

WESTERN AUSTRALIAN GOVERNMENT Gazette

5281



PERTH, TUESDAY, 25 SEPTEMBER 2001 No. 194

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM
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The Western Australian *Government Gazette* is published by State Law Publisher for the State of Western Australia on Tuesday and Friday of each week unless disrupted by Public Holidays or unforeseen circumstances.

Special *Government Gazettes* containing notices of an urgent or particular nature are published periodically. The following guidelines should be followed to ensure publication in the *Government Gazette*.

- Material submitted to the Executive Council prior to gazettal will require a copy of the signed Executive Council Minute Paper and in some cases the Parliamentary Counsel's Certificate.
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Postal address:

State Law Publisher
P.O. Box 8448,
Perth Business Centre 6849

Delivery address:

State Law Publisher
Ground Floor,
10 William St. Perth, 6000
Telephone: 9321 7688 Fax: 9321 7536

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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 —

FISHERIES

FI301*

Fish Resources Management Act 1994

Fish Resources Management Amendment Regulations (No. 7) 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Fish Resources Management Amendment Regulations (No. 7) 2001*.

2. Schedule 1 amended

Schedule 1 Part 3 to the *Fish Resources Management Regulations 1995** is amended as follows:

- (a) item 3(23) is amended by deleting “758.00” in each place where it occurs and inserting instead —
“ 728.00 ”;
- (b) item 3(25) is amended by deleting “481.00” and inserting instead —
“ 802.00 ”.

[* Reprinted as at 2 March 2001.
For amendments to 10 September 2001 see Gazette
27 March, 29 June and 13 July 2001.]

By Command of the Governor,

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

HEALTH

HE301*

Nurses Act 1992

Nurses Amendment Rules (No. 2) 2001

Made by the Nurses Board of Western Australia and approved by the Governor in Executive Council.

1. Citation

These rules may be cited as the *Nurses Amendment Rules (No. 2) 2001*.

2. Schedule 2 replaced

Schedule 2 to the *Nurses Rules 1993** is repealed and the following Schedule is inserted instead —

“

Schedule 2 — Fees

[r. 7, 9, 14, 16, 17,
19, 21, 38 and 40]

Item	Fees \$
1. Application for registration under —	
section 22(1) or (3)	85.00
section 24	240.00
section 25	85.00
2. Registration under —	
section 22(1) or (3)	85.00
section 24	240.00
section 25	85.00
section 26	85.00
section 27	85.00
3. Renewal of registration under —	
section 22(1) or (3) —	
for one year	63.00
for 3 years	170.00
section 24	145.00
section 25	63.00

4.	Application for restoration of name to the register under —	
	section 32(3) —	
	natural person	23.00
	body corporate	95.00
	section 42(2) —	
	natural person	85.00
	body corporate	240.00
5.	Application for restoration of name to the register under section 43(2) —	
	natural person	85.00
	body corporate	240.00
6.	Inspection of register	15.00
7.	Application for certificate verifying registration	20.00
8.	Examination fees —	
	Division 1 of the register	80.00
	Division 2 of the register	60.00
9.	Miscellaneous fees —	
	fee for duplicate certificate	12.00
	fee for duplicate badge	12.00

”.

[* *Published in Gazette 29 October, p. 5843-77.*
For amendments to 13 July 2001 see 2000 Index to Legislation of Western Australia, Table 4, p. 237-8, and Gazette 4 May 2001.]

Made by the Nurses Board of Western Australia,
 by resolution dated the 20th day of July 2001.

BRONWYN ELIZABETH JONES,
 Presiding Member.

L.S.

DIANE ESME TWIGG,
 Member.

Approved by the Governor,

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

HE302*

Radiation Safety Act 1975

**Radiation Safety (General) Amendment
Regulations 2001**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Radiation Safety (General) Amendment Regulations 2001*.

2. The regulations amended

The amendments in these regulations are to the *Radiation Safety (General) Regulations 1983**.

[* Reprinted as at 24 March 2000.]

3. Regulation 34 amended

Regulation 34(1) is amended as follows:

- (a) after paragraph (c) by deleting “and”;
- (b) after paragraph (d) by deleting the full stop and inserting —

“

; and

- (e) a dentist who refers a patient to a radiologist at approved premises for plain radiography of the chest where the dentist believes that the patient may have inhaled or swallowed a foreign body during, or as a result of, dental treatment.

”.

4. Regulation 38 amended and transitional

- (1) Regulation 38(1)(c) is amended by deleting “dental ancillary qualifications” and inserting instead —

“ an approved dental ancillary qualification ”.

- (2) Regulation 38(1)(d) is amended by deleting “dental ancillary qualifications” and inserting instead —

“ an approved dental ancillary qualification ”.

- (3) Until the council approves a dental ancillary qualification under regulation 38(1)(c) and (d) of the *Radiation Safety (General) Regulations 1983* as amended by this regulation, all dental ancillary qualifications are taken to be approved dental ancillary qualifications for the purposes of that regulation.
- (4) Regulation 38(2)(d) is amended by deleting “12” and inserting instead —
“ 36 ”.

5. Regulation 53B amended

Regulation 53B(2) is repealed and the following subregulations are inserted instead —

“

- (2) Despite subregulation (1), a person may use or possess a laser pointer if that person —
 - (a) is acting in the performance of his or her functions as a member of the Police Force, or a special constable appointed under Part III of the *Police Act 1892*;
 - (b) is carrying out scientific research, scientific work or scientific observations, whether or not for remuneration;
 - (c) is the lawful user of a firearm, within the meaning of section 4 of the *Firearms Act 1973*, and the laser pointer is part of a laser assisted sight for the firearm; or
 - (d) has the written approval of the Council to do so.
- (3) Despite subregulation (1), a person may manufacture or sell a laser pointer if the person believes, on reasonable grounds, that the laser pointer is for the use of a person referred to in subregulation (2).
- (4) In this regulation —
“**laser pointer**” means a laser for —
 - (a) pointing at objects or images; or
 - (b) recreation or amusement.

”.

By Command of the Governor,

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

HE303*

Hospitals and Health Services Act 1927

Hospitals (Services Charges) Amendment Regulations (No. 3) 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Hospitals (Services Charges) Amendment Regulations (No. 3) 2001*.

2. Schedule amended

The Schedule to the *Hospitals (Services Charges) Regulations 1984** is amended as follows:

- (a) in Part I item 1(b)(i) by deleting “\$395.00” and inserting instead —
“ \$405.00 ”;
- (b) in Part I item 1(b)(ii) by deleting “\$222.00” and inserting instead —
“ \$235.00 ”;
- (c) in Part I item 1(e) by deleting “\$765.00” and inserting instead —
“ \$686.00 ”;
- (d) in Part II paragraph (b) by deleting “\$92.00” and inserting instead —
“ \$94.00 ”;
- (e) in Part III item 1(b) by deleting “\$92.00” and inserting instead —
“ \$94.00 ”;
- (f) in Part IV paragraph (b) by deleting “\$162.00” and inserting instead —
“ \$166.00 ”;
- (g) in Part IV paragraph (d) by deleting “\$513.00” and inserting instead —
“ \$520.00 ”.

[* Reprinted as at 26 November 1999.

For amendments to 8 August 2001 see 2000 Index to Legislation of Western Australia, Table 4, p. 172, and Gazette 16 and 30 January and 4 May 2001.]

By Command of the Governor,

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

HE304*

Hospitals and Health Services Act 1927

Hospitals (Services Charges) Regulations 1984

Hospitals (Services Charges for Compensable Patients) Determination 2001

Made by the Minister for Health under section 37(3)(af) of the Act and regulation 5(2) of the regulations.

1. Citation

This determination may be cited as the *Hospitals (Services Charges for Compensable Patients) Determination 2001*.

2. Interpretation

Unless the contrary intention appears, a word or phrase to which a meaning is attributed by, or by virtue of its use in the *Hospitals (Services Charges) Regulations 1984* has the same meaning when it is used in this determination.

