

WESTERN AUSTRALIAN GOVERNMENT Gazette

2771



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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.
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Per Column Centimetre—\$9.24

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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 —

LOCAL GOVERNMENT

LG301***LOCAL GOVERNMENT ACT 1995***CITY OF ROCKINGHAM***REPEAL LOCAL LAW 2000**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Rockingham resolved on 23rd day of May 2000, to make the following local law.

PART 1—PRELIMINARY

1. This local law may be cited as the City of Rockingham Repeal Local Law 2000.

PART 2—REPEAL

2. This local law repeals the following local laws:

Name of Local Law	Date Gazetted
Deposit of Refuse and Litter	12 October 1965
Holiday Accommodation (Model By-Law 18)	24 April 1980
Lawns on Road Reserves	2 April 1958
Long Service Leave	9 December 1949
Motels (Model By-Law 3)	7 February 1963
Old Refrigerators and Cabinets	29 November 1962
Petrol Pumps (Model By-Law 10)	7 September 1966
Post Verandahs and Balconies	23 March 1965
Safety Bay Jetty	19 April 1973
Sick Leave	16 June 1970
Street Lawns and Gardens	29 May 1963
Vehicle Wrecking	30 March 1966

Dated 1st day of June 2000.

The Common Seal of the City of Rockingham was affixed by authority of a resolution of the Council in the presence of—

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

POLICE

PE301*

Weapons Act 1999

Weapons Amendment Regulations (No. 3) 2000

Made by the Administrator in Executive Council.

1. Citation

These regulations may be cited as the *Weapons Amendment Regulations (No. 3) 2000*.

2. Regulation 8 amended

Regulation 8 of the *Weapons Regulations 1999** is amended by deleting “*Security and Related Activities (Control) Act 1999*” in each place where it occurs and inserting instead —

“ *Security and Related Activities (Control) Act 1996* ”.

[* *Published in Gazette 31 August 1999, pp. 4225-32.*

For amendments to 3 May 2000 see Gazette 29 February and 10 March 2000.]

By Command of the Administrator,

M. C. WAUCHOPE, Clerk of the Executive Council.

RACING, GAMING AND LIQUOR

RA301

RULES OF HARNESS RACING 1999

Notice of Amendment

Notice is hereby given that the Committee of the Western Australian Trotting Association at Gloucester Park, East Perth, on the 1st day of June 2000 resolved by majority of members of the Committee that the *Rules of Harness Racing 1999* be amended as follows—

1. Local Rule 314C is amended by deleting sub-clause (1) and substituting—
 - (1) *In the case of a transitional inquiry, where a person is convicted of an offence under Part 42 of the previous rules, rule 55A of the previous rules is taken to be amended by deleting the words “under” and “(a) Part 42 of these Rules other than Rule 499: or (b) Part 32 of the Rules repealed by these Rules other than Rule 363 of those Rules.” and substituting—*

“under Part 42 of these Rules other than Rule 499 where the offence was committed on or after 24 October 1994”
2. Local Rule 314D (b) is amended by adding the word “*been*” after the words “*that person would have*”.
3. Local Rule 314E is amended by deleting the words—

“that person’s penalty if reduced”

 and substituting the words—

“that person’s penalty is reduced”.
4. Local Rule 256(3) is amended by deleting—

“local rules”,

 and substituting—

“local rule”

G. PAPADOPOULOS, President.

— PART 2 —

CEMETERIES

CC401*

CEMETERY ACT 1986

FREMANTLE CEMETERY BOARD

Schedule of Fees

1st July 2000 to 30th June 2001

In pursuance of the powers conferred by Section 53 of the Cemeteries Act 1986, the Board hereby records having resolved on 1st June 2000 to set the following fees effective from 1st July 2000. The Fees shall be payable upon application for services detailed hereunder.

All fees detailed hereunder are inclusive of the Goods & Services Tax (where applicable).

Service Description	Fee
BURIALS—	
Interment Fees—	
Adult Burial	\$555
Government Burial	\$555
Child Burial (u/13)	\$360
Stillborn Burial (without service)	\$150
Pre-need Interment Certificate	\$610
Exhumation Fee	\$1,145
Re-interment after exhumation	\$555
Re-openings —adult	\$665
—Child U/13	\$465
Interment of oblong or oversized casket	\$170
Saturday Fee (additional to burial fees—for Saturday funerals only)	\$320
GRANT OF RIGHT OF BURIAL	
Monumental Sections	
At need grave plot (2.4m x 1.2m)	\$685
Pre-need or selected	\$865
Lawn Sections	
At need grave plot (2.4m x 1.2m)	\$860
Pre-need or selected	\$1,040
Re-issue/assignment of grant	\$25
MONUMENTAL WORK	
Monumental Mason —annual licence	\$205
—single licence	\$85
Monumental Permits (Lawn Area)	
New lawn area monument	\$150
Renovations/small additions	\$90
Additional Inscription	\$70
Cleaning/painting letters (existing)	\$35
Monumental Permits (Monumental area)	
New monument with kerbing	\$195
Removal & major addition	\$145
Renovations & small additions	\$90
Additional Inscription	\$70
Cleaning/painting letters (existing)	\$35
ANNUAL GRAVE MAINTENANCE FEES	
Grassed graves(monumental sections)	\$75
Clean up fee (hourly rate)	\$55
CREMATION FEES	
Adult Cremation (Includes use of East or West Chapel for Service)	\$650
Adult Cremation (Central Committal—Outdoor service or unattended)	\$560
Government Cremation (Includes use of East or West Chapel for Service)	\$650
Child Cremation (under 13 years)	\$460
Stillborn Cremation (without memorial service)	\$125
Pre-need Cremation certificate	\$715
Chapel hire for extra time or burial service	\$340
Saturday Fee (additional to cremation fees- for Saturday funerals only)	\$320

Service Description— <i>continued</i>	Fee
DISPOSAL OF ASHES	
Sundry Fees—	
Attendance at placement of ashes	\$80
Scattering of ashes to the winds	\$70
Scattering of ashes to a nominated area in Cemetery	\$90
Postage of ashes within Australia	\$120
Postage of ashes overseas	\$210
Storage of ashes at cemetery administration (after 6 months) per month	\$5
Transfer of ashes to new position (plaque extra if required)	\$70
Registration of ashes from outside Crematoria	\$70
Ashes removed from garden memorial & collected from cemetery office	\$125
MEMORIALS—	
Niche Walls—	
Single niche (including Bronze plaque)	\$400
Double niche (including Bronze plaque)	\$620
—second interment & bronze plaque	\$220
Pre-need reservation of single position	\$160
Pre-need reservation of double position	\$300
Memorial Gardens of remembrance	
All memorials in the gardens of remembrance include 2 positions	
The second position is automatically reserved once the first position is paid for or reserved.	
Pre-need reservation of a memorial (doesn't include plaque or tenure fees)	\$225
Rose gardens—	
Chrome or white plaque with standard inscription (one interment only)	\$435
Extra for 6 line inscription of choice	\$45
Bronze plaque (110mm x 110mm) 8 line inscription (one interment only)	\$595
Bronze plaque (120mm x 144mm) 8 line inscription (one interment only)	\$795
Bronze plaque (ground niche) (229mm x 229mm) 8 line inscription (one interment only)	\$1,030
Shrub gardens—	
Bronze plaque (77mm x 90mm) 8 line inscription (one interment only)	\$485
Bronze plaque (120mm x 144mm) 8 line inscription (one interment only)	\$625
Bronze plaque (229mm x 229mm) 8 line inscription (one interment only)	\$720
Individual Memorial Standard (Family) Rose—4 interments	
First interment Bronze plaque (381mm x 216mm) Other areas	\$1,800
First interment Bronze plaque (381mm x 216mm) Lakes area	\$2,000
each further interment (maximum 4) Bronze plaque (381mm x 216mm) 8 lines	\$520
Individual Memorial shrub (Family)—4 interments	
First interment with bronze plaque of choice & 8 line inscription	\$1,555
each further interment (maximum 4) Bronze plaque of choice (8 line inscription)	\$520
Individual Memorial Tree (Family)—4 interments	
First interment with bronze plaque of choice & 8 line inscription	\$2,800
each further interment (maximum 4) Bronze plaque of choice (8 line inscription)	\$520
Memorial Rose Bush (Garden R's)	
Garden position with reservation for 4 interments—	
First interment Bronze plaque (120mm x 144mm) 8 line inscription	\$1,320
each further interment (including plaque & 8 line inscription)	\$310
Memorial Seat (concrete/stone)	\$1,400
Bronze plaque & interment of ashes	\$420
Memorial Granite Seat	\$2,820
Bronze plaque & interment of ashes	\$520
Military Niche (war graves payable)	\$275
SUNDRY FEES—	
Cremation Urns (wood,bronze,ceramic,steatite)	quote
Diamond Shield plaque protectant	\$25
Bronze plaque restoration by FCB	\$80
Bronze plaque restoration by manufacturers	quote
Each additional inscription line on plaques	\$50
Emblem on bronze plaque	\$50
Interment of ashes in family grave	\$100
Bronze Plaques on graves	
Bronze plaque (120mm x 144mm) 8 lines—fixed to headstone (lawn or monumental) ...	\$270
Bronze plaque (120mm x 144mm) 8 line inscription—fixed to pedestal (mon.with kerb)	\$420
Bronze plaque (381mm x 216mm) 8 line inscription—fixed to pedestal (mon.with kerb)	\$570
SEARCH FEES—	
For one location—Burial or memorial location	No charge
for each additional search on a burial or memorial location (includes detailed printout) ..	\$5
REFUNDS—	
On Grant of Right of Burials/memorials and on Pre-need Cremations certificates	
Shall be calculated on the tenure remaining and will incur an administration fee of:	\$80

Service Description— <i>continued</i>	Fee
FUNERAL DIRECTORS LICENCE—	
Funeral Director operating single premises	\$225
Funeral Director operating multiple premises plus-	\$225
Administration fee for each additional premises/trading name	\$95
Single Funeral Directors licence (to conduct one funeral only)	\$85
PENALTY FEES—	
Interment without due notice (By-law 9)	\$75
Late Arrival (By-law 11)	\$75
Late Departure (By-law 12)	\$75

R. H. FARDON, Chairman.
M. K. HOLT, Acting Chief Executive Officer.

FAIR TRADING

FT401

RETAIL TRADING HOURS ACT 1987

RETAIL TRADING HOURS (DONNYBROOK) EXEMPTION ORDER 2000

Made by the Minister for Fair Trading under Section 5 of the Act.

Citation

1. This Order may be cited as the *Retail Trading Hours (Donnybrook) Exemption Order 2000*.

Commencement

2. This Order comes into operation on the day on which it is published in the *Government Gazette*.

Exemption

3. General retail shops within the town boundaries of the Townsite of Donnybrook are exempted from Section 12(1)(d) of the *Retail Trading Hours Act 1987*.

DOUG SHAVE, Minister for Lands;
Fair Trading; Parliamentary and Electoral Affairs.

LAND ADMINISTRATION

LA401*

LAND ADMINISTRATION ACT 1997

INSTRUMENT OF DELEGATION

I, Douglas James Shave, MLA, Minister for Lands, acting in accordance with section 159 of the *Land Administration Act 1997*, hereby delegate to the DBNGP Land Access Minister established by section 29(1) of the *Dampier to Bunbury Pipeline Act 1997* for the purposes set out in section 29(2)(b) of the *Dampier to Bunbury Pipeline Act 1997*, powers and duties under the following Parts—

Part 9, Division 2, 3, 4, 5 and 6— Taking interests in land for public works, entry onto land, use and disposal of land designated for public work, and general provisions
Part 10 — Compensation

DOUG SHAVE, Minister for Lands; Fair Trading;
Parliamentary and Electoral Affairs.

LA402*

LAND ADMINISTRATION ACT 1997

INSTRUMENT OF SUBDELEGATION

I, Douglas James Shave, MLA, the Land Access Minister established by section 29(1) of the *Dampier to Bunbury Pipeline Act 1997*, acting in accordance with section 160(1)(da) of the *Land Administration Act 1997*, hereby subdelegate to the Manager, Pipelines within the Department of Land Administration, for the purposes set out in section 29(2)(b) of the *Dampier to Bunbury Pipeline Act 1997*, the powers and duties under those sections of the *Land Administration Act 1997* listed in the schedule.

DOUG SHAVE, Land Access Minister.

LA403***LAND ADMINISTRATION ACT 1997**Ministerial Powers to be Subdelegated to Manager, Pipelines—*By Section Order*

Section of Act	Summary of Powers to be Delegated
152-159	Provisions relating to native title (Processing Power Only)
161(1)(d)	Disposal of surplus acquired land and pricing of such land for disposal at a figure not less than 90% of the value advised by the Valuer General
163	Consenting to the taking of stone (etc) and interests
164(2),(3)	Return of mineral rights as compensation
167	Compensation by grantee of an interest in land taken
168	Negotiating purchase or obtaining the consent of the interest - holder to the taking. Executing contracts of sale and exchange agreements
169	Setting the price, agreeing grants of interest in Crown land and agreeing reimbursement of valuation costs (price to be not more than 10% above Valuer General's valuation)
170	Notice of intention to take (NOITT) (Processing Power only)
172	Consent to dealing subject to a NOITT
173	Approving improvements to land subject to Notice of intention to take
175(4),(5)	Considering objections and determining whether taking notice should stand, be cancelled, amended or substituted (Processing Power Only)
177	Determining that taking should proceed, and making a taking order and any other associated orders (Processing Power Only)
180	Amending or annulling taking order (Processing Powers)
181	Determination of compensation
182	Authorising entry onto land for feasibility studies, and giving notice
183	Authorising entry onto land for railway construction, and giving notice (Processing Powers)
184	Entry for assessment of compensation and survey; and giving notice
185	Entry for temporary occupation, and giving notice
186	Giving notice of entry for feasibility studies, preliminary works, or carrying out of works (Processing only)
189	Notification to holder of fee simple, where interest taken is less than fee simple
190	Notification and processing powers in relation to determining whether land should be resold to a former owner and under what terms and conditions, determining between competing applicants, and disposing of land to a former owner at a price
191(3)	Notifying Minister's decision on whether an interest is still required for a public work.
192	Leasing taken land (discounted or peppercorn leases to be referred to Minister)
193	Granting easements over taken land (Processing Power Only)
194	Authorising management body to sell materials in managed, designated land
197	Action to enforce possession of taken land
199	Initiate action for obstruction, interference or damage (Processing Power Only)
200	Making a taking order and any other associated orders pursuant to LAPWA NOITT(Processing Power Only)
202-259	Power and duty to act as respondent in compensation cases, including the approval of compensation for damages or injurious affection arising from entry onto land, and execution of association agreements (Decision Power)
210, 211	Offer of compensation and application to Judge in relation to absentee claims
212	Negotiation in relation to a request for non-monetary compensation
213	Receiving and giving receipt of compensation claim
255	Agreeing to an easement being granted in lieu of compensation (Decision Power)
257	Granting interests in Crown land in lieu of compensation (Decision Power)

LOCAL GOVERNMENT**LG401*****LOCAL GOVERNMENT ACT 1995**

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

NOTIFICATION OF TAKING POSSESSION OF LAND

To: Alice Ann Leader.

