identifying that the lot is within the boundary.</p> <p>1. Subdivision and development shall be generally consistent with the intent of the endorsed Busselton Airport Structure Plan dated August 6, 1998.</p> <p>2. The building envelopes shall be generally in the location depicted on the Structure Plan.</p> <p>3. No dwelling shall be constructed within 100 metres of the "Industrial" zoned land adjoining unless special approval is granted by Council.</p> <p>4. At the time of subdivision, the proponent will be required to submit an appropriate geotechnical and drainage strategy to demonstrate that the lots can accommodate on-site effluent disposal in accordance with the Health Department and Shire of Busselton criteria. In the event that these standards cannot be achieved, then the lots will be required to be connected to reticulated sewerage.</p> <p>5. Prior to subdivision or development of the land the developer shall provide suitable evidence that the proposal will not constrain existing or future mining of this site, or adjoining land to the east, to the satisfaction of the Western Australian Planning Commission, Department of Minerals and Energy, Department of Environmental Protection and the Shire of Busselton.</p> <p>6. At the time of subdivision and/or development, if prior to mining on adjoining land, a memorial shall be placed on all created titles within 500 metres of the south/eastern boundary of the site advising that mining may occur on the adjoining land, (being Location 3819) subject to obtaining the necessary approvals.</p> <p>7. At the time of subdivision, a memorial shall be placed on all created titles within the boundary of the Controlled Airspace associated with the Busselton Regional Airport identifying that the lot is within the boundary.</p>
Portion of Lots 2 and 5 Bussell Highway and Lyddy Road, Yalyalup	Industrial	Subdivision and development shall be connected to reticulated sewer.

Schedule 8

ADDITIONAL INFORMATION FOR ADVERTISEMENT APPROVAL

(to be completed in addition to Application for Planning Approval)

(1) Name of Advertiser (*if different from Owner*):

.....

(2) Address in Full:

.....

(3) Description of property upon which advertisement is to be displayed, including full details of its proposed position within that property.

.....

(4) Details of Proposed Sign: Width: Depth:

.....

(5) Colours to be used:

.....

(6) Height above ground level:

(*to top of advertisement*):

(*to underside*):

(7) Materials to be used:

(8) Illuminated: Yes No

(*If "yes", state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source*):

.....

Schedule 10—*continued*
PLANNING POLICIES—*continued*

Policy	Adoption Date
Residential Development Policy	April 1994
Dual Occupancy Development Policy	April 1994
Relative Accommodation Policy	April 1994
Single Residential Development Policy	April 1994
Car Parking Policy	June 1994
Location and Operation of Commercial Heliports	November 1995
Industrial Development Code	February 1997
Quindalup Special Character Area Policy	February 1996
Yallingup Special Character Area Policy	August 1996
Dunn Bay Road Tourist Accommodation Precinct Design Policy	July 1997
Floodplain Development and Management Policy	August 1994
Residential Design and Landscaping Guidelines on Controlled Access Roads	June 1998
Extractive Industry Policy	January 1999
Caves Road Visual Management Policy	February 1999
Abbey Green Housing and Development Performance Standards (Ray Avenue, Broadwater)	June 1997
Busselton Urban Growth Strategy	May 1999

ADOPTION

Adopted by Resolution of the Council of the Shire of Busselton at the Meeting of the Council held on the 11th day of December 1996.

Dated: 5 August 1999.

B. MORGAN, Shire President.
K. WHITE, Acting Chief Executive Officer.

FINAL APPROVAL

1. Adopted by Resolution of the Council of the Shire of Busselton at the Ordinary Meeting of the Council held on the 24th day of February 1999 and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of—

Dated: 5 August 1999.

B. MORGAN, Shire President.
K. WHITE, Acting Chief Executive Officer.

This Scheme Text is to be read in conjunction with the approved maps of the Scheme described in Clause 1.5 of this Scheme and to which formal approval was given by the Hon Minister for Planning on the date shown below.

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

Dated: 6 August 1999.

M. SCHRAMM, for Chairperson.

3. Final Approval granted.

Dated: 11 August 1999.

G. KIERATH, Hon Minister for Planning.

WATER

WA401*

WATER SERVICES CO-ORDINATION ACT 1995

NOTICE UNDER SECTION 31 (5) AMENDMENT OF LICENCE

Notice is given that the following operating licence has been amended—

Licensee:	Water Corporation
Classification:	Operating Licence, Water Supply, Sewerage, Irrigation & Drainage Services
Term of Licence:	Up to and including 28 June 2021

- Amendment: Inclusion of clause relating to Non-potable Water Supply and listing the following sole provider operating areas—
- Broome Potable Water Supply Services
 - Brunswick, Roelands and Burekup Potable Water Supply Services
 - Boyanup Sewerage Services
 - Broome Sewerage Services
 - Brunswick Sewerage Services
 - Burekup Sewerage Services
 - Kununurra Sewerage Services
 - Port Hedland and South Hedland Sewerage Services
- The following non-exclusive areas have been deleted from schedule 1 (a) as they are no longer required—
- Port Hedland Sewerage
 - Broome Water Supply and Sewerage
 - Glen Mervyn Dam Non-potable Water Supply
- Inspection of Licence: Office of Water Regulation
6th Floor
197 St George's Terrace
Perth WA 6000

B. R. MARTIN, Co-ordinator of Water Services.

PUBLIC NOTICES

ZZ201

TRUSTEES ACT 1962

NOTICE TO CREDITORS AND CLAIMANTS

Jacob Lane, late of Flat 2, 60 Mount Street, Perth in the State of Western Australia, Merchant.

Creditors and other persons having claims (to which Section 63 of the Trustees Act 1962, relates) in respect of the estate of the deceased who died on the 1st day of September 1997, are required by the Trustees, Victor Lane, Alan Frederick Lane, Jonathon Charles Gray and Deborah Frankel, c/- Solomon Brothers, Level 40, Exchange Plaza, 2 The Esplanade, Perth in the State of Western Australia to send particulars of their claims to them by the 7th day of October 1999, after which date the Trustees may convey or distribute the assets, having regard only to claims of which they then have notice.

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