3. Charges payable in respect of compensable patients

- (1) Except as provided in subclause (2), the charges specified in Schedule 1 are the charges payable in respect of services rendered by, in or at a hospital in respect of—
 - (a) compensable in-patients, compensable day patients and compensable out-patients; and
 - (b) compensable same day patients (other than services rendered by, in or at a day hospital, nursing home or nursing post).
- (2) The charges specified in Schedule 1 do not apply to the supply of surgically implanted prostheses subject to a determination made under regulation 5(2)(c) of the *Hospitals (Services Charges) Regulations 1984*.

4. Revocation

The Hospitals (Services Charges for Compensable Patients) Determination 1994 is revoked.

Schedule 1 — Services charges for compensable patients

[cl. 3]

Division 1 — Compensable in-patients

- | | | |
|----|--|-----------------|
| 1. | Accommodation, maintenance, nursing care and other services in a hospital bed, other than as provided in items 2 and 4 | \$702 per day |
| 2. | Accommodation, maintenance, nursing care and other services in a hospital bed for a patient in respect of whose care and treatment the <i>Motor Vehicle (Third Party Insurance) Act 1943</i> applies or prima facie appears to apply | \$666 per day |
| 3. | Accommodation, maintenance, nursing care and other services in a nursing home bed | \$166 per day |
| 4. | Ventilator dependent compensable in-patient with tracheostomy requiring 24 hours individual care | \$1 620 per day |

Division 2 — Compensable day patients

- | | | |
|----|---|--------------|
| 5. | Accommodation, maintenance and other services | \$94 per day |
|----|---|--------------|

Division 3 — Compensable out-patients

- | | | |
|----|--|------|
| 6. | For pathological service — for each request to a separate department of a laboratory | \$94 |
| 7. | For radiological service — for each item of service | \$94 |
| 8. | Subject to item 9, for drugs and medications — for each item | \$15 |
| 9. | For each other individual service (with any drugs and medications supplied at the time of the initial service being treated as included in that service) | \$94 |

Division 4 — Compensable same day patients

- | | | |
|-----|--|---------------|
| 10. | In hospitals, other than day hospitals, nursing homes and nursing posts — | |
| | (a) for a patient in respect of whose care and treatment the <i>Motor Vehicle (Third Party Insurance) Act 1943</i> applies or prima facie appears to apply | \$508 per day |
| | (b) for any other patient | \$551 per day |

JUSTICE

JU301*

Australia Act 1986 (United Kingdom)

Australia Act 1986 (Commonwealth)

Letters Patent Relating to the Office of Governor of the State
of Western Australia**Queen's Counsel (Procedure for Appointment)
Repeal Regulations 2001**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Queen's Counsel (Procedure for Appointment) Repeal Regulations 2001*.

2. Repeal

The regulations for the appointment of Queen's Counsel made on 19 September 1900 and published in the *Gazette* on 5 October 1900, as amended from time to time after that publication, are repealed.

By Command of the Governor,

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

LAND ADMINISTRATION

LA301*

Strata Titles Act 1985

**Strata Titles General Amendment
Regulations (No. 2) 2001**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Strata Titles General Amendment Regulations (No. 2) 2001*.

2. Commencement

These regulations come into operation on 27 September 2001.

3. Schedule 1 amended

Schedule 1 to the *Strata Titles General Regulations 1996** is amended by deleting item 3 and inserting the following item instead —

“

3. The fees payable to the Commission for a certificate of approval to a strata plan are to be in accordance with the following scale —

Number of allotments	Application fee (\$)
1	130
2	155
3	170
4	200
5	235
6-10	280
11-15	315
16-20	360
21-25	415
26-30	480
31-35	540
36-40	600
41-45	660
46-50	725
51-55	775
56-60	845
61-65	905
66-70	970
71-75	1 020
76-80	1 090
81-85	1 145
86-90	1 215
91-95	1 265
96-100	1 340
101-125	1 400
126-150	1 490
151-175	1 555
176-200	1 630
201-225	1 755
226-250	1 975
251-300	2 355
over 300	2 765

”

[* Reprinted as at 21 July 2000.

For amendments to 29 August 2001 see 2000 Index to Legislation of Western Australia, Table 4, p. 342, and Gazette 13 July 2001.]

By Command of the Governor,

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

LOCAL GOVERNMENT

LG301

LOCAL GOVERNMENT ACT 1995*City of Melville*

That in pursuance of the powers conferred upon it by the Local Government Act 1995 and all other powers enabling it, the council of the above local government records having resolved on 21 August 2001 to make the following amendment to the local law relating to parking facilities gazetted on 19 July 2000 (referred to in this amendment as “the local law”—

Amend the local law by inserting a new part 6—residential parking permits as follows—

6.1 residential parking permit

1. Subject to subclause (2), two (2) residential parking permits may be issued for each residential lot fronting the thoroughfare.
2. A person may apply for an additional residential parking permit for each residential lot fronting the thoroughfare.
3. An application for parking permit shall be made in the form determined by the local government.
4. The local government may in respect of an application for a permit for the purpose of subclause (1) and (2)—
 - (a) approve it;
 - (b) approve it subject to such conditions as the local government considers appropriate; or
 - (c) refuse to approve it.
5. Where the local government makes a decision under paragraph (a) or (b) of subclause (4), it shall issue a permit in the form determined by it to the person who applied for the permit.
6. A permit issued for the purpose of subclause (1) or subclause (2) will be an annual permit, issued for a period not exceeding one (1) year and expiring on 31 December in the year of issue.
7. Every permit issued for the purpose of subclause (1) or subclause (2) is to specify—
 - (a) a permit number;
 - (b) the name of the thoroughfare to which the exemption granted by clause 6.2 applies; and
 - (c) the date on which that permit expires.

6.2 Conditions of exemption for residential parking permits—

Where parking of a vehicle on any part of a thoroughfare within the district is prohibited for more than a specified time, the holder of a permit issued under clause 6.1 is exempted from such prohibitions if—

1. the vehicle is parked on a thoroughfare or portions of a thoroughfare specified in the permit, but not adjacent to retail premises where the parking of all vehicles is subject to a time restriction.
2. the permit is displayed in the vehicle in a prominent position.
3. the period in respect of which the permit was issued has not expired.
4. the holder of the permit at the time of parking the vehicle still resides at the residential lot in respect of which the permit was issued.

Dated this 29th day of August 2001.

The Common Seal of the City of Melville was hereunto affixed in the presence of—

KATIE MAIR, Mayor.
JOHN McNALLY, Chief Executive Officer.

PLANNING AND INFRASTRUCTURE

PI301*

Town Planning and Development Act 1928

Town Planning Fees Notice 2001

Made by the Minister under section 29 of the Act.

1. Citation

This notice may be cited as the *Town Planning Fees Notice 2001*.

2. Commencement

The fees set out in Schedule 1 are prescribed as the fees to be charged on and from 27 September 2001 in respect of things referred to in the Schedule.

Note: The fees set out in this notice supersede those set out in the *Town Planning Fees Notice 1999*.

Schedule 1 — Fees

[cl. 2]

1. For the approval of subdivision or re-subdivision according to the following scale:

Number of Allotments	On lodgment of Application \$	On approval of each survey document \$
1	325	50
2	330	60
3	335	80
4	340	95
5	345	125
6-10	375	140
11-15	375	160
16-20	375	185
21-25	425	215
26-30	425	245
31-35	425	280
36-40	490	320
41-45	490	360
46-50	490	400

Number of Allotments	On lodgment of Application \$	On approval of each survey document \$
51-55	500	440
56-60	500	480
61-65	500	520
66-70	515	560
71-75	515	600
Over 75	515 + \$5 per lot in excess of 75 lots	600 + \$5 per lot in excess of 75 lots
		\$
2.	For approval of every transfer, conveyance, lease or mortgage (regulation 8(2) of the <i>Town Planning and Development (Subdivisions) Regulations 2000</i>)	43.00
3.	On application to the Commission for a class of lease or licence to use or occupy, or to be approved, under section 20(1c) of the Act	43.00
	And for each lease or licence proposed	6.00

No application or approval fees are payable on lots to be shown on a plan or diagram as being reserved for the purpose of a pedestrian accessway, right of way, truncation, road widening, or reserve for drainage or recreation.