Notice is hereby given that the sum of \$264.40 having been unpaid to the Shire of Corrigin for a period of three years for rates, in respect of the land situated at Lot 30 Hills Street, Bullaring and being Certificate of Title, Volume 1007/Folio 706. The local government has taken possession pursuant to section 6.64 of the Local Government Act 1995, and in accordance with that section intends to cause the land to be transferred to the Crown.

You may, within 30 days of the date of this notice, lodge an objection to the revestment, with the undersigned.

Signed for and on behalf of the Shire of Corrigin.

On 6th June 2000.

BRUCE MEAD, Chief Executive Officer.

LG402*

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

NOTIFICATION OF TAKING POSSESSION OF LAND

To: Alice Ann Leader.

Notice is hereby given that the sum of \$264.40 having been unpaid to the Shire of Corrigin for a period of three years for rates, in respect of the land situated at Lot 31 Hills Street, Bullaring and being Certificate of Title, Volume 1004/Folio 914. The local government has taken possession pursuant to section 6.64 of the Local Government Act 1995, and in accordance with that section intends to cause the land to be transferred to the Crown.

You may, within 30 days of the date of this notice, lodge an objection to the revestment, with the undersigned.

Signed for and on behalf of the Shire of Corrigin.

On 6th June 2000.

BRUCE MEAD, Chief Executive Officer.

LG403

LOCAL GOVERNMENT ACT 1995

Shire of Gingin

(Basis of Rates)

Department of Local Government
Perth, 9 June 2000.

LG: GG 5-4

It is hereby notified for public information that in accordance with the provisions of section 6.28 of the *Local Government Act 1995*, the Minister for Local Government has determined that the method of valuing the land described in the schedules hereunder shall be gross rental values for the purposes of rating with effect from 1 July 2000.

JOHN LYNCH, Executive Director.
Department of Local Government.

Schedule A

All those portions of land the subject of Office of Titles Diagrams 97023, 99013 and 99343 and Office of Titles Plan 23953.

Schedule B

All that portion of land comprising Pt Swan Location 1098 on Certificate of Title Volume 1943 Folio 515.

LG501*

BUSH FIRES ACT 1954

SHIRE OF KELLERBERRIN

NOTICE TO OWNERS AND OCCUPIERS OF LAND WITHIN THE SHIRE OF KELLERBERRIN

Pursuant to the powers contained in Section 33 of the Bush Fires Act 1954, you are required on or before the date mentioned in the following Schedule to have a firebreak clear of all flammable matter and maintain the firebreak to at least the width mentioned and in the manner described in the following Schedule of Land owned or occupied by you.

SCHEDULE

1. DATE

- a) RURAL LAND 1st November, 2000 to 1st April, 2001
Surrounding Buildings/Haystacks and Fuel Dumps
- b) TOWNSITE LAND 1st November, 2000 to 1st April, 2001

2. WIDTH AND MANNER DESCRIBED

a) Rural Land

At least 3 metres wide and not more than 100 metres from the perimeter of all buildings and/or haystacks or groups of buildings and/or haystacks so as to completely surround the buildings, haystacks and/or fuel dumps or so as to effectively surround the buildings, haystacks and/or fuel dumps which may be combined with strategic breaks e.g. roads, clear ground etc, with an effective cleared width of 3 metres.

b) Townsite Land

1. If lot is 2024m² (1/2 acre) or less, clear of all flammable material from the whole of the area. Acceptable methods of clearing include grazing, mowing, grading or burning.
2. If lot is larger than 2024m² (1/2 acre), there be a firebreak of either 3 metres inside the boundary or 3 metres outside the boundary. Where there is a road free of flammable material, applications can be made annually to the Chief Fire Control Officer for exemption.

c) Fuel Dumps

In respect of land owned or occupied by you, on which is situated any fuel dump, in addition to the requirements of paragraphs (a) and (b) you shall remove all flammable materials or material likely to become flammable during summer from land occupied by bulk storage tanks and/or drums used for storage of liquid fuel whether the bulk storage tanks and/or drums contain liquid fuel or not. This includes the land on which ramps for holding the drums are constructed.

The flammable material free ground must be maintained to a distance of at least 3 metres outside the perimeter of any drum, stack of drums or drum ramp or bulk storage tank.

Flammable material is defined for the purpose of this notice to include vegetation, timber, boxes, cartons, paper and like materials, rubbish and any other combustible matter, but does not include green standing trees, garden plants, growing bushes or maintained lawns, stacked wood heaps or buildings.

- d) If it is considered to be impracticable for any reason to clear firebreaks on the land in the situations required by this Notice or by the date required by this Notice, you may apply to the Council or its duly Authorised Officer for variations by the Order. An application must be made no later than 14 days prior to the date by which firebreaks are required to be constructed, for permission to provide firebreaks in alternative positions or by an alternative date or to take alternative action to abate fire hazards on the land. If permission is not granted by the Council or its duly Authorised Officer you shall comply with the requirements of this Notice.
- e) The penalty for failing to comply with this Notice is a fine and the person in default is liable, whether prosecuted or not, to pay the cost of performing the work.
- f) If the requirements of this notice are carried out by burning, such burning must be in accordance with the relevant provisions of the Bush Fires Act, 1954.

ROAD RESERVES

Owners and occupiers of land are hereby notified that Council has adopted a policy of *NO* roadside burning or spraying for the purpose of fire protection. In certain circumstances, Council permission can be granted to spray or burn upon application.

PADDOCK BURNS

At any time, where a landholder intends to burn, a three (3) metre firebreak clear of flammable material must be placed within the property alongside the road reserve to prevent the escape of fire from the paddock to the road reserve.

BY ORDER OF THE COUNCIL,

S. A. TAYLOR, Chief Executive Officer.

Fire Season 2000/2001

Restricted Period	<i>Permits Required</i>	19th Sept 2000 to 31st Oct 2000
Prohibited Period	<i>No Burning</i>	1st Nov 2000 to 31st Jan 2001
Restricted Period	<i>Permits Required</i>	1st Feb 2001 to 1st Apr 2001

FIREBREAKS TO BE COMPLETED BY 1ST NOVEMBER, 2000

Dates may vary due to seasonal conditions.

If you are in doubt, contact your Fire Control Officer or the Shire Office.

PLANNING

PD401**TOWN PLANNING AND DEVELOPMENT ACT 1928**

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

City of Kalgoorlie-Boulder

TOWN PLANNING SCHEME No. 1—AMENDMENT No. 16

Ref: 853/11/3/6 Pt 16

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 Kalgoorlie-Boulder Town Planning Scheme Amendment on 1 June 2000 for the purpose of rezoning of Lots 95-98 Great Eastern Highway, Lots 99, 101, 103, 105 Atbara Street, Lots 100, 102, 104, 106 Gatacre Street from Public Purposes—Tertiary Education Purposes to Public Purposes—Other.

P. ROBSON, Mayor.
P. A. ROB, Chief Executive Officer.

PD402***TOWN PLANNING AND DEVELOPMENT ACT, 1928**

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

CITY OF COCKBURN

DISTRICT ZONING SCHEME No. 2—AMENDMENT No. 165

Ref: 853/2/23/19 Pt 165

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 Cockburn Town Planning Scheme Amendment on 1 June 2000 for the purpose of amending the Third Schedule - Restricted Uses entry No 4 Progress Drive by—

1. adding under the column "Street" immediately after the words "Progress Drive" the words "and North Lake Road";
2. substituting under the column "Particulars of Land", in place of "Pt 103", the new lot numbers "Lots 1, 2, 3, 4 and 5"; and
3. adding under the column "Restricted Use", immediately after the words "Fast Foods Outlet", the words "Caretakers Residence, Club Premises, Child Care Centre and Place of Public Worship".

J. DONALDSON, Chairman of Commissioner.
D. GREEN, for Chief Executive Officer.

PD701***TOWN PLANNING AND DEVELOPMENT ACT, 1928**

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME

SHIRE OF WYALKATCHEM

TOWN PLANNING SCHEME No. 3

Ref: 853/4/33/3

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 Wyalkatchem Town Planning Scheme No 3 on 25 May 2000 the Scheme Text of which is published as a Schedule annexed hereto.

R. J. CRUTE, President.
B. E. TAYLOR, Chief Executive Officer.

SCHEDULE

SHIRE OF WYALKATCHEM

TOWN PLANNING SCHEME No. 3

The Wyalkatchem Shire Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928, hereby makes the following town planning scheme for the purposes laid down in the Act.

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SCHEDULES

- 1 Definitions
- 2 Rural Residential Zones
- 3 Application for Planning Approval
- 4 Notice of Public Advertisement of Planning Proposal
- 5 Decision on Application for Planning Approval

PART 1—PRELIMINARY**1.1 Citation**

This Town Planning Scheme may be cited as the Shire of Wyalkatchem Town Planning Scheme No. 3 hereinafter called “the Scheme” and shall come into operation on the publication of the Scheme in the Government Gazette.

1.2 Responsible Authority

The Authority responsible for implementing the Scheme is the Council of the Shire of Wyalkatchem hereinafter called “the Council”.

1.3 Scheme Area

The Scheme applies to the Municipal District of the Shire of Wyalkatchem hereinafter called “the scheme area” as generally shown by the Scheme Area boundary on the Scheme Map.

1.4 Contents of the Scheme

The Scheme comprises—

- (a) this Scheme Text
- (b) the Scheme Map (Sheet 1)

1.5 Arrangement of Scheme Text

The Scheme Text is divided into the following parts—

- Part 1—Preliminary
- Part 2—Reserves
- Part 3—Zones
- Part 4—General Development Requirements
- Part 5—Heritage—Precincts And Places Of Cultural Significance
- Part 6—Use and Development of Land
- Part 7—Non-conforming Uses
- Part 8—Administration

1.6 Scheme Objectives

The objectives of the Scheme are to—

- (a) reserve land required for public purposes;
- (b) zone the balance of the land within the Scheme Area for the various purposes described in the Scheme;
- (c) provide development controls for the purpose of securing and maintaining orderly and properly planned use and development of land within the Scheme Area;
- (d) introduce measures by which heritage places and places of cultural significance may be conserved;
- (e) to assist the implementation of the State Planning Strategy and other relevant regional policies.
- (f) make provision for other matters authorised by the enabling Act.

1.7 Revocation of Existing Scheme

The Shire of Wyalkatchem Town Planning Scheme No. 2 published in the *Government Gazette* of 27 November 1987 and all amendments thereto is hereby revoked.

1.8 Definitions

1.8.1 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.

1.8.2 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.

1.8.3 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.

PART 2—RESERVES**2.1 Scheme Reserves**

The land shown as Scheme Reserves on the Scheme Map, hereinafter called “Local Reserves” are lands reserved under the Scheme for the purposes shown on the Scheme Map and are listed hereunder—

- Public Purpose
- Civic and Cultural
- Parks and Recreation
- Railway
- Road

PART 3—ZONES**3.1 Classification**

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

- Residential
- Commercial

Industrial
Private Clubs and Institutions
Rural
Rural Residential

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

3.2 Zoning Table

3.2.1 The Zoning Table indicates, subject to the provisions of the Scheme, the several uses permitted in the Scheme Area in the various zones. The permissibility of any uses is determined by cross-reference between the list of uses on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

3.2.2 The symbols used in the cross reference in the Zoning Table have the following meaning—

“P” means that the use is permitted by the Scheme.

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

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

3.2.3 Where no symbol appears in the cross reference of a use against a zone in the Zoning Table that use is not permitted in that zone.

3.2.4 Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use which by its more general terms might otherwise include such particular use.

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

- determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 6.3 in considering an application for planning approval; or
- determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

ZONING TABLE

Use	Zones					
	Residential	Commercial	Industrial	Private Clubs and Institutions	Rural	Rural Residential
1 caretaker's dwelling	AA	AA	AA	AA	AA	
2 car park	AA	P	P	P	AA	AA
3 consulting rooms	AA	P				
4 education establishment	AA			AA	AA	AA
5 fuel depot			AA			
6 garden centre	SA	P	AA			
7 home occupation	AA				AA	AA
8 hotel		P				
9 industry—extractive					AA	
10 industry—general			P			
11 industry—hazardous			SA			
12 industry—light			P			
13 industry—rural			AA		AA	
14 industry—service			P			
15 intensive agriculture					AA	SA
16 medical centre	SA	AA				
17 motel	SA	AA				
18 motor vehicle sales		AA	AA			
19 motor vehicle repair		AA	P			
20 office		P	AA			
21 place of worship	SA	AA		P		
22 public amusement		AA	AA			
23 public utility	AA	AA	AA	AA	AA	AA
24 residential—						
(a) single house	P			AA	P	P
(b) grouped dwelling	AA					
25 residential building	SA			AA		
26 roadhouse		AA	AA	AA		
27 rural pursuit					P	AA
28 service station		AA	AA	AA		
29 shop		P				
30 showroom		P	AA			
31 stables					AA	AA
32 trade display		AA	P			
33 transport depot			P		AA	
34 veterinary centre		P			AA	AA

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

4.1 Residential Development: Residential Planning Codes

4.1.1 For the purpose of the Scheme “Residential Planning Codes” means the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No. 1, together with any amendments thereto (hereinafter called the “R Codes”).

4.1.2 A copy of the R Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

4.1.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the R Codes shall conform to the provisions of those Codes.

4.1.4 The Council may permit a variation to the R12.5 density up to R20 for development of more than one dwelling on a lot but only where—

- (a) adequate connection to reticulated sewerage is available;
- (b) the lot is suitably located close to services and facilities; and
- (c) the Council after following the advertising procedures in clause 6.3 is satisfied that there will not be adverse impacts on local amenities.

4.2 Site and Development Requirements

The site and development requirements for land in various zones shall be as set out in the Development Table.