ALANNAH MacTIERNAN, Minister for
Planning and Infrastructure.

PI302*

Town Planning and Development Act 1928

Town Planning Appeal Tribunal Amendment Rules 2001

Made by the Town Planning Appeal Tribunal under section 55(2) of the Act.

1. Citation

These rules may be cited as the *Town Planning Appeal Tribunal Amendment Rules 2001*.

2. Commencement

These rules come into operation on 27 September 2001.

3. Rule 5 amended

Rule 5(2) of the *Town Planning Appeal Tribunal Rules 1979** is amended by deleting “\$250” and inserting instead —

“ \$265 ”.

[* *Published in Gazette 25 June 1979, p. 1761-66.*

For amendments to 27 August 2001 see Index to Legislation of Western Australia, Table 4, p. 357.]

L. A. STEIN, Chairman.

C. F. PORTER, Member.

LLOYD GRAHAM, Member.

PI303*

Town Planning and Development Act 1928

Town Planning and Development Act (Appeal) Amendment Regulations 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Town Planning and Development Act (Appeal) Amendment Regulations 2001*.

2. Commencement

These regulations come into operation on 27 September 2001.

3. Regulation 4 amended

Regulation 4(3) of the *Town Planning and Development Act (Appeal) Regulations 1979** is amended by deleting “\$250.” and inserting instead —

“ \$265. ”.

[* *Reprinted as at 7 July 2000.*]

By Command of the Governor,

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

— PART 2 —

AGRICULTURE

AG401

MARKETING OF EGGS ACT 1945Department of Agriculture,
South Perth.

This Governor is pleased to appoint pursuant to Section 7(3) (c) of the Marketing of Eggs Act 1945, Lindsay John Bell as an elected producer member of the Western Australian Egg Marketing Board for a term of office expiring on 3 August 2004.

KIM CHANCE MLC, Minister for Agriculture, Forestry and Fisheries.

CONSUMER AND EMPLOYMENT PROTECTION

CE401

CHARITABLE COLLECTIONS ACT 1946

I, John Kobelke being the Minister administering the Charitable Collections Act 1946, acting in the exercise of the powers conferred by subsection (3) of section 12 of that Act, hereby give notice that I have revoked the licence of the organisations listed below—

- The Australian Youth Foundation Incorporated
- Broken Chains Ministry WA Inc
- Bunbury Regional Hospital Comforts Fund
- Collie Hospital Comforts Fund
- The Free Presbyterian Church of Western Australia Inc
- Multiple Birth Association of W.A. (Inc)
- Northampton Homes for the Aged

Dated this 14th day of September 2001.

JOHN KOBELKE MLA, Minister for Consumer and
Employment Protection.

LOCAL GOVERNMENT

LG401

BUSHFIRES ACT 1954*City of Rockingham***APPOINTMENT OF OFFICERS**

It is hereby notified for public information that in accordance with Section 38(1) of the Act, Council of the City of Rockingham has appointed the following officers—

Chief Bush Fire Control Officer—Mr Robert Murphy

Deputy Chief Bush Fire Control Officer—Mr Graham Deane

Fire Control Officers—

- Mr Bruce Horton
- Mr Terence Peckover
- Mr Anthony Vickery-Howe
- Mr Peter Oliver
- Mr James Charters
- Mr Greg Whip
- Mr Colin Curry

All previous appointments are hereby cancelled.

G. G. HOLLAND, Chief Executive Officer.

LG402***SHIRE OF BROOMEHILL**

Appointment of Broomehill Brigade/Dual Fire Control Officers

I hereby notify the public that as of 18 September 2001 the following Dual Bush Fire Control Officers from Kojonup, Katanning, Gnowangerup and Tambellup are appointed—

Kojonup Dual FCO	Katanning Dual FCO	Gnowangerup Dual FCO	Tambellup Dual FCO
B. Cooper	M. Martin	M. Lance	N. Nazzari
R. Fryer-Smith	I. Coleman	J. Kiddle	B. Taylor
A. Goodall	P. Rae		
	T. Blake		

All previous appointments are hereby cancelled.

PETER FITZGERALD, Chief Executive Officer.

LG403***DOG ACT 1976****SHIRE OF BROOMEHILL**

It is hereby notified for public information that the following persons have been appointed as dog Registration Officers under the provision of the Dog Act 1976—

Peter Fitzgerald
 Karina Taylor
 Rebecca Cooper
 Terry Crosby
 Alan Dunn
 Peter Wood

The following person have been appointed as authorised Control Officers under the provision of the Dog Act 1976—

Peter Fitzgerald
 Peter Wood
 Alan Dunn

All other appointments are hereby cancelled.

PETER FITZGERALD, Chief Executive Officer.

LG404***SHIRE OF BROOMEHILL**

Authorised Officer

It is hereby notified for public information that Mr Peter WOOD and Mr Alan DUNN have been appointed Rangers of the Shire of Broomehill and is duly appointed as Authorised Officer for the following Acts and Local Laws—

Dog Act 1976
 Bush Fires Act 1954
 Caravan Parks and Camping Grounds Act 1995
 Local Government (Miscellaneous Provisions) Act 1960
 Health Local Laws 2000
 Pest Plant Local Laws
 Local Laws Relating to Fencing 2000
 Cemeteries Local Law 2000
 Local Government Property Local Law
 Dogs Local Law 2000

All previous appointments are hereby cancelled.

PETER FITZGERALD, Chief Executive Officer.

LG405*

BUSH FIRES ACT 1954*Shire of Broomehill***BUSH FIRE CONTROL OFFICERS**

It is hereby advised that the following have been appointed as Bush Fire Control Officers for the Shire of Broomehill.

Chief Bush Fire Control Officer—R. Schleuter

Bush Fire Control Officers—

K. Crosby	G. Paganoni	B. Thompson	D. Kempin
D. Meyer	T. Altus	M. Anderson	A. Woithe
S. Witham	P. Guazzelli	B. Reid	I. Anderson
P. Bignell	P. Fitzgerald		

All previous appointments are hereby cancelled.

PETER FITZGERALD, Chief Executive Officer.

LG501*

BUSH FIRES ACT 1954*Town of Northam***FIREBREAK NOTICE 2001-2002**

To all Owners and/or Occupiers of Land in the Town of Northam

Burning Permits are required from 19th September to 31st October (inclusive)

Burning is prohibited between 1st November and 14th February

Burning Permits are required from 15th February to 29th March (inclusive)

Permits are free of charge and are available from the Northam Town Council Office, 298 Fitzgerald Street, Northam between 10:00am and 2:00pm Monday to Friday.

Before 14th November, or within fourteen (14) days of the date if you become an owner or occupier after that date, you are required to comply with the firebreaks and hazard reduction requirements set out below.

If you have any queries, please contact a Bush Fire Control Officer on 9622 1466.

FIREBREAKS AND HAZARD REDUCTION REQUIREMENTS**1. IN RESIDENTIAL AREAS**

- (a) Where the area of your land is 2,024 square metres or less—inflammable material on the land shall be reduced to a height not exceeding 100mm from the ground and all excess inflammable material removed from the whole of the land;
- (b) Where the area of your land exceeds 2,024 square metres in area—firebreaks at least four (4) metres wide must be cleared of all inflammable material immediately inside all external boundaries of the land and immediately surrounding all buildings situated on the land;
- (c) Firebreaks to a width of at least fifteen (15) metres around any fuel dump or liquid fuel container.

2. IN RURAL AREAS

- (a) Firebreaks at least four (4) metres in width immediately inside and along all external boundaries of the land;
- (b) Firebreaks at least four (4) metres in width within one hundred (100) metres of the perimeter of all buildings and/or haystacks or groups of buildings and or haystacks in such a manner as to completely encircle the buildings and/or haystacks;
- (c) Firebreaks of at least four (4) metres wide immediately inside all boundaries contiguous with any operational Railway Reserve.

Application must be made for and Council's approval granted before 29th October for any variations to the firebreaks and hazard reduction requirements. If permission is not granted by the Council or its duly authorised officer, then you must comply with the requirements.

Inspections of all properties will be carried out immediately after 14th November and detailed photographs taken as evidence of land which does not comply with these requirements—PENALTY UP TO \$1,000 FINE.

D. S. BURNETT, Chief Executive Officer.

LG502*

BUSH FIRES ACT 1954*Town of Kwinana***FIREBREAK NOTICE 2001—2002**

Notice to All Owners and/or Occupiers of Land in the Town of Kwinana

Pursuant to the powers contained in Section 33 of the above Act, you are hereby required on or before the 1st day of December, 2001 or within 14 days of the date of you becoming an Owner or an Occupier should this be after the 1st day of December, 2001, and thereafter up to and including the 31st day of March, 2002, to have firebreaks, as defined, clear of all inflammable material, in the position, of the width, height and for the period as specified hereunder:

1. Definitions

“Firebreaks”

- (i) Firebreaks are to be mineral earth.
- (ii) Maintained lawns are accepted in conjunction with or in lieu of mineral earth firebreaks under clause 2 A and around buildings under clause 2 B;

“Inflammable matter” includes all forms of vegetation both living and dead, and any other inflammable materials and combustible matter.

2. Firebreaks to be Cleared**A. TOWNSITE LAND—**

All land which is 3,000 square metres or less in area or which is zoned under the Town of Kwinana Town Planning Scheme No 2 as “Residential” or “Special Residential”.

Remove all inflammable matter from the whole of the land except living trees and shrubs, plants under cultivation and lawn.

B. ALL OTHER LAND WITHIN THE DISTRICT OF THE TOWN OF KWINANA—

- (i) Firebreaks of a minimum width and height of 3 metres are to be cleared immediately inside all external boundaries of the land. Maintained lawns are acceptable in conjunction with or in lieu of mineral earth firebreaks, provided that the same width and height requirements for a firebreak are maintained.
- (ii) Remove all inflammable matter except living trees, shrubs, plants under cultivation and lawns, to a minimum width of 3 metres and height of 3 metres immediately surrounding all buildings situated on the land;
- (iii) Firebreaks 3 metres in width and 3 metres in height are to be cleared immediately surrounding any place where inflammable liquids, chemicals and gas products are kept on the land.
- (iv) In addition to the requirements in (i), (ii) and (iii) above where the area of land exceeds 10 hectares, Council may require firebreaks of no less than 3 metres in width and 3 metres in height to be cleared so as to ensure that no area of land within firebreaks exceeds 10 hectares in area.

3. Additional Requirements

In addition to the requirements in clause 2 A and B, Council may, by notice in writing, require an owner or occupier to act as and when specified in the notice with respect to anything which is upon land and which in the opinion of Council is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire.

All firebreaks and fire prevention measures shall be in place on or before 1st December, 2001, and thereafter maintained clear of inflammable matter up to and including 31st March, 2002.

If the requirements of this Notice are carried out by burning, such burning must be in accordance with the relevant provision of the Bush Fire Act 1954.

4. Variation To Fire Prevention Measures

If for any reason an owner or occupier considers it impractical to clear firebreaks or comply with other fire protection measures in accordance with this Notice, the owner or occupier may apply in writing to the Council no later than 31 October in any year for a variation. If permission is not granted in writing by Council or its duly authorised officer, the owner or occupier must comply with the requirements of this Notice. Any variation granted by Council will apply only for the 2001/2002 season. A variation granted by Council shall only remain in force until 31 March, 2002.

5. Powers Of Council

Where an owner or occupier of land fails or neglects to comply with any requirement of this Notice within the time specified in this Notice, the Council may by its officers with such servants, workmen and contractors, vehicles and machinery as the officers deem necessary enter upon the land and do all such things as are necessary in this Notice and may recover the costs and expenses of doing so in a Court of competent jurisdiction from the owner or occupier of the land pursuant to the Act, in addition to any penalty which might be imposed.

6. General

Restricted Burning Time	1st October, 2001 to 30th November, 2001
Prohibited Burning Time	1st December, 2001 to 31st March, 2002
Restricted Burning Time	1st April, 2002 to 31st May, 2002

A permit is required to conduct a fuel reduction burn during the restricted period.

Permits can be obtained from local Fire Control Officers—

Wellard (except Homestead Ridge) & Casuarina—Don Johnston 9419 2186 or Morris Danks 9439 1399

Homestead Ridge—Ray Sousa, Chief Bush Fire Control, 9439 0221

Hope Valley, Mandogalup, Naval Base and Wandí—Steve Treeby 9410 1931 or Pat de san Miguel on 9439 2727

Kwinana Rangers on 9419 2222.

A permit will not automatically be issued upon application. Environmental and safety issues, plus alternative means of fuel reduction must be considered before a permit can be issued. Generally permits will not be issued in the town site.

No burning is permitted during the prohibited burning period.

Only gas BBQ's are permitted when the fire danger is very high or extreme.

7. Offences

A person who fails to comply with any provision of this Notice commits an offence and shall, upon conviction, be liable to a penalty as prescribed in the Bush Fires Act 1954.

By Order of the Council.

Dated: 14th August, 2001.

F. R. EDWARDS, Chief Executive Officer.

MINERALS AND PETROLEUM

MP401*

Commonwealth of Australia

PETROLEUM (SUBMERGED LANDS) ACT 1967

Notice of Renewal of Production Licences

PRODUCTION LICENCES Nos. WA-1-L, WA-2-L, WA-3-L, WA-4-L, WA-5-L and WA-6-L held by Woodside Energy Ltd, BHP Petroleum (North West Shelf) Pty Ltd, BP Developments Australia Pty Ltd, Shell Development (Australia) Proprietary Limited, Chevron Australia Pty Ltd and Japan Australia LNG (MIMI) Pty Ltd have been renewed to have effect for a period of twenty-one (21) years from 18 September 2001.

W. L. TINAPPLE, Director Petroleum Division.

MP402*

Commonwealth of Australia

PETROLEUM (SUBMERGED LANDS) ACT 1967

RETENTION LEASE NO. WA-11-R was determined on 13 September 2001 in favour of Production Licence WA-24-L granted to Shell Development (Australia) Proprietary Limited, BHP Petroleum (North West Shelf) Pty Ltd, Japan Australia LNG (MIMI) Pty Ltd, Chevron Asiatic Limited, BP Developments Australia Pty Ltd and Woodside Energy Pty Ltd.

W. L. TINAPPLE, Director Petroleum Division.

MP403*

Commonwealth of Australia

PETROLEUM (SUBMERGED LANDS) ACT 1967

Notice of Grant of Exploration Permit

EXPLORATION PERMIT NO. WA-312-P has been granted to Victoria Petroleum (WA-209P) Pty Ltd, Sun Resources NL and Pancontinental Oil & Gas NL to have effect for a period of six (6) years from 18 September 2001.

W. L. TINAPPLE, Director Petroleum Division.

PLANNING AND INFRASTRUCTURE

PI401*

TOWN PLANNING AND DEVELOPMENT ACT 1928
 TOWN PLANNING SCHEME AMENDMENT AVAILABLE FOR INSPECTION
CITY OF ARMADALE
 TOWN PLANNING SCHEME No. 2—AMENDMENT No. 143

Ref: 853/2/22/4 Pt 143

It is hereby notified for public information that the period in which to lodge submissions on the above Amendment No. 143 published at page 4372 dated 21 August 2001, has been extended up to and including 23 October 2001.