DEVELOPMENT TABLE

ZONE	Minimum Lot Area (m ²)	Minimum Effective Frontage (m)	Maximum Plot Ratio	Minimum Boundary Setbacks			Minimum Car Parking Spaces	Minimum Landscaping (% of site)
				FRONT (m)	REAR (m)	SIDE (m)		
RESIDENTIAL	Refer to Residential Planning Codes							
COMMERCIAL	-	5	1.0	Nil	Nil	Nil	1 per 40m ² gross floor area	10
INDUSTRIAL	1500	20	0.5	20	10	5	1 per 100m ² gross floor area or display area	20
PRIVATE CLUBS & INSTITUTIONS	-	30	0.5	-	-	-	-	-
RURAL	-	-	-	10	10	5	-	-
RURAL RESIDENTIAL	-	-	-	10	10	5	-	-

4.2.1 Where a lot has frontage to two streets the Council may reduce the minimum setback from one only of those streets to not less than 50% of the distance specified in the Development Table.

4.2.2 In the Industrial zone the first 5m of the front setback on any lot shall be landscaped to the satisfaction of the Council. Where a lot has frontage to two streets the Council may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the Council.

4.3 Car Parking Requirements

4.3.1 A person shall not develop or use any land or erect use or adapt any building unless parking spaces specified by the Council are provided and such spaces are constructed and maintained in accordance with the requirements of the Council.

4.3.2 The parking spaces shall measure not less than 2.5m x 5.5m except that the Council may exercise absolute discretion to vary the number or dimension of spaces where to do so would allow for the retention of existing vegetation worthy of such retention.

4.3.3 Parking bays shall be serviced with all necessary accessways, and the parking area shall be surfaced to the satisfaction of the Council.

4.3.4 When considering an application for planning approval the Council shall have regard to and may impose conditions on the provision of car parking spaces and the details of locating and designing the required spaces, landscaping, and pedestrian spaces on the lot. In particular, the Council shall take into account and may impose conditions concerning—

- (a) the means of access to each car space and the adequacy of any vehicle manoeuvring area;

- (b) the location of the car spaces on the lot and their effect on the amenity of adjoining development;
- (c) the extent to which car spaces are located within required building setback areas;
- (d) the location of proposed public footpaths, vehicular crossing, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety; and
- (e) the suitability and adequacy of proposed screening or landscaping.

4.4 Discretion to Modify Development Standards

4.4.1 Sub-clause 4.4.2 shall not apply to—

- (a) development in respect of which the Residential Planning Codes apply under the scheme; or
- (b) development on land abutting an unconstructed road; or
- (c) development on a lot that does not have frontage to a constructed road.

4.4.2 Subject to sub-clause 4.4.1, if a development the subject of an application for planning approval does not comply with a standard prescribed by the Scheme with respect to minimum lot sizes, building height, setbacks, site coverage, car parking, and landscaping, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit. The power conferred by this clause may only be exercised if the Council is satisfied that—

- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.

4.5 Transported Dwellings

4.5.1 Within the Scheme Area a building shall not be placed on a lot and occupied as a dwelling following transportation as a whole or as parts of a building unless in the opinion of the Council, such building is in a satisfactory condition and will not detrimentally affect the amenity of the area; or the building has been specifically constructed as a transportable dwelling.

4.5.2 An applicant for a building licence for a transported dwelling may be required by the Council to enter into a contract and provide a bond to reinstate the building to an acceptable standard of presentation within a period of twelve months from the issue of a building licence for such a dwelling.

4.6 Development of Lots Abutting Unconstructed Roads

Notwithstanding anything elsewhere appearing in the Scheme planning approval is required for development of land abutting an unconstructed road or a lot that does not have frontage to a constructed road. In considering such an application the Council may either—

- (a) refuse the application until the road has been constructed or access by means of a constructed road is provided as the case may be; or
- (b) grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof and any other conditions it thinks fit to impose; or
- (c) require such other arrangements are made for permanent access as shall be to the satisfaction of the Council.

4.7 Home Occupation

4.7.1 An approval to conduct a home occupation is issued to a specific occupier of a particular parcel of land, it shall not be transferred or assigned to any other person, and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier of the land in respect of which a home occupation approval is issued the approval is cancelled.

4.7.2 If, in the opinion of the Council, a home occupation is causing a nuisance or annoyance to owners or occupiers of land in the locality the Council may—

- (a) revoke the approval; or
- (b) require the occupier of the land in respect of which the home occupation approval is issued to implement those measures specified by the Council and which in the opinion of the Council will remove the nuisance or annoyance.

4.8 Use of Setback Areas

4.8.1 No person shall in the Scheme Area use any land between a street alignment and the distance that buildings are required to be set back from such street alignment for any purpose other than one or more of the following—

- (a) a means of access;
- (b) the daily parking of vehicles;
- (c) the loading and unloading of vehicles; or
- (d) landscaping which only in the Commercial Zone and then only with the specific approval of the Council may include an awning, pergola, or similar structure and when in front of a take away food outlet or restaurant may provide for alfresco dining.

4.8.2 The setback area shall not be used for the parking of vehicles which are being wrecked or repaired, nor for the stacking or storage of fuel, raw materials, products or by-products, or waste of manufacture.

4.9 Rural Residential Zones

4.9.1 General Provisions—

- (a) Before making provision for a Rural Residential Zone, the Council will require the owner(s) of the land to prepare a submission supporting the creation of the Rural Residential Zone and such submission shall include—
 - (i) a statement as to the purpose or intent for which the zone is being created and the reasons for selecting the particular area the subject of the proposed zone.

- (ii) a plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rock outcrops, trees or groups of trees, creeks, wells and significant improvements.
- (iii) information regarding the method whereby it is proposed to provide a potable water supply to each lot.
- (iv) in the absence of a Rural Strategy, it will be the responsibility of each applicant for rezoning to Rural Residential to prepare a land suitability and capability assessment to the satisfaction of the Council and in accordance with the Commission's Policy and guidelines.
- (b) the Scheme provisions for a specific Rural Residential Zone shall include a plan of subdivision showing, amongst other things—
 - (i) the proposed subdivision including lot sizes and dimensions.
 - (ii) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc. As may be considered appropriate.
 - (iii) those physical features it is intended to conserve.
- (c) in addition to the plan of subdivision, the Scheme provisions for a specific Rural Residential Zone shall specify—
 - (i) any facilities that the purchasers of the lots will be required to provide (eg. Their own potable water supply, liquid or solid waste disposal, etc).
 - (ii) proposals for the control of land uses and development that will ensure that the purpose of intent of the zone and the rural environment and amenities are not impaired.
 - (iii) the provisions for controlling subdivision and development in specific Rural Residential Zones shall be as laid down in Schedule 2 and future subdivision will generally accord with the plan of subdivision for the specified area certified by the Chief Executive Officer and approved by the Commission and such Plan of Subdivision shall form part of the Scheme.

4.9.2 Development Requirements

4.9.2.1 Development in a Rural Residential Zone shall comply with the following—

- (a) in addition to a building licence, the Council's planning approval is required for all development including a single house.
- (b) not more than one dwelling per lot shall be erected but the Council may, at its discretion, approve ancillary accommodation.
- (c) in order to conserve the rural environment or features of natural beauty all trees shall be retained unless their removal is authorised by the Council.
- (d) in order to enhance the rural amenity of the land in areas the Council considers deficient in tree cover it may require as a condition of any planning approval the planting of such trees and/or groups of trees and species by the Council.
- (e) any person who keeps an animal or animals or who uses any land for the exercise or training of an animal or animals shall be responsible for appropriate measures to prevent noise, odour, or dust pollution or soil erosion to the satisfaction of the Council. With the intention of preventing overstocking, erosion and any other practice detrimental to the amenity of a Rural Residential Zone, the Council may take any action which in the opinion of the Council is necessary to reduce or eliminate adverse effects on the environment caused wholly or partly by the stocking of animals and any costs incurred by the Council in taking such action shall be recoverable by the Council from the landowner.

4.9.2.2 In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the Council shall have regard to the following—

- (a) the colour and texture of external building materials;
- (b) building size, height, bulk, and roof pitch;
- (c) setback and location of the building on its lot;
- (d) architectural style and design details of the building;
- (e) relationship to surrounding development;
- (f) other characteristics considered by the Council to be relevant; and
- (g) provision to be made for bush fire control.

PART 5—HERITAGE—PRECINCTS AND PLACES OF CULTURAL SIGNIFICANCE

5.1 Purpose and Intent

The purpose and intent of the heritage provisions are—

- (a) to facilitate the conservation of places of heritage value;
- (b) to ensure as far as possible that development occurs with due regard to heritage values.

5.2 Heritage List

5.2.1 The Council shall establish and maintain a Heritage List of buildings, objects, structures and places considered by the Council to be of heritage significance and worthy of conservation.

5.2.2 For the purposes of this 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*, or such parts thereof as described in the Municipal Inventory.

5.2.3 The Council shall keep copies of the Heritage List with the Scheme for public inspection during normal office hours.

5.3 Designation of Heritage Precincts

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

5.3.2 The Council shall adopt for each heritage precinct a policy statement that shall comprise—

- (a) a map showing the boundaries of the precinct;
- (b) a list of any buildings, objects, structures or places of heritage significance; and
- (c) objectives and guidelines for the conservation of the precinct.

5.3.3 The Council shall keep a copy of the policy statement for any designated heritage precinct with the Scheme for public inspection during normal office hours.

5.3.4 The procedure to be followed by the Council in designating a heritage precinct shall be as follows—

- (a) the Council shall notify in writing each owner of land affected by the proposal;
- (b) the Council shall advertise the proposal by way of a notice in a newspaper circulating in the district, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council consider necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation and where the policy statement which applies to the precinct may be inspected;
- (c) the Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to in paragraph a) 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 Commission.

5.3.5 The Council may modify or may cancel a heritage precinct or any policy statement that relates to it by following the procedure set out in sub-clause 5.3.4.

5.4 Applications for Planning Approval

5.4.1 In dealing with any matters that may affect a heritage precinct or individual entry on the Heritage List, including any application for planning approval, the Council shall have regard to any heritage policy of the Council.

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

5.4.3 Notwithstanding any existing assessment on record, the Council may require a heritage assessment to be carried out prior to the approval for any development proposed in a Heritage Precinct or individual entry listed on the Heritage List.

5.5 Formalities of Application

In addition to the application formalities prescribed in clause 5.4 and any formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a heritage precinct, to provide one or more of the following to assist the Council in its determination of the application—

- (a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the applications, and the location, type and height of all existing structures and of all existing vegetation exceeding two (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, also the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
- (d) any other information that the Council indicates that it considers relevant.

5.6 Power to Determine Application

Without affecting the generality of any other provision of the Scheme specifying the manner in which the Council is obliged or permitted to deal with an application for planning approval, the Council in dealing with any application for planning approval may for reasons related to the conservation of a place of cultural heritage significance or a heritage precinct—

- (a) refuse planning approval;
- (b) grant planning approval without conditions; or
- (c) grant planning approval with conditions including conditions aimed at the conservation of the place or precinct.

5.7 Variations to Scheme Provisions

The Council may approve any development which involves the conservation of the whole or part of any place of cultural heritage significance or Heritage Precinct or its replacement if accidentally destroyed, notwithstanding the proposed works do not comply with the Residential Planning Codes or any provision, standard or requirement of the Scheme.

5.8 Conservation Incentives

5.8.1 In dealing with any application concerning or affecting a place of cultural heritage significance or a Heritage Precinct, the Council may for the purpose of conserving or enhancing the place or precinct give a special approval, benefit, allowance or incentive, including but not limited to, the granting of density bonuses.

5.8.2 Where in the Council's opinion the granting of a conservation incentive is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the incentive, the Council shall consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to clause 6.3 and shall have regard to any expressed views prior to making its decision to grant the incentive.

5.8.3 In granting a conservation incentive under sub-clause 5.8.1 the Council may enter into a heritage agreement modelled on Part 4 of the *Heritage of Western Australia Act 1990* with an owner who would benefit from the incentive. The agreement shall specify the owner's obligations and contain covenants noted on relevant Certificates of Title.

5.8.4 Within a heritage precinct, the Council may permit on a lot in the Residential zone an increase up to 50% of permitted dwelling density which otherwise would not apply on that lot under the Residential Planning Codes. The density bonus shall only be granted where the increased development would not adversely affect the cultural heritage significance or character or amenity of the place, the streetscape or precinct, and if one or more of the following circumstances apply—

- (a) provision is made for the preservation of significant landscape features, including significant trees or other vegetation;
- (b) provision is made for the carrying out of conservation works approved by the Council on a heritage place; or
- (c) an agreement is otherwise entered into for a contribution to be made to the Council's current municipal heritage conservation program.

5.8.5 In a case where the Council has allowed under sub-clause 5.8.4 an increase in the permitted dwelling density, the standards and provisions of the higher density code applicable to that permitted dwelling density shall apply.

5.9 Advisory Committee

5.9.1 The Council may from time to time appoint an Advisory Committee to advise the Council on matters relating to the conservation of a heritage place and/or precinct or heritage matters generally.

5.9.2 An Advisory Committee shall consist of—

- (a) the President of the Council or a Councillor nominated by the President;
- (b) the Chair of the Committee of the Council which has been appointed by the Council to report on the matters referred to an Advisory Committee; and
- (c) at least three other persons representing the community and one of whom shall be a town planner or conservation architect who in the opinion of the Council has the knowledge and expertise to give proper advice on the matters to be considered by the Committee.

5.9.3 The Council may revoke the appointment of a member of an Advisory Committee other than the President or the nominee of the President, and may appoint a person to replace that person whose appointment has been revoked or who resigns or is unable to act. No person who has a direct pecuniary interest in a matter before an Advisory Committee shall act as a member of that Committee.

5.9.4 The Council may limit the term of appointment of an Advisory Committee or may appoint an Advisory Committee to report only on a specific matter. The appointment of an Advisory Committee shall lapse at the expiry of a nominated term, or on the resolution of the Council.

5.9.5 The Council shall not be bound by a recommendation of an Advisory Committee.

5.10 Heritage Adviser

5.10.1 The Council may from time to time appoint a Heritage Adviser to advise the Council on matters relating to the conservation of a heritage place and/or precinct or heritage matters generally. The Heritage Adviser shall be a town planner or architect who in the opinion of Council has the knowledge and expertise to give proper advice on the matters to be considered by the Council.

5.10.2 The Council may limit the term of appointment of a Heritage Adviser or may appoint a Heritage Adviser to report only on a specific matter. The appointment of a Heritage Adviser shall lapse at the expiry of a nominated term, or on the resolution of the Council.