R. S. TAME, Chief Executive Officer.

PI501*

METROPOLITAN REGION TOWN PLANNING SCHEME ACT 1959
 METROPOLITAN REGION SCHEME AMENDMENT No. 1028/33
 SOUTH EAST DISTRICTS OMNIBUS (No. 5)
 CALL FOR PUBLIC SUBMISSIONS

The Western Australian Planning Commission intends to amend the Metropolitan Region Scheme for land in the Cities of Armadale, Belmont, Canning, and Gosnells, the Town of Victoria Park and the Shire of Serpentine-Jarrahdale and is seeking public comment.

The purpose of this amendment is to transfer land between various zones and reservations as detailed in the Commission's *Amendment Report*. This amendment contains 40 individual proposals.

The procedure for amending the Scheme, as set out in section 33 of the Metropolitan Region Town Planning Scheme Act, is to be used to advertise this proposal. Public submissions are invited and the amendment will eventually be put to Parliament for final approval. In accordance with the procedure in section 33, the Hon Minister for Planning and Infrastructure has approved the amendment for public display and for the calling of submissions.

Copies of the amending plans and detail plans showing the proposed changes to the zones and reservations of the Scheme, and the Commission's *Amendment Report* which explains the various proposals, will be available for public inspection from 23 July 2001 to 26 October 2001 at each of the following places—

- | | |
|--|---|
| <ul style="list-style-type: none"> • Ministry for Planning
1st Floor, Albert Facey House
469 Wellington Street
PERTH • J S Battye Library (LISWA)
Alexander Library Building
Francis Street
NORTHBRIDGE | Council Offices of the municipalities of— <ul style="list-style-type: none"> • City of Perth • City of Fremantle • City of Armadale • City of Belmont • City of Canning • City of Gosnells • Town of Victoria Park • Shire of Serpentine-Jarrahdale |
|--|---|

Any person who desires to make a submission either supporting, objecting or providing comment on any provisions of the proposed Amendment should do so on a Form 6A. This submission form is available on request from the display locations and is also contained in the explanatory *Amendment Report*.

Submissions must be lodged with the—

Secretary
 Western Australian Planning Commission
 469 Wellington Street
 PERTH WA 6000

on or before 5.00pm Friday 26 October 2001. Late submissions will not be considered.

PETER MELBIN, Secretary,
 Western Australian Planning Commission.

PI701*

TOWN PLANNING AND DEVELOPMENT ACT 1928
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME
Shire of Derby-West Kimberley
TOWN PLANNING SCHEME No. 5

Ref: 853/7/4/7

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 and Infrastructure approved the Shire of Derby-West Kimberley Town Planning Scheme No. 5 on 18 September 2001, the Scheme Text of which is published as a Schedule annexed hereto.

E. ARCHER, President.
J. THROSSELL, Chief Executive Officer.

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PART 1—PRELIMINARY

1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Derby-West Kimberley Town Planning Scheme No. 5 hereinafter referred to as '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 Derby-West Kimberley hereinafter referred to as 'the Council'.

1.3 SCHEME AREA

The Scheme applies to the whole of that area as shown on the Scheme Map by the solid black border, which is hereinafter referred to as the Scheme Area.

1.4 REVOCATION OF THE EXISTING SCHEME

The Shire of West Kimberley Town Planning Scheme No. 2 (Derby Townsite), as amended, which came into operation by publication in the *Government Gazette* on September 26, 1980, is hereby revoked.

1.5 CONTENTS OF THE SCHEME

The Scheme comprises this Scheme Text, Scheme Report and the Scheme Maps (Sheets 1 to 6).

1.6 ARRANGEMENT OF THE SCHEME TEXT

The Scheme Text is divided into the following parts—

- PART 1 Preliminary
- PART 2 Reserves
- PART 3 Zones and Land Use
- PART 4 General Development Requirements
- PART 5 Special Control Areas and Special Zone Provisions
- PART 6 Advertising Signs
- PART 7 Planning Consent
- PART 8 Heritage Precincts & Places of Cultural Significance
- PART 9 Administration

1.7 SCHEME OBJECTIVES

The general objectives of the Scheme are—

- to zone the Scheme Area for the purposes described in the Scheme;
- to designate areas for the continued development and redevelopment of the town;
- to incorporate development standards and policy guidelines to promote orderly use and development of land within the Scheme boundary;
- to reserve land for public use and recreational purposes;
- to recognise and protect places, buildings and objects of natural beauty and social, cultural, historical and scientific significance in Derby which are considered to be of importance to the heritage of the town;
- to protect and enhance environmental values and natural resources of the town of Derby and to promote ecologically sustainable land use and development;
- to safeguard and enhance the character and amenity of the built and natural environment of the town of Derby; and
- to provide for development which is suited to the character and lifestyle of the region.

1.8 INTERPRETATIONS

1.8.1 Except as provided in Clauses 1.8.2 and 1.8.3 the words and expressions of the Scheme have their normal and common meaning.

1.8.2 In the Scheme unless the context otherwise requires, or unless it is otherwise provided herein, words and expressions have the respective meanings given to them in Appendix 1—Interpretations and the Residential Planning Codes.

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

PART 2—RESERVES

2.1 SCHEMES RESERVES

The land shown as reserves on the Scheme Map, hereinafter referred to as 'Reserves' are lands reserved under the Scheme for local government purposes or for the purposes shown on the Scheme Map and are listed hereunder—

- Major Highway
- Parks and Recreation
- Public Purposes (as marked)
- Local Road

2.2 MATTERS TO BE CONSIDERED BY COUNCIL

Where an application for planning consent is made with respect to land within a Reserve, the Council shall have regard to the ultimate purpose intended for the reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent.

2.3 COMPENSATION

2.3.1 Where the Council refuses planning consent for the development of a Reserve on the grounds that the land is reserved or for the purposes shown on the Scheme Map, or grants consent subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously affected, thereby claim compensation for such injurious affection.

2.3.2 Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing Planning Consent or granting it subject to conditions that are unacceptable to the applicant.

2.3.3 In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price representing the unaffected value of the land at the time of refusal of Planning Consent or of the grant of Planning Consent subject to conditions that are unacceptable to the applicant.

2.3.4 The Council may deal with or dispose of land acquired for a local reserve upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the purpose for which it is reserved.

PART 3—ZONES AND LAND USE

3.1 ZONES

There are hereby created the several zones set out hereunder—

Zones—

- Town Centre
- Residential
- Commercial
- Service Industry
- Light Industry
- General Industry
- Port Industry
- Rural
- Rural Residential
- Special use (as marked)
- Settlement
- Community Purposes

These zones are delineated and depicted on the Scheme Map according to the legend thereon.

3.2 ZONE OBJECTIVES AND POLICIES

The objectives and policies of the various zones are set out in Table 1.

TABLE 1—ZONE OBJECTIVES AND POLICIES
TOWN CENTRE ZONE

Zone Objective

- (a) To provide land for continued development of a mixed commercial and community focus for Derby, within which retail, office, service trades, administration and entertainment uses are encouraged.

Zone Policies

- (i) To take into account Council's Town Centre policy and Townscape Policies in the assessment of development proposals;
- (ii) To take into account, reinforce and promote the function of the Town Centre as the focus for mixed use activity for Derby in recommending on proposed subdivision/amalgamation applications and considering development applications;
- (iii) To ensure all development will be compatible with existing structures and the amenity of the zone taking into consideration aspects such as design, scale, height and setback;
- (iv) To promote medium density residential development generally in conjunction with commercial development;
- (v) To limit industry within the Town Centre Zone to warehouse and service industries located in proximity to existing industrial uses.

COMMERCIAL ZONE

Zone Objective

- (a) To provide land for continued development of mixed commercial uses including retail, office, service trades, administration and entertainment uses to provide an alternative to shopping in the town centre and to provide a more appropriate location for sale and display of items of a bulky nature.

Zone Policies

- (i) To encourage similar uses to those existing in the zone and provide for commercial uses not appropriate to the Town Centre due to servicing and space requirements;

- (ii) To take into account the primary commercial function of the Town Centre in considering proposed land uses, subdivision/amalgamation and development applications, and make decisions based on promoting and reinforcing the Town Centre as the main focus for mixed use activity for Derby;
- (iii) To ensure all new buildings will be compatible with existing structures, taking into consideration aspects such as design, scale, height and setback;
- (iv) To take into account Council's Commercial Precinct policy and Townscape Policies in the assessment of future development proposals.

RESIDENTIAL ZONE

Zone Objectives

- (a) To designate land for residential development to meet the needs of the town in locations that can be economically serviced and are environmentally suitable.
- (b) To provide a range in housing and lifestyle choice and protect the amenity and character of residential areas.

Zone Policies

- (i) To promote development that is suitable for the local climate, designed to minimise energy consumption and reinforces the character of the residential precinct within which it is located;
- (ii) To ensure that necessary physical and social infrastructure is provided in conjunction with residential development;
- (iii) To promote residential development consistent with the Residential Planning codes or any variations to those codes as set out in this scheme;
- (iv) To limit the height and scale of any residential development to that of a domestic character consistent with surrounding residential development.

INDUSTRIAL ZONES

Zone Objective

- (a) To provide adequate, accessible serviced land for a variety of industrial uses appropriate to the Derby townsite in locations that will have minimum detrimental effect upon residential areas and the Town Centre.

Zone Policies

- (i) To permit industrial uses which provide desirable and conveniently located service to the townsite;
- (ii) To ensure that development provides reasonable standards of amenity and appearance;
- (iii) To allow retail uses from premises with a primary industrial or wholesale function which would be inappropriately located in other zones;
- (iv) In the Port Industry zone to maintain land for port facilities required for the continuation of the Port of Derby and provide for a range of uses to facilitate the increased use of the port;
- (v) To permit a range of industrial uses of a scale and type suitable to the available services, character and amenity of each of the industrial zones;
- (vi) To only permit the development of a caretakers dwelling where this is required for the development proposed and will not constrain the industrial use of the area within which it is located.

RURAL ZONE

Zone Objective

- (a) To ensure the continuation of rural use encouraging where appropriate, the retention and expansion of rural activities and associated pursuits that are compatible with the capability of the land and the amenity of the locality.

Zone Policies

- (i) To only support a scheme amendment for non rural uses where it can be demonstrated that the use will be of benefit to the town and no other suitable land is available within Derby;
- (ii) To provide for a variety of uses associated with rural production and the character of rural areas and/or which require a large land area, where these are compatible with agricultural use;
- (iii) To encourage the retention of land for horticultural use;
- (iv) To support the subdivision of land for agricultural purposes to a minimum allotment size necessary for the establishment and operation of a commercial agricultural enterprise.

RURAL RESIDENTIAL ZONE

Zone Objective

- (a) To provide for development of closer rural settlement on land suitable for such a purpose in a form that protects the rural character and environmental values of the area, provides a high level of residential amenity and encourages continued productive agricultural use.

Zone Policies

- (i) To ensure that proposed land uses and lots sizes will not be detrimental to the amenity and rural character of an area;

- (ii) To discourage development of a scale or nature more appropriately located within the urban zones;
- (iii) To provide for the protection of any areas of environmental value in the design of a development or subdivision;
- (iv) When considering applications for resubdivision of rural residential lots to have regard for the original subdivision plan and only support subdivisions where the rural and residential character is protected or enhanced;
- (v) To ensure the adequate provision of required services and community facilities to all rural residential development.

COMMUNITY PURPOSE ZONE

Zone Objective

- (a) To designate land in suitable locations for community purposes to meet the needs of the town in regard to the provision of educational, social, recreational and welfare facilities and services by organisations involved in activities for community benefit.

Zone Policies

- (i) To permit the development of land within this zone for community purposes as required for the servicing of the community;
- (ii) To ensure development is consistent with the protection of the amenity of the locality.

SETTLEMENT ZONE

Zone Objectives

- (a) To achieve the orderly and proper planning of Aboriginal Communities through the preparation and adoption of Community Layout Plans.
- (b) To provide a framework for the planning of Communities and also to provide a basis for negotiation between the Council and Aboriginal Communities on the development of co-operative strategies to improve the general health, safety and amenity of these communities.

Zone Policies

- (i) To require development to be consistent with a Community Layout plan endorsed by the Community and Council;
- (ii) To provide in the Community Layout Plan for a mix of land uses on the one lot which may include residential, community, administration, rural, and health, and small business activities for the support of the community, where these are consistent with the enhancement of the residential amenity in the locality;
- (iii) To ensure that services and community infrastructure is provided in conjunction with development of land within the zone and consistent with an adopted Layout Plan.

SPECIAL SITE ZONE

Zone Objective

- (a) To provide the appropriate development control to a land use or combination of land uses that are consistent with the character and amenity of the locality but by their nature require specific consideration.

Zone Policies

- (i) To permit development consistent with the provisions of the scheme relating to the subject land and the protection of the amenity of the locality.

3.3 ZONING TABLE

The Zoning Table (Table No. 2) indicates, subject to the provisions of the Scheme, the several uses permitted by this Scheme in the various zones. The permissibility of any use is determined by cross-reference between the list of Use Classes and the list of zones at the top of the Zoning Table.

3.3.1 The symbols used in the cross-reference in the Zoning Table have the following meanings:—

- (a) “P” means that the use is permitted by the Scheme but planning consent is still required in accordance with the provisions of the Scheme;
- (b) “AA” means that the use is not permitted unless the Council has granted Planning Consent after giving notice in accordance with Clause 7.2;
- (c) “SA” means that the use is not permitted unless the Council has granted Planning Consent after giving notice in accordance with Clause 7.2;
- (d) “IP” means a use that is not permitted unless such use is incidental to the predominant use decided and approved by Council;
- (e) “X” means a use that is not permitted by the Scheme;
- (f) notwithstanding that a development referred to in sub-clause 3.3.1 b), c) & d) is permissible with Planning Consent, the Council shall not grant consent to that development unless the provisions of the scheme are met;
- (g) the Council shall not grant consent to the carrying out of development on land to which this Scheme applies unless the Council is of the opinion that the carrying out of the development is consistent with one or more of the objectives and policies of the zone within which the development is proposed to be carried out.

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

3.3.3 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 classes the Council may—

- (a) determine that the use is not consistent with the objectives of the particular zone and policies relating to the zone and is therefore not permitted;
- or
- (b) determine by absolute majority that the proposed use may be consistent with the objectives of the zone and policies relating to the zone and thereafter follow the advertising procedures of Clause 7.3.3 in relation to “SA” uses in considering an application for Planning Consent.

3.4 ADDITIONAL USES

Notwithstanding anything contained in the Zoning Table, the land specified in Appendix No. 2 (Schedule of Additional Uses), and as identified on the scheme maps, may, subject to compliance with any condition specified in the Schedule with respect to the land, be used for the purpose set against the land. The use so specified is in addition to the other uses permitted in the zone in which the land is situated unless any of those uses is excluded or modified by a condition specified in that Schedule.

3.5 SPECIAL USE ZONE

No person shall use land, or any building or structure thereon in a Special Use Zone, except for the purpose set against that land in Appendix 3 and any other use deemed by Council to be incidental to the predominant use, and subject to compliance with any conditions specified in that Appendix with respect to the land. Council may apply such additional development conditions to a proposal as it thinks fit providing such standards are not less than those specified in Appendix 3 or pertaining to similar uses permitted under the Scheme.

3.6 NON-CONFORMING USE RIGHTS

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

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the time of the 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.

3.6.1 EXTENSION OF NON-CONFORMING USE

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

3.6.2 CHANGE OF NON-CONFORMING USE

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

3.6.3 DISCONTINUANCE OF NON-CONFORMING USE

- (a) 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.
- (b) 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.

3.6.4 DESTRUCTION OF BUILDINGS

When a building used for a non-conforming use is destroyed to 75% or more of its value, 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 not permitted by the scheme, except with the planning approval of the Council.

3.7 REBUILDING OF STRATA-TITLED DEVELOPMENT

If a strata-titled development containing more than one unit is destroyed either wholly or partially that development may be rebuilt to the density existing before its destruction subject to compliance with the Building Code of Australia and issue of a Planning Consent by Council and notwithstanding that a lower density may apply to the land under the scheme.