5.10.3 The Council shall not be bound by a recommendation of a Heritage Adviser.

PART 6—USE AND DEVELOPMENT OF LAND

6.1 Requirement for Planning Approval

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

6.1.2 The planning approval of the Council is not required for the following development of land—

- (a) the use of land in a reserve, where such land is held by the Council or vested in a public authority;
 - (i) for the purpose for which the land is reserved under the scheme; or
 - (ii) in the case of land vested in a public authority, for any purpose for which such land may be lawfully used by that authority;
- (b) the use of land which is a permitted (“P”) use in the zone in which that land is situated provided it does not involve the carrying out of any building or other works;
- (c) the erection on a lot of a single house, including ancillary outbuildings, in a zone where the proposed use is designated with symbol “P” in the cross-reference to that zone in the zoning table except where the lot is in a Rural Residential zone, or as otherwise provided by the Scheme;
- (d) the erection of a boundary fence except as otherwise required by the Scheme;
- (e) the carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act;
- (f) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building; or
- (g) the carrying out of works urgently necessary for public safety or for the safety or security of plant or equipment or for the maintenance of essential services.

6.1.3 Notwithstanding that a single house may not require the prior approval of the Council pursuant to the Scheme, any person who wishes the Council to vary any particular provision of the R-Codes relating to the erection of a single house shall, at the time of lodging an application for a building licence or earlier, apply in writing to the Council seeking the Council’s approval for the variation.

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

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

6.2 Application for Planning Approval

6.2.1 Every application for planning approval shall be made in the form prescribed in Schedule 3 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

6.2.2 Unless the Council waives any particular requirement every application for planning approval shall be accompanied by—

- (a) a plan or plans to a scale of not less than 1:500 showing;
 - (i) street names, lot number(s), north point and the dimensions of the site;
 - (ii) the location and proposed use of the site, including any existing building to be retained and proposed buildings 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 open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
 - (vii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain; and
- (c) any other plan or information that the Council may reasonably require to enable the application to be determined.

6.3 Advertising of Applications

6.3.1 Where an application is made for planning approval to commence or carry out development which involves an “SA” use the Council shall not grant approval to that application unless notice of the application is first given in accordance with the provisions of sub-clause 6.3.3.

6.3.2 Where an application is made for planning approval to commence or carry out development that involves an “AA” use, or for any other development that requires the planning approval of the Council, the Council may give notice of the application in accordance with the provisions of sub-clause 6.3.3.

6.3.3 Where the Council is required or decides to give notice of an application for planning approval the Council shall cause one or more of the following to be carried out—

- (a) notice of the proposed development to be served on the owners and occupiers of land within an area determined by the Council as likely to be affected by the granting of planning approval stating that submissions may be made to the Council within twenty-one days of the service of such notice;

- (b) notice of the proposed development to be published in a newspaper circulating in the Scheme Area stating that submissions may be made to the Council within twenty-one days from the publication thereof; or
- (c) a sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph b) of this sub-clause.

6.3.4 The notice referred to in sub-clause 6.3.3 paragraphs (a) and (b) shall be in the form contained in Schedule 4 with such modifications as circumstances require.

6.3.5 After expiration of twenty-one (21) days from the serving of notice of the proposed development, the publication of notice or the erection of a sign or signs, whichever is the later, the Council shall consider and determine the application.

6.4 Consultations with Other Authorities

6.4.1 In determining any application for planning approval the Council may consult with any other statutory, public or planning authority and with any other party it considers appropriate.

6.4.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Council shall consult that authority before making its determination.

6.5 Matters to be Considered by the Council

6.5.1 The Council in considering an application for planning approval shall have due regard to the following—

- (a) the provisions of the Scheme and any other relevant town planning scheme operating within the district;
- (b) any relevant proposed new town planning scheme of the Council or amendment insofar as they can be regarded as seriously entertained planning proposals;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
- (e) any planning policy, strategy or plan adopted by the Council under the provisions of clause 8.6 of the Scheme;
- (f) the preservation of any object or place of heritage significance;
- (g) the requirements of orderly and proper planning;
- (h) the preservation of the amenities of the locality;
- (i) any other planning considerations which the Council considers relevant; and
- (j) any relevant submissions or objections received on the application.

6.6 Determination of Applications

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

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

6.6.2 The Council shall convey its decision to the applicant in the form prescribed in Schedule 5 to the Scheme.

6.6.3 Where the Council grants planning approval, that approval—

- (a) continues in force for two years, or such other period as specified in the approval, after the date on which the application is approved; and
- (b) lapses if the development has not substantially commenced before the expiration of that period.

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

6.7 Deemed Refusal

6.7.1 Subject to sub-clause 6.7.2, an application for planning approval shall be deemed to have been refused where a decision in respect of that application is not conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

6.7.2 An application for planning approval which is the subject of a notice under sub-clause 6.3.3 shall be deemed refused where a decision in respect of that application is not conveyed to the applicant by the Council within ninety days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

6.7.3 Notwithstanding that an application for planning approval may be deemed to have been refused under sub-clauses 6.7.1 or 6.7.2 the Council may issue a decision in respect of the application at any time after the expiry of the sixty day or ninety day period specified in those sub-clauses, and that decision shall be regarded as being valid.

6.8 Approval Subject to Later Approval of Details

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

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

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

6.9 Approval of Existing Developments

6.9.1 The Council may grant approval to a development already commenced or carried out regardless of when it was commenced or carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out of the development, but provided that the development complies with the provisions of the Scheme, with or without the exercise of discretion provided in the Scheme, as to all matters other than the provisions requiring the Council's approval prior to the commencement of development.

6.9.2 The application to the Council for approval under sub-clause 6.9.1 shall be made on the form prescribed in Schedule 3.

6.9.3 A development that was not permissible under the Scheme at the time it was commenced or carried out may be approved if at the time of approval under this clause it is permissible.

PART 7 NON-CONFORMING USES

7.1 Non-conforming Use Rights

Except as otherwise provided in this Part, no provision of the Scheme shall prevent—

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

7.2 Extension of Non-conforming Use

A person shall not alter or extend a non-conforming use or erect alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the planning approval of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme.

7.3 Change of Non-conforming Use

Notwithstanding anything contained in the Zoning Table the Council may grant its planning approval to the change of use of any land from a non-conforming use to another use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the non-conforming use and is, in the opinion of the Council, closer to the intended of the zone or reserve.

7.4 Discontinuance of Non-conforming Use

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

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

7.5 Destruction of Buildings

If any building is, at the gazettal date, being used for a non-conforming use, and is subsequently destroyed or damaged to an extent of 75% or more of its value the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the building shall not be repaired or rebuilt altered or added to for the purpose of being used for a non-conforming use or in a manner or position not permitted by the Scheme.

PART 8—ADMINISTRATION

8.1 Powers of the Council

The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers—

- (a) the Council may enter into any agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme.
- (b) the Council may acquire any land or buildings pursuant to the provisions of the Scheme or the Act. The Council may deal with or dispose of any land which it has acquired pursuant to the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.
- (c) an officer of the Council, authorised by the Council for the purpose, may at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

8.2 Offences

8.2.1 No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area—

- (a) otherwise than in accordance with the provisions of the Scheme;
- (b) unless all approvals required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with;
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with.

8.2.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by section 10 of the Act.

8.3 Compensation

8.3.1 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 Scheme Amendment in the *Government Gazette*.

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

8.4 Election to Purchase and Valuation

8.4.1 Where compensation for injurious affection is claimed pursuant to either of sub-clauses 8.3.1 or 8.3.2, the Council may, at its option elect to acquire the land so affected instead of paying compensation.

8.4.2 Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three months of the claim for compensation being made.

8.4.3 Where the Council elects to acquire land as provided in sub-clause 8.4.1, if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land determined in accordance with sub-clause 8.4.4.

8.4.4 The value of the land referred to in sub-clause 8.4.3 shall be the value thereof on the date that the Council elects to acquire the land and that value shall be determined—

- (a) by arbitration in accordance with the *Commercial Arbitration Act 1985*; or
- (b) by some other method agreed upon by the Council and the owner of the land,

and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to the Scheme.

8.4.5 The Council may deal with or dispose of land acquired for a Local Reserve or pursuant to sub-clause 8.4.4 upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

8.5 Rights of Appeal

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

8.6 Planning Policies

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

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

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

8.6.2 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 where, in what form, and during what period (being not less than twenty-one days) submissions may be made to the Council.
- (b) Policies that 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 local newspaper circulating within the Scheme Area.

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

8.6.4 An amendment or addition to a Policy may be made after the policy has become operative and shall be made in the same manner as provided for the making of a Policy in sub-clause 8.6.2

8.6.5 A Policy may be rescinded by—

- (a) preparation and 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 Scheme Area.

8.6.6 A Policy shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of the Policy and objectives which the Policy was designed to achieve before making its decision.

8.6.7 A Policy prepared under this clause shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

8.7 Delegation

8.7.1 The Council may, either generally or in a particular case or cases, by resolution passed by an absolute majority of the Council, delegate to the following eligible persons the authority to deal with an application for planning approval made under the Scheme—

- (a) a member of the Council being the Chairman of the Committee required at the direction of the Council to consider and report upon all applications for planning approval within its municipal district, and being qualified by experience with the work of any such committee; and/or
- (b) that officer of the Council, holding or eligible to hold a Municipal Town Planners Certificate, appointed to the position of Town Planner for the purpose of the *Local Government Act* with overall responsibility for the planning functions of the Council or appointed by the Council to supervise the development control functions of the Council,

or those persons who from time to time occupy the positions referred to in paragraphs (a) and (b) of this sub-clause.

8.7.2 Any delegation made under sub-clause 8.7.1 shall have effect for the period of twelve months following the resolution unless the Council stipulates a lesser or greater period in the resolution.

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

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

8.7.5 The performance of a function by a delegate under sub-clause 8.7.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

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

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

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

8.8 Notice for Removal of Certain Buildings

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

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

Schedule 1 **DEFINITIONS**

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

Act: means the *Town Planning and Development Act, 1928*.

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

amenity building: means a building or part of a building used by employees or persons otherwise engaged in the conduct of an industry or business on the same site, for their personal comfort, convenience or enjoyment of leisure, but not used or intended for use for the work of the industry or business.

amusement facility: means land and buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use.

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

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

aquaculture: means any fish farming operation for which a fish farm licence issued pursuant to the provisions of Part V of the *Fisheries Act 1905* and the *Fisheries Regulations 1938* is required.

battle-axe lot: means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot.

bed and breakfast: means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term basis and includes the provision of breakfast.

betting agency: means a building operated in accordance with the *Totalisator Agency Betting Board Act 1960*.

builder's storage yard: means any land or buildings used for the storage of building material, pipes, or other similar items related to any trade; and may include manufacture, assembly and dismantling processes incidental to the predominant use.

Building Code of Australia: means the *Building Code of Australia 1988*.

building envelope: means an area of land within a lot marked on a plan approved by the Council within which all buildings and effluent disposal facilities on the lot must be contained.

camping area: means land used for the lodging of persons in tents or other temporary shelter.

caravan park: has the same meaning given to the term in the *Caravan Parks and Camping Grounds Act 1995*.

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

car park: means any land and buildings used primarily for parking private cars or taxis whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any land or buildings in which cars are displayed for sale.

civic use: means land or buildings used by a government department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose.

club premises: means any land or buildings used by a legally constituted club or association or other body of persons united by a common interest.

Commission: means the Western Australian Planning Commission constituted under the *Western Australian Planning Commission Act 1985*.

conservation: means, in relation to any place or heritage precinct, the management of that place or precinct in a manner that will—

- (a) enable the cultural heritage significance of that place or precinct to be retained; and
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or precinct, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct in accordance with relevant professional standards, and the provision of an appropriate visual setting.

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

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

contractor's yard: means any land or buildings used for the storage of contractor's plant and equipment, including prefabricated or transportable buildings and materials.

convenience store: means any land or buildings used for the retail sale of convenience 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 floor area associated with a convenience store shall not exceed 300m² nett lettable area.

Council: means the executive body of the Shire of Wyalkatchem.

cultural heritage significance: means, in relation to a place or heritage precinct, the relative value which that place or precinct has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generations.

cultural use: means any use aimed at the improvement or refinement of people by entertainment and/or education.

curtilage: in relation to a dwelling means the yard of the dwelling, or an area in the immediate vicinity of the dwelling on the same lot used for purposes ancillary to the dwelling. The curtilage shall not

include the area located between the street frontage of the lot and the dwelling thereon except with the special approval of the Council. The term shall have a like meaning in relation to land around buildings other than dwellings.

development: shall have the same meaning given to the term in the Act.

district: means the Municipal District of the Shire of Wyalkatchem.

dog kennels: means any land or buildings used for the boarding and breeding of dogs where such premises are registered or required to be registered by the Council; and may include the sale of dogs where such use is incidental to the predominant use.

dwelling: has the same meaning given to the term in the Residential Planning Codes

education establishment: means any land or buildings used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre.

farm supply centre: means the use of land and buildings for the supply of vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, farm equipment, implements or components, or irrigation equipment.

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

garden centre: means any land or buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements, and motorised implements, and the display but not manufacture of prefabricated garden buildings.

gazettal date: means the date of which notice of the Minister's approval of the Scheme is published in the *Government Gazette*.

grouped dwelling: has the same meaning given to the term in the Residential Planning Codes

heritage precinct: means a precinct of heritage value having a distinctive nature, which may contain elements of only minor individual significance but heightened collective significance, and within whose boundaries controls may be necessary to retain and enhance its character.

hobby farm: means the use of land for the agistment of horses, the growing of vegetables, fruit and flowers and the keeping of domestic poultry for private use only and not for commercial purposes or sale and shall include any buildings normally associated therewith.

home occupation: means an occupation carried out in a dwelling or on land around a dwelling by a resident of the dwelling which—

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20m²;
- (d) does not display a sign exceeding 0.2m² in area;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, will not result in the requirement for a greater number of parking facilities than normally required for a single house or an increase in traffic volumes in the neighbourhood, does not involve the presence, use, or calling of a vehicle of more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone.

hotel: means any land or buildings providing accommodation 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 tavern the subject of tavern licence or a motel.

incidental use: means a use of any land or buildings, which is ancillary to and subordinate to the predominant or primary use.

industry: means the carrying out of any process in the course of trade or business for gain, for and incidental to one or more of the following—

- (a) the winning, processing or treatment of minerals;
- (b) the making, altering, repairing, or ornamentation, painting, finishing, cleaning, packing, or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;
- (c) the generation of electricity or the production of gas;
- (d) the manufacture of edible goods,

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

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

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

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood;

- (b) where operated in a Residential Zone, does not entail the employment of any person other than a member of the occupier's household;
- (c) is conducted in an outbuilding that is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area greater than 50m²;
- (e) does not display a sign exceeding 0.2m² in area.

industry—extractive: means an industry that involves—

- (a) the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land, and also the storage, treatment, or manufacture of products from those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products;
- (b) the production of salt by the evaporation of salt water.

industry—general: means an industry other than a cottage, extractive, hazardous, light, noxious, rural, or service industry.

industry—hazardous: means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural, or service industries.

industry—light: means an industry—

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

industry—rural: means an industry handling, treating, processing, or packing primary products grown, reared, or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality.

industry—service: means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced.