TABLE 2—ZONING TABLE

TYPE	LANDUSE	ZONE													
		TOWN CENTRE (1)	COMMERCIAL	RESIDENTIAL	SETTLEMENT	SERVICE INDUSTRY	LIGHT INDUSTRY	GENERAL INDUSTRY	SPECIAL USE	PORT INDUSTRY	RURAL-RESIDENTIAL	RURAL	COMMUNITY PURPOSES		
COMMERCIAL	AMUSEMENT FACILITY	AA	SA	X	Development to be consistent with adopted layout plan as required by Clause 5.5	X	X	X	Refer to Appendix 3	X	X	X	X		
	CAR PARK	P	P	IP		P	P	P		P	X	X	IP		
	CARAVAN PARK	SA	X	X		X	X	X		X	X	X	SA	X	
	FAST FOOD OUTLET	AA	AA	X		X	AA	X		X	X	X	X	X	
	FISH SHOP	SA	SA	X		X	X	X		X	X	X	X	X	
	FUNERAL PARLOUR	X	SA	X		AA	P	X		X	X	X	X	X	
	GARDEN CENTRE	SA	SA	X		AA	AA	X		X	AA	X	X		
	HEALTH STUDIO	AA	AA	X		SA	SA	X		X	X	X	X		
	HOME OCCUPATION	AA	X	AA		X	X	X		X	AA	AA	X		
	HOTEL	SA	X	X		X	X	X		X	X	X	X		
	LAUNDROMAT	SA	SA	X		SA	SA	X		X	X	X	X		
	MARKET	SA	SA	X		AA	AA	X		X	X	X	X		
	MOTEL	SA	X	X		X	X	X		X	X	X	X		
	NIGHTCLUB	SA	X	X		X	X	X		X	X	X	X		
	MOTOR VEHICLE OR MARINE SALES	SA	SA	X		P	P	X		X	X	X	X		
	MOTOR VEHICLE HIRE	SA	SA	X		P	P	X		X	X	X	X		
	NURSERY	X	X	X		X	AA	X		X	AA	P	X		
	OFFICE	P	P	X		IP	IP	IP		IP	IP	X	IP		
	RECEPTION CENTRE	SA	AA	X		X	X	X		X	X	X	SA	X	
	RESTRICTED PREMISES	SA	SA	X		X	X	X		X	X	X	X	X	
	RESTAURANT	P	AA	X		X	X	X		X	X	X	SA	X	
	SERVICE STATION	SA	SA	X		AA	AA	AA		AA	AA	X	X	X	
	SHOP	P	P	X		IP	IP	IP		IP	IP	X	X	X	
	SHORT-STAY ACCOMMODATION	SA	X	X		X	X	X		X	X	X	SA	SA	X
	SHOWROOM	AA	AA	X		P	P	X		X	X	X	X	X	
	TAVERN	SA	SA	X		X	X	X		X	X	X	X	X	
	WAREHOUSE	SA	X	X		P	P	P		P	P	P	X	X	
	WAYSIDE STALL	X	X	X		X	X	X		X	X	X	AA	AA	X
	RESIDENTIAL	SINGLE HOUSE	P	X		P	X	X		X	X	X	P	P	AA
		GROUPED DWELLING	AA	X		AA	X	X		X	X	X	X	X	AA
		MULTIPLE DWELLING	AA	X		AA	X	X		X	X	X	X	X	AA
		AGED AND DEPENDENT PERSONS	AA	X		AA	X	X		X	X	X	X	X	AA
CARETAKER'S DWELLING		AA	AA	X	AA	AA	AA	AA	AA	X	AA	AA			
RESIDENTIAL BUILDING		SA	X	SA	X	X	X	X	X	X	X	SA			
TEMPORARY ACCOMMODATION		SA	X	X	SA	SA	SA	SA	SA	SA	SA	X			
STAFF QUARTERS		SA	X	X	SA	SA	SA	SA	SA	X	SA	SA			
OUTBUILDING		IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP			
CLUB PREMISES		SA	X	X	AA	X	X	X	X	X	X	SA			
COMMUNITY SERVICE DEPOT		SA	X	X	AA	AA	AA	AA	AA	SA	X	SA			
CONSULTING ROOMS		P	P	SA	X	X	X	X	X	X	X	AA			
DAY/CHILD CARE CENTRE		AA	X	X	X	X	X	X	X	X	X	AA			
EDUCATION ESTABLISHMENT		AA	X	X	SA	SA	X	X	X	X	X	AA			
FAMILY DAY CARE		AA	X	AA	X	X	X	X	X	AA	X	AA			

TYPE	LANDUSE	ZONE												
		TOWN CENTRE (1)	COMMERCIAL	RESIDENTIAL	SETTLEMENT	SERVICE INDUSTRY	LIGHT INDUSTRY	GENERAL INDUSTRY	SPECIAL USE	PORT INDUSTRY	RURAL-RESIDENTIAL	RURAL	COMMUNITY PURPOSES	
RESIDENTIAL	HOSPITAL	SA	X	X	Development to be consistent with adopted layout plan as required by Clause 5.5	X	X	X	Refer to Appendix 3	X	X	X	X	
	KINDERGARTEN	P	X	X		X	X	X		X	X	X	X	AA
	MEDICAL CENTRE	P	P	X		X	X	X		X	X	X	X	AA
	PUBLIC UTILITY	P	P	P		P	P	P		P	P	P	P	P
	PUBLIC AMUSEMENT	AA	AA	X		X	X	X		X	X	X	X	X
	PUBLIC WORSHIP	P	X	SA		SA	SA	X		X	X	SA	SA	SA
	REHABILITATION CENTRE	SA	X	X		X	X	X		X	X	X	X	AA
	RADIO AND TV INSTALLATION	SA	X	X		AA	AA	AA		AA	AA	X	AA	AA
	REFUGE/SAFEHOUSE	AA	X	AA		X	X	X		X	X	AA	X	AA
	VETERINARY HOSPITAL	SA	X	X		SA	SA	X		X	X	SA	X	X
INDUSTRY	FUEL DEPOT	X	X	X	X	X	X	X	P	X	X	X		
	INDUSTRY—GENERAL	X	X	X	X	X	P	P	X	X	X	X		
	- LIGHT	AA	X	X	X	P	P	P	X	X	X	X		
	- SERVICE	AA	X	X	P	P	P	P	X	X	X	X		
	- COTTAGE	X	X	SA	P	P	X	X	P	P	P	X		
	- RURAL	X	X	X	X	X	X	X	X	SA	P	X		
	MOTOR VEHICLE REPAIR	X	X	X	AA	P	P	P	X	X	X	X		
	MOTOR WRECKING	X	X	X	X	P	P	P	X	X	X	X		
	SALVAGE YARD	X	X	X	X	AA	P	P	X	X	X	X		
	TRANSPORT DEPOT	X	X	X	X	P	P	P	P	X	X	X		
RURAL	KENNELS/CATTERY	X	X	X	X	X	X	X	X	X	AA	X		
	POULTRY FARMING	X	X	X	X	X	X	X	X	X	SA	X		
	RURAL PURSUIT	X	X	X	X	X	X	X	X	AA	P	X		
	STABLES	X	X	X	X	X	X	X	X	AA	P	X		

(1) Refer to Clause 4.2

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

4.1 RESIDENTIAL DEVELOPMENT—RESIDENTIAL PLANNING CODES

4.1.1 For the purpose of this Scheme 'Residential Planning Codes' means the Residential Planning Codes set out in Appendix 2 to Statement of Planning Policy No. 1, together with any amendments thereto, hereinafter referred to as the 'R Codes'.

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

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

4.1.4 The R Code density applicable to land within the Residential zone shall be determined by reference to the R Code density superimposed on the areas and contained by black borders on the Scheme Maps.