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

- (a) the production of grapes, vegetables, flowers, exotic and native plants, fruit and nuts;
- (b) the establishment and operation of plant and fruit nurseries;
- (c) the development of land for irrigated fodder production and irrigated pasture (including turf farms);
- (d) the development of land for the keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), and other livestock in feedlots;
- (e) dairy milking shed;
- (f) the development of land for the keeping, rearing or fattening of other livestock above those stocking rates recommended by Agriculture WA in consultation with surrounding farmers for the applicable pasture type;
- (g) aquaculture.

land: shall have the same meaning given to the term in and for the purpose of the Act.

lodging house: shall have the same meaning given to the term in and for the purposes of the *Health Act, 1911*.

lot: shall have the same meaning given to the term in and for the purposes of the Act and "allotment" has the same meaning.

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

medical centre: means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the interpretation of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists.

motel: means land and buildings used to accommodate patrons in a manner similar to a hotel but in which special provision is made for the accommodation of patrons with motor vehicles and to which a licence under the *Liquor Licensing Act 1988* may have been granted.

motor vehicle sales: means any land or buildings used for the display and sale or hire of new or second-hand motorcycles, cars, trucks, and caravans 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 re-shaping.

museum: means any land or buildings used for storing and exhibiting objects and artefacts illustrative of history, natural history, art, nature and culture.

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

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

non-conforming use: has the same meaning given to the term in the Act.

office: means a building or part of a building used for administration, clerical, technical, professional, or other like business activities.

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

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

park home park: has the same meaning given to the term in the *Caravan Parks and Camping Grounds Regulations 1997*

petrol filling station: means any land or buildings used for the supply of petroleum products and motor vehicle accessories.

piggery: shall have the same meaning given to it in and for the purposes of the *Health Act 1911*.

place: means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes—

- (a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, in the bed of any watercourse, lake or estuary;
- (b) any works or buildings situated there, their contents relevant to the purpose of the Scheme, and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation.

place of worship: means any land or buildings used for religious activities such as a church, chapel, mosque, synagogue, and temple.

poultry farm: means any land or buildings used for hatching, rearing or keeping of poultry for either egg or meat production which does not constitute an offensive trade within the meaning of the *Health Act 1911*.

private recreation: means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation that are not normally open to the public without charge.

produce store: means any land or buildings wherein fodders, fertilisers and grain are displayed and offered for sale.

public amusement: means land and buildings used for the amusement or entertainment of the public, with or without charge.

public authority: shall have the same meaning given to it in and for the purposes of the Act.

public recreation: means land used for a public park, public gardens, foreshore reserve, playground or other grounds for recreation that are normally open to the public without charge.

public utility: means any work or undertaking constructed or maintained by a public authority or the Council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services.

reformatory: means land or buildings used for the confinement or detention in custody of juvenile offenders against the law with a view to their rehabilitation.

reserve: means any land reserved for a public purpose.

residential building: has the same meaning given to the term in the Residential Planning Codes

Residential Planning Codes: means the Residential Planning Codes, in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1.

restaurant: means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant.

restricted premises: means any land or building, part or parts thereof, used or designed to be used primarily for the sale of 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 and Articles Act 1902*; 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.

retail: means the sale or hire of products, goods or services to the public generally in small quantities and from a shop, showroom or take-away food outlet.

roadhouse: means land and buildings used for the predominant purpose of a service station but incidentally including a cafe, restaurant and/or shop.

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

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

but does not include intensive agriculture.

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.

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 and minor mechanical repairs to vehicles; but does not include a transport depot, panel beating, spray painting, major repairs, or wrecking.

shop: means any land and buildings used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser, beauty therapist or manicurist) but does not include a showroom or take-away food outlet.

short-stay accommodation: means the occupation of a chalet, caravan, camp or any other form of accommodation approved by the Council, by persons for a period of not more than a total of three months in any one twelve month period.

showroom: means any building or part of a building used for displaying or offering for sale by wholesale or retail, automotive spare parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools, or goods of a bulky nature.

single house: has the same meaning given to the term in the Residential Planning Codes

special facility: means a facility established for purposes in section 46(5) of the *Liquor Licensing Act 1988*, or for another purpose in respect of which the relevant Liquor Licensing Authority in Western Australia grants a Special Purpose Licence within the meaning of the Liquor Licensing Act.

stables: means any land, building or structure used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities.

stockyards: means any land, building or other structure used for holding and/or sale of animal stock.

storage yard: means any land used for the storage of goods.

take-away 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 land and buildings the subject of a Tavern License granted under the provisions of the *Liquor Licensing Act, 1988*.

telecommunication infrastructure: means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit, or other structure used, or for use, in connection with a telecommunications network.

trade display: means land and buildings used for the display of goods and equipment for the purposes of advertisement.

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

veterinary centre: means any land and buildings used to diagnose animal disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.

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

zoological gardens: means any land or buildings used for the keeping, breeding or display of fauna and the term includes "Zoo" but does not include kennels or keeping, breeding or showing of domestic pets.

Schedule 2

RURAL RESIDENTIAL ZONES

(A) Specified Area of Locality	(B) Special Provisions to Refer to Area Listed in Column (A)
Lots 232, 235, 236, 237, 238, 239 and 240 contained by White Dam Road, Carter Street and Gamble Street	<ul style="list-style-type: none"> (a) Subdivision is to be generally in accordance with the Plan of Subdivision certified by the Chief Executive Officer and approved by the Commission. The minimum lot size should be no less than 1.0 hectare. (b) No fencing shall be constructed within the zone without the prior approval of the Council. (c) Pig farming will not be permitted. (d) A person shall not construct or erect or commence to construct or erect— <ul style="list-style-type: none"> (i) a building within 20m of a lot boundary; (ii) a single house having an internal floor area of less than 45m²; or (iii) a building in a manner or of materials that would in the opinion of the Council detract from the amenity of the area. (e) Prior to the occupation of a dwelling, it shall be connected to a reticulated water supply system to the satisfaction of the Council.

Schedule 3

APPLICATION FORM FOR PLANNING APPROVAL
SHIRE OF WYALKATCHEM
TOWN PLANNING SCHEME NO. 3
APPLICATION FOR PLANNING APPROVAL

1 SURNAME OF APPLICANT

GIVEN NAME(S)

ADDRESS

2 SURNAME OF LANDOWNER (if different from above)

GIVEN NAME(S)

3 SUBMITTED BY

4 ADDRESS FOR CORRESPONDENCE

.....

5 LOCALITY OF DEVELOPMENT

6 TITLE DETAILS OF LAND

7 NAME OF ROAD SERVING PROPERTY

8 STATE TYPE OF DEVELOPMENT, NATURE AND SIZE OF ALL BUILDING PROPOSED

.....

.....

GENERAL TREATMENT OF OPEN PORTION OF THE SITE

.....

DETAILS OF CAR PARKING AND LANDSCAPING PROPOSALS

.....

APPROXIMATE COST OF PROPOSED DEVELOPMENT

ESTIMATED TIME FOR COMPLETION

.....

SIGNATURE OF OWNER

SIGNATURE OF APPLICANT OR AGENT

(Both signatures are required if applicant is not the owner)

.....

DATE

DATE

NOTE: This form should be completed and forwarded to the Council together with two copies of detailed plans showing complete details of the development including a site plan showing the relationship of the land to the area generally. In areas where close development exists, or is in the course of construction, plans shall show the siting of buildings and uses on lots immediately adjoining the subject land.

Schedule 4

NOTICE OF PUBLIC ADVERTISEMENT OF DEVELOPMENT PROPOSAL
SHIRE OF WYALKATCHEM
TOWN PLANNING SCHEME NO. 3

NOTICE OF DEVELOPMENT PROPOSAL

It is HEREBY NOTIFIED for public information and comment that the Council has received an application to develop land for the purpose described hereunder:

LAND DESCRIPTION

LOT NO. STREET

PROPOSAL

.....
.....

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

.....
CHIEF EXECUTIVE OFFICER DATE

Schedule 5

DECISION ON APPLICATION FOR PLANNING APPROVAL
SHIRE OF WYALKATCHEM
TOWN PLANNING SCHEME NO. 3
DECISION ON APPLICATION FOR PLANNING APPROVAL

The Council having considered the application

Dated

Submitted by

On behalf of

hereby advises that it has decided to:

REFUSE/GRANT PLANNING APPROVAL

subject to the conditions/for the following reasons:

.....
CHIEF EXECUTIVE OFFICER

.....
DATE

NOTE: Should the owner be aggrieved by this decision a right of appeal may exist under the provisions of the Scheme.

ADOPTION

Adopted by Resolution of the Council of the Shire of Wyalkatchem at the meeting of the Council held on the 18th day of December 1997.

R. J. CRUTE, President.
B. E. TAYLOR, Chief Executive Officer.

FINAL APPROVAL

1 Adopted by Resolution of the Council of the Shire of Wyalkatchem at the meeting of the Council held on the 16th day of December 1999 and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of—

R. J. CRUTE, President.
B. E. TAYLOR, Chief Executive Officer.

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

2 RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

EUGENE FERRARO, for Chairperson of the Western
Australian Planning Commission

Dated 25 May 2000.

3 FINAL APPROVAL GRANTED

G. KIERATH, Minister For Planning.

Dated 25 May 2000.

PD702*

TOWN PLANNING AND DEVELOPMENT ACT 1928

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

CITY OF GOSNELLS

TOWN PLANNING SCHEME No. 1—AMENDMENT No. 524

Ref: 853/2/25/1 Pt 524

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act 1928 that the Hon Minister for Planning approved the City of Gosnells Town Planning Scheme Amendment on 18 May 2000 for the purpose of—

- 1.0 The inclusion of the "Residential Development" zone and associated provisions as follows—
 - 1.1 Amending Clause 11 of the Schedules by inserting after the Tenth Schedule the following—
" Eleventh—Infrastructure Provisions relating to the ODP Area " .
 - 1.2 Amending Clause 13 – Table 2 (Delineation of Zones) by the addition of a "Residential Development" Zone to read as follows—
" Residential Development Brown border with brown hatch " .
 - 1.3 Amending Clause 16—Table 3 (Zoning Table) by the addition of a new zone "Residential Development" Zone under Column "T" and cross-referencing the Zone with Use Classes 1 to 51, inclusive as follows—

TABLE 3

T

USE CLASS	RESIDENTIAL DEVELOPMENT
1 Dwelling, additional accommodation	P
1A Aged or dependent persons accommodation, attached house, grouped dwelling, multiple dwelling	AA
2 Hostels, lodging houses, unlicensed hotels, residential clubs, residential building	AA
3 Home occupations, but always subject to an annual permit from the Responsible Authority	AA
4 Shops, department stores and those uses classified under the Class 5 where the building is designed and constructed with the major part of its shop frontage for window display and when used for the purpose of display of goods for retail sale	AA (1)
5 Restaurants, cafes, ticket offices and bureaus, receiving offices, hair- dressers, local post offices	AA
6 Showrooms in connection with retail warehousing or offices and intended for the display of goods of a bulky character	X
7 Offices, banks, stock or produce exchanges	AA

TABLE 3

T

USE CLASS		RESIDENTIAL DEVELOPMENT
8	Public buildings and places of assembly (other than those in Class 9) including churches, halls, cinemas and theatres Government and Local Government offices and buildings, non-residential clubs, colleges and institutions for the care of infants, aged and the infirm other than a hospital or mental home	AA
9	Special places of assembly, including athletic or sports grounds with spectator provision, racecourses or trotting tracks, stadia, showgrounds, health studios, squash centres	AA
10	Service stations	X
11	Motor repair stations, motor transport depots	X
12	Wholesale warehouses designed for the storage of goods and transaction of business other than retail business	X
13	Storage warehouses and yards including builder's or contractor's yards, furniture storage warehouses, grain silos, Government or Local Government depots and stores, transit warehouses.	X
14	Light industry	X
15	General industry	X
16	Schools, residential colleges or universities	AA
17	Hospitals, sanatoria, clinics, convalescent and nursing homes	AA
18	Outdoor recreation, including public parks or gardens, playing fields, children's playgrounds, private open spaces which do not fall within other use classes	P
19	Professional rooms or professional offices	IP
20	Liquid fuel depots	X
21	Other uses (special sites)	X
	* Airports	
	* Bus garages, stations or train depots	
	* Camping Area	
	* Caravan Park	
	* Cemeteries	
	* Composite Camping Area and/or Caravan Park and/or Park Home Development	
	* Crematoria	
	* Drive-in theatres	
	* Hotel/tavern (amd 217)	
	* Major public utility installations (water, electricity, gas, sewerage, drainage)	
	* Mental homes	
	* Hotels	
	* Motor transport depots	
	* Park Home Development	
	* Prisons	
	* Refuse destructors and refuse disposal area	
	* Residential flats	
	* Senior Citizens' homes	
	* Warehouses	
	* Wireless or television buildings or installations	
	* Zoological gardens	
	* Veterinary establishment and hospital	
	* Garden centre and nursery	

TABLE 3

T

USE CLASS	RESIDENTIAL DEVELOPMENT
* Hardware store	
* Carpark	
* Medical centre	
* Medical centre with veterinary clinic	
* Medical centre with veterinary clinic and offices	
22 Uses of land for the purpose of farming including pastoral, agricultural and dairy farming, afforestation, market and nursery gardening and other similar uses.	X
23 Rural industry	X
24 Extractive industry	X
25 Open air displays and premises for sale of motor vehicles or other goods and equipment but always subject to an annual permit from the Responsible Authority	AA
26 Wholesale markets, but always subject to an annual permit from the Responsible Authority	X
27 Special industries	X
28 Wayside stalls, but always to an annual permit from the Responsible Authority	X
29 Carparks and taxi parks	AA
30 Stables and the keeping of livestock	X
31 Fish shops and dry cleaners	X
32 Veterinary establishments, animal hospitals	AA
33 Medical and dental consulting rooms and surgeries attached to or within a dwelling used for services associated with the practice of medicine or dentistry	AA
34 Wrecking of vehicles or machinery	X
35 Kennels, cat homes	X
36 Medical centre	AA
37 Special light industry	X
38 Taverns smaller than 220m ² gross area	AA
39 Composite uses to allow a light industrial use adjacent to a residence	X
40 Radio/TV installation (private)	AA
41 Radio/TV installation (small scale commercial)	AA
42 Radio/TV installation (large scale commercial)	X
43 Betting agency	X
44 Amusement facility	AA
45 Amusement parlour	X
46 Bulk retail sales	AA
47 Public amusement	AA
48 Convenience store	AA
49 Restricted premises	X
50 Landscape centre	X
51 Retail nursery	AA

1.4 Amending the Scheme Text by inserting Clause 23B following Clause 23A (Restricted Covenants), to read as follows—

“23B RESIDENTIAL DEVELOPMENT ZONE

23.1 Interpretation

In Clause 23, unless the context otherwise requires—

“**Proponent**” means any owner or owners of land to which the Proposed Outline Development Plan relates that has or have submitted that Proposed Outline Development Plan;

“Proposed Outline Development Plan” means an Outline Development Plan, which may apply to either a local area or a district, that has been prepared in accordance with Clause 23.4; and

“Outline Development Plan” means a Proposed Outline Development Plan that has been both approved by the Commission and adopted by the Council under Clause 23.5.15.

23.2 Purpose

- (a) To identify areas requiring comprehensive planning prior to subdivision and development.
- (b) To coordinate subdivision, land use and development in areas requiring comprehensive planning.

23.3 Planning Requirements

- 23.3.1 The Council requires an Outline Development Plan for a Development Area, or for any particular part or parts of a Development Area, before recommending subdivision or approving development of land within the Development Area.
- 23.3.2 Where an Outline Development Plan exists, the subdivision and development of land is to generally be in accordance with the Outline Development Plan and any associated provisions contained in Schedule Eleven.
- 23.3.3 The Council or the Commission may, as a condition of adopting or approving a Proposed Outline Development Plan, require a more detailed Area Plan in future if the Council or the Commission considers that it will be necessary to provide additional detail to the proposals contained in the Proposed Outline Development Plan.

23.4 Preparation of Outline Development Plans

- 23.4.1 An Outline Development Plan may include plans and other documents.
- 23.4.2 An Outline Development Plan may, with the agreement of the Council, be prepared and implemented in stages.
- 23.4.3 An Outline Development Plan may relate to only part of an Outline Development Plan area.
- 23.4.4 An Outline Development Plan is to contain such detail as, in the opinion of the Council, is required to satisfy the planning requirements of the Development Area, and, without limiting the generality of the foregoing, may include the following details—
 - (a) the area to which the Outline Development Plan applies;
 - (b) key opportunities and constraints of the Outline Development Plan area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport, and services;
 - (c) the planning context for the Outline Development Plan area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the Proposed Outline Development Plan is to be integrated into the surrounding area;
 - (d) proposed major land uses, in particular, residential areas, public open space, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, industrial and mixed business areas;
 - (e) the proposed indicative lot pattern and general location of any major buildings;
 - (f) estimates of future lots, dwellings, population, employment and retail floor space;
 - (g) provision for major infrastructure, including main drainage, sewerage, water supply and other key infrastructure services;
 - (h) the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks;
 - (i) the timeframe and staging of subdivision and development, and the method of implementation, including any proposals for funding by development contributions;
 - (j) details as appropriate relating to—
 - vehicular access and parking;
 - the location, orientation and design of buildings and the space between buildings;
 - conservation areas;
 - heritage places; and
 - special development control provisions; and
 - (k) such other information as may be required by the Council.
- 23.4.5 In considering a Proposed Outline Development Plan for part of a Development Area, the Council may require the Proponent to demonstrate how planning for the subject land may be integrated with planning for the balance of the Development Area, including how broad land uses, essential services, main movement systems and major conservation and recreation areas are to be integrated and provide information on the arrangements for implementation.

23.5 Adoption and Approval of Outline Development Plans

- 23.5.1 A Proposed Outline Development Plan may be prepared by a Proponent or the Council. Where prepared by a Proponent, the Proposed Outline Development Plan is to be submitted to the Council.

- 23.5.2 Upon receiving a Proposed Outline Development Plan, the Council is to either—
- (a) determine that the Proposed Outline Development Plan is satisfactory for advertising;
 - (b) determine that the Proposed Outline Development Plan is not to be advertised until further details have been provided or modifications undertaken; or
 - (c) determine that the Proposed Outline Development Plan is not satisfactory for advertising and give reasons for this to the Proponent.
- 23.5.3 If within 60 days of receiving a Proposed Outline Development Plan for approval for advertising, or such longer period as may be agreed in writing between the Proponent and the Council, the Council has not made one of the determinations referred to in Clause 23.5.2, the Council is deemed to have determined that the Proposed Outline Development Plan is not satisfactory for advertising.
- 23.5.4 (a) Where the Proponent is aggrieved by a determination of the Council under Clause 23.5.2(b) or (c) or Clause 23.5.3, the Proponent may request the Council by notice in writing to forward the Proposed Outline Development Plan to the Commission.
- (b) Within 21 days of receiving notice from the Proponent under Clause 23.5.4(a), the Council is to forward to the Commission—
- (i) a copy of the Proposed Outline Development Plan;
 - (ii) details of the Council's determination including any modifications to the Proposed Outline Development Plan required by the Council; and
 - (iii) any other information the Council considers may be relevant to the Commission's consideration of approval of the Proposed Outline Development Plan for advertising.
- (c) Upon receiving a Proposed Outline Development Plan in accordance with Clause 23.5.4(b), the Commission is to make one of the determinations referred to in Clause 23.5.2 and advise the Council and the Proponent accordingly.
- (d) If the Commission requires modifications to the Proposed Outline Development Plan, the Commission is to consult with the Council prior to making its determination under Clause 23.5.4(c).
- (e) If within 60 days of receiving a Proposed Outline Development Plan under Clause 23.5.4(b), or such longer period as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in Clause 23.5.2, the Commission is deemed to have determined that the Proposed Outline Development Plan is not satisfactory for advertising.
- 23.5.5 Where the Council, or the Commission under Clause 23.5.4, has determined that the Proposed Outline Development Plan is satisfactory for advertising, the Council is to—
- (a) advertise, or require the Proponent to advertise, the Proposed Outline Development Plan for public inspection by one or more of the methods of advertising proposals for development as set out in Clause 9.4 of the Scheme; and
 - (b) give notice or require the Proponent to give notice in writing to—
 - (i) all landowners affected by the Proposed Outline Development Plan; and
 - (ii) such public authorities and other persons as the Council nominates,and such advertisement and notice are to explain the scope and purpose of the Proposed Outline Development Plan, when and where it may be inspected, and invite submissions to the Council by a specified date being at least 21 days from the date of the notice and advertisement.
- 23.5.6 Within 7 days of determining that a Proposed Outline Development Plan is satisfactory for advertising, the Council is to forward a copy of the Proposed Outline Development Plan to the Commission.
- 23.5.7 The Council is to consider all submissions received and within 60 days of the latest date specified in the notice under Clause 23.5.5 is to either—
- (a) adopt the Proposed Outline Development Plan with or without modifications; or
 - (b) refuse to adopt the Proposed Outline Development Plan and give reasons for this to the Proponent.
- 23.5.8 If within the 60 day period, or such further time as may be agreed in writing between the Proponent and the Council, the Council has not made one of the determinations referred to in Clause 23.5.7, the Council is deemed to have refused to adopt the Proposed Outline Development Plan.
- 23.5.9 Within 21 days of the Council making its determination under Clause 23.5.7, or deemed refusal under Clause 23.5.8, the Council is to forward to the Commission—
- (a) a summary of all submissions and comments received by the Council in respect of the Proposed Outline Development Plan, and the Council's decisions or comments in relation to these;
 - (b) the Council's recommendation to the Commission to approve, modify or refuse to approve the Proposed Outline Development Plan; and
 - (c) any other information the Council considers may be relevant to the Commission's consideration of the Proposed Outline Development Plan.

- 23.5.10 The Commission is to either—
- (a) approve the Proposed Outline Development Plan with or without modifications; or
 - (b) refuse to approve the Proposed Outline Development Plan and give reasons for its decision to the Proponent and the Council.
- 23.5.11 If within 60 days of receiving the information referred to in Clause 23.5.9, or such further time as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in Clause 23.5.10, the Commission is deemed to have refused to approve the Proposed Outline Development Plan.
- 23.5.12 If the Commission approves the Proposed Outline Development Plan, it is to notify the Council and Proponent of its decision within 14 days of the date of the Commission's decision.
- 23.5.13 If the Commission requires modifications to the Proposed Outline Development Plan, the Commission is to consult with the Council prior to approving the Proposed Outline Development Plan under Clause 23.5.10.
- 23.5.14 If the Council, following consultation with the Commission, is of the opinion that any modification to the Proposed Outline Development Plan is substantial, the Council may—
- (a) readvertise the Proposed Outline Development Plan; or
 - (b) require the Proponent to readvertise the Proposed Outline Development Plan and, thereafter, the procedures set out in Clause 23.5.5 onwards are to apply.
- 23.5.15 As soon as practicable after receiving notice of the approval of the Proposed Outline Development Plan by the Commission, the Council is to adopt the Proposed Outline Development Plan and forward a copy of the Outline Development Plan to—
- (a) the Proponent;
 - (b) the Commission; and
 - (c) any other appropriate person or public authority which the Council thinks fit.
- 23.5.16 An Outline Development Plan is to be kept at the Council's administrative offices, and is to be made available for inspection by any member of the public during office hours.

23.6 Change or Departure from Outline Development Plan

- 23.6.1 The Council may adopt a minor change to or departure from an Outline Development Plan if, in the opinion of the Council, the change or departure does not materially alter the intent of the Outline Development Plan.
- 23.6.2 (a) The Council is to forward a copy of the minor change or departure to the Commission within 10 days from the date of adopting the minor change or departure.
- (b) If the Commission considers that the change or departure adopted by the Council under Clause 23.6.1 materially alters the intent of the Outline Development Plan, then the Commission—
- (i) may require the Council to follow the procedures set out in Clause 23.5 in relation to the change or departure; and
 - (ii) is to notify the Council of this requirement within 10 days.
- 23.6.3 Any change to or departure from an Outline Development Plan that is not within Clause 23.6.1 is to follow the procedures set out in Clause 23.5.

23.7. Detailed Area Plans

- 23.7.1 (a) (i) The Council or the Commission may, by notice in writing, require a person to prepare and submit to the Council a detailed area plan within the time specified in the notice.
- (ii) A person may prepare and submit to the Council a detailed area plan.
- (b) A detailed area plan is to relate to a particular lot or lots and may be prepared and submitted—
- (i) to enhance, elaborate or expand on the details or provisions contained in a Proposed Outline Development Plan or an Outline Development Plan;
 - (ii) in place of a development approval required to comply with Clause 2.5 of the *Residential Planning Codes*; or
 - (iii) for any other planning purpose.
- (c) The Council is to—
- (i) approve; or
 - (ii) refuse to approve
- the detailed area plan.
- (d) If within 60 days of receiving a detailed area plan under Clause 23.7.1(a), or such longer period as may be agreed in writing between the person and the Council, the Council has not made one of the determinations referred to in Clause 23.7.1(c), the Council is deemed to have refused to approve the detailed area plan.
- (e) The Council is to forward a copy of the detailed area plan to the Commission within 10 days of approving the detailed area plan.

- (f) The Council's refusal to approve a detailed area plan under Clause 23.7 is not a valid reason for the Council to refuse to adopt or the Commission to refuse to approve a Proposed Outline Development Plan under Clause 23.5.
- 23.7.2 Unless Clause 23.7.1(b)(ii) applies, once approved by the Council, the detailed area plan is to be used as the basis for—
- (a) making recommendations to the Commission on subdivision applications; and
 - (b) determining development applications
- with respect to the land subject to the detailed area plan.
- 23.7.3 A detailed area plan may include details as to—
- (a) building envelopes;
 - (b) distribution of land uses within a lot;
 - (c) private open space;
 - (d) services;
 - (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
 - (f) the location, orientation and design of buildings and the space between buildings;
 - (g) advertising signs, lighting and fencing;
 - (h) landscaping, finished site levels and drainage;
 - (i) protection of sites of heritage, conservation or environmental significance;
 - (j) special development controls and guidelines; and
 - (k) such other information considered relevant by the Council.
- 23.7.4 (a) An approved detailed area plan may be modified or varied with the approval of the Council providing such modifications or variations conform with the intent of any related Outline Development Plan.
- (b) The Council is to forward a copy of the modification or variation to the detailed area plan to the Commission within 10 days of approving the modification or variation.

23.8 Operation of Outline Development Plan

- 23.8.1 An Outline Development Plan commences operation on the date it is adopted by the Council pursuant to Clause 23.5.15.
- 23.8.2 Where an Outline Development Plan imposes a classification on the land included in it by reference to reserves, zones, or *Residential Planning Codes*, until it is replaced by a subsequent amendment to the Scheme or a new Scheme imposing such classifications—
- (a) the provisions of the Outline Development Plan apply to the land within the area as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and
 - (b) provisions in the Scheme applicable to land in those classifications under the Scheme are to apply to the Development Area.
- 23.8.3 Without limiting the generality of Clause 23.8.2, under an Outline Development Plan—
- (a) in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the Scheme having the same designation;
 - (b) the standards and requirements applicable to the zones and R Codings under the Scheme apply to the areas having corresponding designations under the Outline Development Plan;
 - (c) the development control procedures including (without limitation) the procedures for the approval of uses and developments under the Scheme are to apply as if the land was correspondingly zoned or reserved under the Scheme;
 - (d) any other provision, standard or requirement in the Outline Development Plan is to be given the same force and effect as if it were a provision, standard or requirement of the Scheme.
- 23.8.4 An Outline Development Plan may distinguish between the provisions, requirements or standards which are intended to have effect as if included in the Scheme, and any provisions, requirements, or standards which are only for guidance or such other purposes as stipulated in the Outline Development Plan.

23.9 Appeal

- 23.9.1 The Proponent may appeal, in accordance with Part V of the *Town Planning and Development Act 1928*, any—
- (a) determination or decision made by the Commission;
 - (b) requirement imposed by or modification sought by the Commission; or
 - (c) determinations deemed to have been made by the Commission under Clauses 23.5.4 or 23.5.11
- in the exercise of the Commission's powers under Clause 23.

- 23.9.2 The Proponent may appeal, in accordance with Part V of the *Town Planning and Development Act 1928*, any decision made by the Council under Clause 23.6.1.
- 23.9.3 A person who has submitted a detailed area plan under Clause 23.7 may appeal, in accordance with Part V of the *Town Planning and Development Act 1928*, any decision made by the Council under Clauses 23.7.1 or 23.7.4.”
- 1.5 Inserting Clause 40C in Part VII relating to appeal provisions relevant to the whole Town Planning Scheme No. 1 to read as follows—
 “An applicant aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part 5 of the *Town Planning and Development Act 1928* (as amended) and the rules and regulations of the Act.”
- 2.0 Inserting the following new Eleventh Schedule into the Scheme Text relating to infrastructure provisions, if required, for the Outline Development Plan area as follows—

SCHEDULE XI—COMMON INFRASTRUCTURE AND
 COST SHARING PROVISIONS RELATING TO AN
 OUTLINE DEVELOPMENT PLAN AREA

1.0 Interpretation

In Schedule XI, unless the context otherwise requires—

“**Cost Contribution**” means the contribution to the cost of Common Infrastructure payable by an Owner under this Schedule and any relevant Attachment to the Eleventh Schedule to the Scheme;

“**Common Infrastructure**” means services and facilities which, in accordance with the Commission’s policy, it is reasonable for Owners to make a Cost Contribution towards, as specified under “Common Infrastructure Costs” and “Common Infrastructure Works”;

“**Outline Development Plan**” means such Outline Development Plan (ODP) as approved and adopted and or as departed from or altered pursuant to Clause 23B of the Scheme;

“**Owner**” means an owner of land that is located within an ODP area;

“**Commission**” means the Western Australian Planning Commission established by section the *Western Australian Planning Commission Act 1985*;

“**Common Infrastructure Costs**” means—

- (a) the costs of, and incidental to, the preparation of the ODP and the carrying out of the Common Infrastructure Works for the ODP area;
- (b) Council administration costs including bank charges, audit fees, office and sundry costs, legal expenses, valuation fees, conveyancing fees, ongoing costs, and geographical information systems (GIS) setup costs to facilitate the administration of the development of the ODP area;
- (c) an amount to reimburse the Council for such overhead supervision and management costs as may be incurred by the Council in the carrying out of the Common infrastructure ;
- (d) legal and planning costs, payments to other professional consultants and advisers, survey and valuation costs, in each case and reimbursement to the Council for the time spent by its officers or any employee or agent of the Council insofar as that time was spent in connection with the carrying out of the Common Infrastructure Works;
- (e) any compensation paid or payable in respect of land used for the purposes of carrying out Common Infrastructure Works and the expenses of determining and settling such compensation;
- (f) the cost of acquiring any land within the ODP area for the purpose of carrying out Common Infrastructure Works whether that land is purchased or acquired by compulsory acquisition or otherwise including without limitation the purchase price or compensation paid (as the case may be), and any other costs, fees or expenses whatsoever of or incidental to such acquisition;
- (g) all legal costs and fees whatsoever incurred by the Council in or in contemplation of any arbitration or other legal proceedings arising out of or concerning the carrying out of the Common Infrastructure Works or any appeal against a decision or determination of the Council exercising a power in relation to the Common Infrastructure Works or in relation to the assessment or recovery of Common Infrastructure Contributions and the fees and expenses of any witness expert or consultant for which the Council becomes liable in connection with any proceedings referred to in this paragraph and any costs ordered to be paid in the Council or payable pursuant to any settlement negotiated by the Council in such proceedings;
- (h) all interest paid or payable on moneys borrowed, credit obtained or financial accommodated extended for the purposes of carrying out Common Infrastructure Works;
- (i) the cost of provision of drainage in accordance with the Commission Policy on Developer Contributions for Infrastructure where in the opinion of Council this cannot be properly co-ordinated by the Owners without Council’s direct involvement.

- (j) all costs and expenses of the exercise by the Council of any power conferred by Clause 12 upon the Council;
- (k) all other costs and expenses as specified in the relevant Attachment to this Schedule which the Council is required to meet in order to carry out the Common Infrastructure Works;
- (l) the cost of acquiring land for Other Regional Roads as defined in the Metropolitan Region Scheme and as referred to in the relevant Attachment to this Schedule;
- (m) the cost of acquiring land for district distributor roads referred to in the relevant Attachment to this Schedule and the initial stage of road construction including all earthworks, two lanes unkerbed, dual use path (on one side only), grade separated pedestrian crossings and drainage;
- (n) any contribution necessary in the opinion of Council required to be made to Alinta Gas, Western Power, Telstra and Water Corporation for the provision of gas, water, sewerage, telecommunications and electricity to, and the reticulation of, such services in the upgrading of roads referred to in the relevant Attachment to this Schedule; and

“**Common Infrastructure Works**” refers to any components or services required collectively by all Owners of land within an ODP area which are, in the opinion of Council, essential to facilitate the subdivision and development of that land. As such they are detailed as follows and also include those works detailed in the relevant Attachment to this Schedule—

- (a) the construction of dual use paths as shown on the approved ODP;
- (b) the construction of traffic management devices as shown on the approved ODP;
- (c) provision of land and the construction of drainage as referred to at Clauses (i) and (m) “Common Infrastructure Costs”;
- (d) the construction (and upgrading if required) of the drainage system associated with any Regional Road as referred to in the relevant Attachment to this Schedule;
- (e) the carrying out of any cadastral survey or resurvey in connection with any matter (including public open space and Conservation Reserve creation) set out in this Schedule and in any relevant Attachment in connection with Common Infrastructure; and
- (f) works necessary in relation to Clause (n) of “Common Infrastructure Costs”;

“**Trust Account**” means, the interest bearing accounts established by the Council for compliance with Clause 13 of this Schedule.

“**Value**” means, unless Part 10 of the *Land Administration Act 1997* applies under Clause 7 of this Schedule, the capital sum which an unencumbered estate in fee simple of the land might reasonably be expected to realise if offered for sale on such terms and conditions as a bonafide seller would require—

- (a) on the basis that there are no buildings, fences or other improvements of the like nature on the land;
- (b) on the assumption that any rezoning necessary for the purpose of the development has come into force; and
- (c) taking into account the added value of all other improvements on or appurtenant to the land.

“**Valuer**” means a licensed valuer agreed by the Council and the owner, or where the Council and the Owner are unable to reach agreement, a Valuer appointed by the President of the Australian Property Institute for the time being.

2.0 Purpose

- (a) To identify areas requiring Cost Contributions for Common Infrastructure that relate to subdivision and development.
- (b) To provide for the equitable sharing of the costs of Common Infrastructure between Owners and in particular, to ensure that Cost Contributions are only required towards such Common Infrastructure as is reasonably required as a result of the subdivision and development of land in the ODP area.
- (c) To coordinate the timely provision of Common Infrastructure.

3.0 Development Contribution Arrangement Pre-requisite to Subdivision and Development

- 3.1 Where an ODP area is prescribed in the Scheme, all Owners within that ODP area are required to make a Cost Contribution in accordance with the applicable development contribution arrangement contained in the relevant Attachment and the provisions of this Schedule.
- 3.2 The development contribution arrangement for any ODP area does not have effect until it has been incorporated as part of the Scheme, in the relevant Attachment to this Schedule.
- 3.3 Subject to Clause 3.5, the Council is not to support subdivision or approve development in an ODP area until a development contribution arrangement is in effect and the Owner who has applied for subdivision or development approval has made arrangements in accordance with Clause 15 for the payment of the Owner’s Cost Contribution.

- 3.4 Clause 3.3 does not apply to the development of a single house or outbuildings associated with a single house on a lot which has not been subdivided since the coming into operation of the Outline Development Plan.
- 3.5 Where a development contribution arrangement is necessary but is not in effect, the Council may support subdivision or approve development where the Owner has made other arrangements satisfactory to the Council with respect to the Owner's contribution towards the provision of Common Infrastructure Works in the ODP area.

4.0 Content and Principles of Development Contribution Arrangements

- 4.1 The development contribution arrangement is to specify—
- (a) the ODP area to which the development contribution arrangement applies;
 - (b) the Common Infrastructure Works to be funded through the development contribution arrangement; and
 - (c) the method of determining the Cost Contribution of each Owner towards the Common Infrastructure to be funded through the development contribution arrangement.
- 4.2 (a) A development contribution arrangement is to specify the period during which it is to operate, but in any event, is not to operate for more than 5 years.
- (b) The period during which a development contribution arrangement is to operate may be extended and the development contribution arrangement may be amended accordingly.
- 4.3 The development contribution arrangement for any ODP area is to be prepared in accordance with the following principles—
- (a) it is to provide for Cost Contributions to only the cost of such Infrastructure as fairly and reasonably relates to, and is reasonably required as a result of, the subdivision and development of land in the ODP area;
 - (b) it is to provide for Cost Contributions generally in accordance with the Commission Policy on Developer Contributions for Common Infrastructure;
 - (c) matters requiring land contribution, such as public open space, are to be treated as the cost of Common Infrastructure Work with any necessary adjustments to establish, where appropriate, a money equivalent;
 - (d) the Cost Contribution is to be based upon the proportion that the area or value of that Owner's land bears to the total area or value of the developable land within the ODP area;
 - (e) the Cost Contribution is to take into account the highest and best uses attainable for the Owner's land; and
 - (f) the cost of Common Infrastructure is to be based on amounts expended, but when an expenditure has not occurred, it is to be based on the best and latest estimated costs available to the Council.
- 4.4 For the purposes of Clause 4.3(d), in calculating both the area of an Owner's land and the total area of land in an ODP area, the area of land provided or required in that ODP area for—
- (a) roads designated under the *Metropolitan Region Scheme* as Primary Regional Roads and Other Regional Roads;
 - (b) existing road and drainage reserves;
 - (c) government primary and secondary schools; and
 - (d) such other land as shown on the Outline Development Plan which in the opinion of the Council should be excluded,
- is to be excluded.
- 4.5 (a) Where a development contribution arrangement contains estimated costs, such estimated costs are to be reviewed at least annually by the Council in accordance with the best and latest information available to the Council until the expenditure on the relevant item of Common Infrastructure has occurred.
- (b) Where requested in writing by an Owner, the Council is to have such estimated costs independently certified by an appropriate qualified person.
- 4.6 Where any Cost Contribution has been calculated on the basis of an estimated cost for Common Infrastructure, the Council may—
- (a) adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or the final expenditure; or
 - (b) accept a Cost Contribution based upon estimated costs as a final Cost Contribution and may enter into an agreement with an Owner accordingly.
- 4.7 Where an Owner's Cost Contribution is adjusted under Clause 4.6, the Council, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.

5.0 Owners Contribution to Common Infrastructure Costs

- 5.1 All Owners in the ODP area who seek to subdivide or develop their land shall be required to contribute to Common Infrastructure Costs in order to enable and facilitate Common Infrastructure.

6.0 Order of Common Infrastructure Works

- 6.1 The Council shall determine the order in which the Common Infrastructure Works are to be carried out and may appoint contractors to carry out such works.
- 6.2 Without in any way limiting the generality of Clause 6.1 the Council's intention is to prevent any Common Infrastructure Works being carried out unless and until—
 - (a) sufficient money stands to the credit of the Trust Accounts to pay in full the costs of the Common Infrastructure Works, or
 - (b) the payment of that money is otherwise secured or guaranteed to the Council's satisfaction; or
 - (c) Council has raised funds to undertake the Common Infrastructure Works should Council so determine.

7.0 Acquisition of Land for Common Infrastructure Works

- 7.1 Council may acquire, by agreement or compulsorily, land required for the carrying out of Common Infrastructure Works, using the powers conferred under Section 13 of the *Town Planning and Development Act 1928*.

8.0 Estimation of Common Infrastructure Costs

- 8.1 The Council may, subject to the provisions of this Clause, before any item of Common Infrastructure Cost has been finally ascertained, make an estimate of those costs.
- 8.2 Where an Owner has been advised by the Council of an estimate of that Owner's share of the Common Infrastructure Costs and has paid a sum equal to that estimate, then that Owner or subsequent Owner is not liable to further costs should Council make a revision of estimated costs in accordance with Clause 8.6.
- 8.3 The Council shall deduct the value of any Government Grants or secured allocations external to Council's finances in the calculation or estimation of the Common Infrastructure Costs.
- 8.4 The Council shall annually review the Common Infrastructure Costs to be incurred.
- 8.5 The Council, in reviewing Common Infrastructure Costs pursuant to Clause 8.4, may revise or amend the Common Infrastructure Costs and any Owner's contribution arising from the approved ODP.
- 8.6 Where any cost contribution for Owners in the ODP area has been calculated on the basis of an estimate of any Common Infrastructure Cost, the Council may—
 - (a) adjust the cost contribution of any Owner in accordance with revised estimates and/or the final expenditure: or
 - (b) accept a cost contribution based upon estimated costs as a final contribution.
- 8.7 Where an owner's cost contribution is adjusted under Clause 8.6, the Council shall, on the written request of an owner, provide a copy of cost estimates and the calculation of adjustments.
- 8.8 Following notification being made to an owner of the amount mentioned in Clause 8.7, a period of 35 days shall be allowed from the date of such notification for the Owner to object to that amount. Any objection shall be assessed by the Council and if not agreed by the Council, shall be referred to Arbitration and dealt with in accordance with Clause 18.

9.0 Common Infrastructure Contribution

- 9.1 A Common Infrastructure Cost contribution is to be based upon the proportion that the area or value of the Owner's land bears to the total area or value of developable land within the ODP area.

10.0 Pre-funding of Common Infrastructure Works

- 10.1 Where an owner within an ODP area agrees in writing with Council to an estimated cost to pre-fund some Common Infrastructure Works, the Owner may claim only a refund of the actual cost less the owner's prescribed contribution in accordance with Clause 9.1 together with interest on the claimed amount.
- 10.2 Where the Owner seeks a refund, the Owner shall lodge a formal claim with the Council which may accept or not accept the claim. Any dispute shall be referred to the Arbitration in accordance with Clause 18
- 10.3 Where the Council accepts a claim, Council shall record in the ODP Trust Accounts the extent of the claim and allocate that portion of the Common Infrastructure Costs as prescribed by the Scheme against the Owner's account with the balance being recorded as a Common Infrastructure Cost and shall be dealt with in the same manner as if the debt had been incurred directly by the ODP.
- 10.4 A pre-funding Owner shall be refunded monies recorded by Council as a Common Infrastructure Cost after Council has received sufficient contributions from other Owners towards the Common Infrastructure Costs credited to the Trust Account(s). Such a payment shall include principal and interest as determined by Council. The interest payable shall be the average of the interest payable on loans raised by the Council for Common Infrastructure and in the event that the Council has not raised loans, then the interest rate will be the 30 day deposit rate for fixed term investments prescribed by Council's bank (or other accredited commercial banking corporations nominated by Council) applied during the period the advance is not recouped.

11.0 Cost Contribution for Primary School Sites

- 11.1 Pro-rata contribution for primary school sites is to be provided by the Owner to the Education Department of Western Australia upon residential subdivision or development of land within the ODP area.

12.0 Council's Powers

- 12.1 The Council has, for the purposes of carrying out or contracting with any person for the carrying out of Common Infrastructure Works, and for the purposes of implementing the provisions of this Schedule (but subject to the provision of any other applicable law), the rights and obligations of an Owner, and, without limitation, has the following powers—
- (a) power to enter into contracts for the purposes of this Schedule and any relevant Attachment;
 - (b) power to undertake the following—
 - (i) acquire land within the ODP area for the purposes of securing any objective of the provisions of the Eleventh Schedule;
 - (ii) deal with or dispose of any land that the Council owns within the ODP area or which it acquires pursuant to the provisions of the Eleventh Schedule in accordance with the powers conferred upon it and for that purpose may make such agreements with any other Owner or person or body whatsoever as it sees fit; and
 - (c) power to enter into any agreement with any Owner, occupier or other person having an interest within or outside the ODP area for the purposes of securing any of the objectives herein.

13.0 Establishment of Trust Accounts

- 13.1 The Council shall establish and maintain interest bearing Trust Accounts for each ODP area and for any sub-areas within an ODP area. All interest earned in a Trust Account shall be accrued in such Trust Account.
- 13.2 The Trust Accounts shall be debited with Common Infrastructure Costs and credited with Common Infrastructure Cost Contributions.
- 13.3 Moneys borrowed by the Council for ODP purposes shall be repaid to the Council including interest and principal, out of the relevant Trust Account.
- 13.4 The Council is to provide to every Owner an audited annual statement of accounts for the ODP area as soon as practicable after the audited annual statement of accounts becomes available.

14.0 Liability for Cost Contributions

- 14.1 An Owner's liability to pay the Owner's Cost Contribution to the Council arises on the earlier of—
- (a) the Council confirming to the Commission that conditions of subdivision approval supervised by the Council and imposed on an application to subdivide the owner's land within the ODP have been complied with;
 - (b) prior to the Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the owner's land within the ODP;
 - (c) at the time of carrying out any development or commencing any new or extended use on the Owner's land within the ODP;
 - (d) at the time of applying to the Council or Commission for approval of any new or extended use, or any other development on the owner's land within the ODP area; or
 - (e) on the expiry of the Outline Development Plan.

15.0 Collection and Enforcement

- 15.1 (a) The Owner, with the agreement of the Council, may pay the Owner's Cost Contribution by—
- (i) cheque or cash;
 - (ii) transferring to the Council land to the value of the Cost Contribution;
 - (iii) some other method acceptable to the Council; or
 - (iv) any combination of these methods.
- (b) The Owner, with the agreement of the Council, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner as agreed with the Council.
- (c) The Owner, with the agreement of the Council, may defer payment of the Owner's Costs Contribution and may secure the payment to the Council of any deferred payment in such manner as the Council may in its discretion decide.
- 15.2 (a) The amount of any Cost Contribution for which an owner is liable under Clause 15.1, but has not paid, is a charge on the owner's land to which the Cost Contribution relates, and the Council may lodge a caveat against the Owner's title to that land.
- (b) The Council may, at the Owner's expense and subject to such other conditions as the Council thinks fit, withdraw a caveat lodged under Clause 15.2 (a) to permit dealing and then relodge the caveat to prevent further dealings.
- (c) If the Cost Contribution is paid in full, and if requested to do so by the Owner, the Council may, at the expense of the Owner, withdraw any caveat lodged in accordance with Clause 15.2

- 15.3 If there is a dispute between the Council and any Owner in relation to the amount of a Common Infrastructure Costs, that dispute shall be referred to Arbitration in accordance with Clause 18. Where an Common Infrastructure Cost is determined by Arbitration to be different from that calculated and adopted by the Council at any time, the Council shall adjust Common Infrastructure Costs so that they conform to such determination.
- 15.4 Interest shall be payable on any overdue Common Infrastructure Costs at the rate payable from time to time on judgement debts as determined pursuant to Section 142 of the *Supreme Court Act 1935*. Interest shall become payable from the date of the Common Infrastructure Costs became due until the date of payment unless the Council and the Owners agree to suspend or waive interest.

16.0 Shortfall or Excess in Infrastructure Cost Contributions

- 16.1 If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular ODP area, the Council may—
- (a) make good the shortfall from its municipal fund; or
 - (b) raise loans or borrow from a financial institution,
- but nothing in this Clause restricts the right or power of the Council to impose a differential rate to a specified ODP area in that regard.
- 16.2 If there is an excess in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular ODP area, the Council is to use the excess funds for the provision of additional facilities in that ODP area.
- 16.3 If it is necessary for the purpose of this Clause to ascertain the value of any land, such value shall be determined by a Licensed Valuer appointed by the Council.

17.0 Valuation

- 17.1 If any Owner objects to a valuation made by the Valuer, the Owner may give notice to the Council requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value.
- 17.2 If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined under Clause 17.5.
- 17.3 (a) At the request of the Council or the Owner, the Value placed upon the land of an Owner may be revised from time to time by a Valuer.
- (b) The Valuer may—
- (i) reconsider the Values placed on other land in the ODP area; and
 - (ii) make such revisions as considered just and equitable to those Values if the Valuer considers this is necessary as a result of a re-valuation made under Clause 17.1.
- 17.4 The date of valuation is the date that the Owner's liability to pay the Owner's Cost Contribution to the Council arises under Clause 14, or such other date as is agreed between the Council and the Owner.
- 17.5 (a) Where there is a dispute or difference between the Council and the Owner regarding a Value, the dispute or difference is to be resolved as follows—
- (i) by any method agreed upon by the Council and the Owner; or
 - (ii) if the Council and the Owner cannot agree, by arbitration in accordance with the *Commercial Arbitration Act 1985*.
- (b) In any case, mediation of the dispute is to be attempted without prejudice to the rights of either the Council or the Owner.

18.0 Arbitration of Disputes

Subject to Clause 17, any dispute between any Owner and the Council in connection with the Cost Contribution required to be made by an Owner under this Schedule and relevant Attachment is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.

P. M. MORRIS, Mayor.
S. HOLTBY, Chief Executive Officer.

POLICE

PE501

POLICE ACT 1892 POLICE AUCTION

Under the provisions of the Police Act 1892, property forfeited to the Crown will be sold by Public Auction at Roebourne Police Station on Saturday 17 June 2000, at 9.30 am.

The auction will be conducted by Judith Wright.

Holden Commodore Sedan 1990. Unregistered.

B. MATTHEWS, Commissioner of Police,
West Australian Police Service.

RACING, GAMING AND LIQUOR

RA401**LIQUOR LICENSING ACT 1988**

SUMMARY OF LIQUOR LICENSING APPLICATIONS

The following is a summary of applications received under the Liquor Licensing Act 1988 and required to be advertised. Any person wishing to obtain more details about any application, or about the objection process, should contact the Liquor Licensing Division, 1st Floor, Hyatt Centre, 87 Adelaide Terrace, Perth, Telephone: (08) 9425 1888, or consult a solicitor or relevant industry organisation.

App. No.	Applicant	Nature of Application	Last Date for Objections
APPLICATIONS FOR THE GRANT OF A LICENCE			
7810	Joseph Bruni	Application for the grant of a Restaurant Licence in respect of premises situated in Morley and known as Fomarina Cafe.	2/7/2000
7811	Peter John Robertson and Leslie Dawn Robertson	Application for the grant of a Restaurant Licence in respect of premises situated in Dalwallinu and known as Dalwallinu Wheatland Motel.	5/7/2000
APPLICATIONS FOR EXTENDED TRADING PERMITS—ONGOING EXTENDED HOURS			
4662	Jack Corporation Pty Ltd	Application for the grant of an Extended Trading Permit—Ongoing Extended Hours, in respect of premises situated in Victoria Park East and known as The Liars Saloon.	26/6/2000
4602	Mitchell James Holdings Pty Ltd	Application for the grant of an Extended Trading Permit—Ongoing Extended Hours, in respect of premises situated in Inglewood and known as Civic Hotel.	23/6/2000

This notice is published under section 67(5) of the Liquor Licensing Act 1988.

HUGH HIGHMAN, A/g Director of Liquor Licensing.

RAILWAYS

RB401**GOVERNMENT RAILWAYS ACT 1904**

WESTERN AUSTRALIAN GOVERNMENT RAILWAYS

Railways Working Account for quarter ended 1 April 2000, (as required by section 59 of the Government Railways Act).

1. Revenue and Expenditure	\$'000
Revenue	95,496
Expenditure	92,192
Surplus	3,304
2. Fixed Assets	\$'000
At cost less depreciation	1,294,694
(as at 1 April 2000)	

G. WAYNE JAMES, Acting Commissioner of Railways.

TRANSPORT

TR401

WESTERN AUSTRALIAN MARINE ACT 1982
CLOSURE OF NAVIGABLE WATERS
ESPERANCE BAY

Department of Transport,
 Fremantle WA, 9 June 2000.

ACTING pursuant to the powers conferred by Section 66 of the Western Australian Marine Act 1982, the Department of Transport hereby revokes Notice TR407 as published in the *Government Gazette* on 25 May 1999, relating to the Boating Prohibited Area within Esperance Bay.

MICHAEL LINLAY HARRIS, Acting, Director General of Transport.

TR402

WESTERN AUSTRALIAN MARINE ACT 1982
CLOSURE OF NAVIGABLE WATERS
ESPERANCE BAY

Department of Transport,
 Fremantle WA, 9 June 2000.

ACTING pursuant to the powers conferred by Section 66 of the Western Australian Marine Act 1982, the Department of Transport closes the following waters to navigation by all craft until further notice—

Esperance Bay:

946 - Esperance Bay - All those waters of Esperance Bay contained within an area commencing at a point on the foreshore 40 metres north of the town boat ramp, thence on a bearing of 080 degrees true to a point, 33° 51.865' S, 121° 53.630' E, thence on a bearing of 020 degrees true to a point, 33° 51.733' S, 121° 53.690' E, located at the end of the groyne positioned at the base of James Street (all co-ordinates based on AGD84).

MICHAEL LINLAY HARRIS, Acting, Director General of Transport.

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:	Busselton Water Board
Classification:	Operating Licence, Water Supply Service
Term of Licence:	Up to and including 1 October 2021
Amendment:	Substitution of a new licence for an existing licence
Area Covered:	Busselton Operating Area (Potable Water Supply Services) Plan No. OWR-OA-085/2B
Inspection of Licence:	Office of Water Regulation 6 th Floor 197 St George's Terrace Perth WA 6000

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

WA402*

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:	Nilgin Service Company Limited
Classification:	Operating Licence—Potable Water Supply Services
Term of Licence:	23 March 1999 to 01 January 2004

Amendment: Substitution of new licence for existing licence
Area Covered: Nilgin Operating Area (Potable Water Supply Services)
Plan No. OWR-OA-198B
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

ZZ101

PUBLIC TRUSTEE ACT 1941

Notice is hereby given that pursuant to Section 14 of the Public Trustee Act 1941 and amendments the Public Trustee has elected to administer the estates of the undermentioned deceased persons.

Dated at Perth the 2nd day of June 2000.

A. R. McLAREN,
Public Trustee,
565 Hay Street,
PERTH WA 6000.

Name of Deceased; Address; Date of Death; Date Election Filed.

Harris, Richard Bruce; Coogee; 29/3/00; 22/5/00.
(DEC 326856 DC4)

Do Valle, Rui Teixeira Morais; Lynwood; 15/6/99; 17/5/00.
(DEC 320410 DC4)

Turner, William Charles; Midland; 29/4/00; 23/5/00.
(DEC 326798 DC4)

Van Der Meulen, Theodora Wilhelmina; Bayswater; 22/2/00; 26/5/00.
(DEC 326560 DL4)

Jordan, Alma Lorna; Bentley; 7/4/00; 30/5/00.
(DEC 326949 DL4)

Steward, Violet Rosannah; Subiaco; 1/10/99; 30/5/00.
(DEC 323065 DP4)

Thomas, Dorothy Eunice; Melville; 22/3/00; 17/5/00.
(DEC 326698 DC4)

ZZ102

TRUSTEES ACT 1962

NOTICE TO CREDITORS AND CLAIMANTS

Creditors and other persons having claims (to which Section 63 of the Trustees Act relates) in respect of the Estates of the undermentioned deceased persons are required to send particulars of their claims to me on or before the 10th July 2000, after which date I may convey or distribute the assets, having regard only to the claims of which I then have notice.

Beresford, Kathleen May, late of 37 Burwood Road, Balcatta, formerly of 9 Hurlingham Road, South Perth, died 15.05.2000. (DEC 327342 DP3)

Chapman, Martyn John, late of 3 Rails Crescent, Wungong, died 11.05.2000. (DEC 327337 DC4)

Faulkner, Albert Arthur, late of 30 Karimba Street, Wanneroo, died 31.05.2000. (DEC 327381 DG1)

Moses, Douglas Western, late of Nazareth House, Geraldton, died 04.05.2000. (DEC 327338 DG3)

Oliver, Jean, late of Craigwood Nursing Home, 29 Gardner Street, Como, formerly of 1 Sutton Street, Harvey, died 07.04.2000. (DEC 327363 DL4)

Power, John Joseph Anthony, late of 4 Grosvenor Road, Bayswater, died 17.04.2000. (DEC 327251 DG4)

Thomas, Joseph Henry, late of Hilltop Lodge, Hillview Terrace, Rowethorpe, Bentley, died 18.04.2000. (DEC 326650 DG4)

ANTONINA ROSE McLAREN,
Public Trustee,
Public Trust Office,
565 Hay Street,
Perth WA 6000.
Telephone: 9222 6777.

ZZ201**TRUSTEES ACT 1962**

NOTICE TO CREDITORS AND CLAIMANTS

Evelyn May Barnes, late of 15 Barker Avenue, Como Retired Machinist deceased.

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 7 November 1999 are required by the Executrices of care of Stables Scott, 8 St George's Terrace, Perth to send particulars of their claims to them by no later than 10 July 2000, after which date the Executrices may convey or distribute the assets having regard only to the claims of which they then have notice.

ZZ202**TRUSTEES ACT 1962**

NOTICE TO CREDITORS AND CLAIMANTS

Claims against the estate of Barbara Harris, late of Gwen Hardie Lodge, Mermaid Avenue, Emu Point, Western Australia, should be lodged with the Executors, C/- P.O. Box 485, Albany, W.A. before 30.6.00 after which date the assets will be distributed having regard only to the claims received.

HAYNES ROBINSON.

ZZ203**TRUSTEES ACT 1962**

Alexander James Leithhead, late of 3 Mantua Crescent, Churchlands, Western Australia, Investor, deceased.

Creditors and other persons having claim (to which Section 63 of the Trustees Act 1962 relates) in respect of the abovenamed deceased who died on 1st of April 2000 are required by the executors, Cyril Desmond Tolson and Philip Frank Smily Ritchie, to send particulars of their claims to the executors C/- Tolson & Co., 12 St. George's Terrace, Perth WA 6000 within 1 month of the date of publication of this notice, after which date the executors may convey or distribute the assets having regard only to the claims of which they then have notice.

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