4.2 RESIDENTIAL PLANNING CODES—VARIATIONS & EXCLUSIONS

4.2.1 Notwithstanding any other provision of the Scheme Council may—

- (a) where residential development is proposed as a component of a mixed use commercial development in the Town Centre Zone consent to the residential development at a density up to a maximum of R50 subject to—
 - (i) the residential component not occupying the ground floor at the street frontage; and
 - (ii) the site area occupied by the commercial development shall be excluded from the site area used for the determination of residential unit yield;
- (b) for residential development in the Town Centre Zone consent to the reduction of the front setback to nil where this is in the opinion of Council consistent with the existing streetscape.

4.3 SPLIT R-CODING

In Residential zones with a split R12.5/30 coding, the provisions of the R12.5 Code shall apply to single houses, with the R30 Code applying to grouped dwellings. Consent will only be issued for development at a density above R12.5, up to a maximum of R30, where the property is connected to a reticulated sewer system and Council is satisfied that development proposals have been prepared which take into account—

- (a) the effect the proposal will have on the residential amenity of the locality with regard to streetscape, building form, servicing, privacy, overshadowing and traffic circulation both on and off site;
- (b) any other matter to be considered under the provisions of the appropriate Residential Planning Code.

4.4 DISCRETION TO MODIFY DEVELOPMENT STANDARDS

If a development, other than a residential development, the subject of an application for planning consent, does not comply with a standard or requirement prescribed by the Scheme with respect to that development 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; and
- (c) the spirit and purpose of the Scheme Objectives, requirements or standards will not be unreasonably departed from thereby.

4.5 BUILDING SETBACKS

The minimum setbacks for buildings within the Scheme area are as set out in Table 3 below. Scheme requirements for building set backs shall exclude garden walls, swimming pools, and advertising signs. Other structures and trade displays will be at the discretion of Council.

TABLE 3—MINIMUM SETBACKS FROM BOUNDARIES

ZONE	STREET	REAR	SIDE
Town Centre	Nil	◆	◆
Commercial	7.5m	◆	◆
Port Industry	7.5m	◆	◆
Light Industry	7.5m*	7.5m	5.0m one side, Nil on Other
Service Industry	7.5m*	7.5m	5.0m one side, Nil on Other
General Industry	10.0m	10.0m	5.0m
Rural Residential	10.0m**	10.0m	10.0m
Rural	15.0m	15.0m	10.0m
Special Use	As per Appendix 3 or at Council discretion		
Settlement	As per endorsed Community Layout Plan		
Community Purposes	7.5m	6.0m	◆

* In the Service and Light Industry Zone where a development includes a proposed shop front, the Council may approve a front setback of zero to the Primary Street.

* In the Service and Light Industry Zone the Council may approve the construction of a car port or pergola or like structure between the building line and the front boundary providing—

- (a) that any such structure remains open sided and not in-filled with any material which would ordinarily prevent the free passage of light and air, but may include lattice battens or mesh as approved by Council;
- (b) that any activity beneath such structure does not include any industrial use and is only used for car parking, landscaping, display purposes or any other uses the Council may deem fit.

** Where a Rural Residential Lot has a common boundary with Derby Hwy a minimum setback of 20.0m to that boundary will apply.

◆ At Council's discretion.

4.5.1 FRONTAGE TO MORE THAN ONE STREET

Where a lot has frontage to more than one street, Council will determine to which street the front setback will apply and may permit a reduction of the street setback requirement to other streets.

4.6 HEIGHT RESTRICTIONS

No building in any zone within the Scheme Area other than the Industrial zone shall exceed 2 stories or 9 metres in height above natural ground level at any point.

4.7 LAND SUBJECT TO INUNDATION

A person shall not carry out any development without the consent of Council on any land within an area considered by Council as being liable to flooding. Prior to issuing its consent for any development

on any such land Council shall consult with the Waters and Rivers Commission and may set minimum floor levels for any buildings.

4.8 TRANSPORTABLE AND SECOND-HAND BUILDINGS

4.8.1 The use of transportable and second-hand buildings for any purpose within the Scheme Area is subject to the Planning Consent of Council.

4.8.2 Council may permit the erection or placement of any transportable or second-hand building on a lot providing that the architectural design, external appearance and structural integrity of the building is to the satisfaction of Council and, in Council's opinion, will not adversely affect the amenity of other properties in the area.

4.8.3 Planning Consent for transportable and second-hand buildings may be granted subject to the applicant providing a bond to Council as surety as to the completion of the building to a standard of presentation acceptable to Council and within such period of time as Council may deem appropriate.

4.8.4 The standard of finish of a transportable and/or second-hand building must be agreed upon prior to the issue of Planning Consent.

4.9 LANDSCAPING AND PRESERVATION OF EXISTING VEGETATION

4.9.1 Where landscaping is required as a condition of Planning Consent this shall be established in accordance with the approved landscape plan and shall be maintained thereafter in accord with the approved plan.

4.9.2 Unless otherwise approved by Council a minimum of 10% of the site area of all commercial and industrial developments shall be landscaped.

4.9.3 To maintain and enhance the character of the Town of Derby, no person shall remove a Boab Tree from any land within the scheme area without the prior written consent of the Council. For the purpose of this Clause—

- (a) the consent of Council shall not be unreasonably withheld and shall be issued where the tree is dead, dying or dangerous;
- (b) it shall be sufficient defence to show that a tree that has been removed was dead, dying or dangerous prior to its removal.

4.9.4 When considering an application for Planning Consent the Council shall determine whether any Boab tree or other vegetation on the subject site has landscape or environmental significance and should be retained and in granting consent to an application may—

- (a) impose a condition on the planning consent requiring the retention or relocation of the tree or trees;
- (b) request a modification of the proposal; and/or
- (c) permit a variation of the site development requirements to provide for retention of the tree or trees.

4.10 OUTBUILDINGS

4.10.1 No outbuilding exceeding 40m² in area shall be erected on any Residential lot or exceeding 60m² on any Rural-Residential lot without the Planning Consent of the Council in accordance with Part 7 of the Scheme.

4.10.2 The setback of outbuildings may be varied by Council pursuant to clause 4.4 providing it is satisfied that such variation is desirable having considered—

- (a) the effect on any adjoining lot;
- (b) the position of existing buildings and structures;
- (c) the relative ground levels of the subject lot and any adjoining lot;
- (d) the requirements of any servicing authority.

4.10.3 Where, in the opinion of the Council, a proposed variation of an outbuilding setback requirement may significantly affect an adjoining property, the Council shall cause the owners and occupiers of such property to be advised in writing of the proposed variation, afforded reasonable access to the proposed plans of the proposed development for a period of not less than 14 days commencing on the date of notification, and before determining the application, shall have regard to any submissions received in respect of the proposed variation within the 14 day period.

4.11 REAR ACCESS AND LOADING DOCKS

4.11.1 When considering any application for Planning Consent, the Council shall have regard to and may require the provision of loading docks and/or rear access. In particular, the Council may impose conditions concerning—

- (a) the size of loading docks;
- (b) the means of providing rear access of adequate width and design so as to ensure that transport vehicles shall be able to proceed in a forward direction.

4.11.2 Areas for loading and unloading of vehicles, particularly road trains, carrying goods and commodities to or from premises shall be provided and maintained in accordance with the approved plan relating thereto.

4.12 HOME OCCUPATIONS

4.12.1 An approval to conduct a home occupation 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.

4.12.2 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 rescind the approval.

4.12.3 In granting Planning Consent for a Home Occupation Council may grant such approval subject to conditions relating to—

- Hours of trade;
- Car parking;
- Maximum number of visitors on premises at any time; and
- Equipment permitted to be used.

4.13 CAR PARKING REQUIREMENTS

4.13.1 No person shall develop or use land or erect, use or adapt any building for any purpose unless car parking spaces of the number specified in Table 4 are constructed and maintained in accordance with the provisions of the Scheme. Car parking spaces for residential development shall be provided in accordance with the Residential Planning Codes.

TABLE 4—NUMBER OF CAR PARKING SPACES

USE	NO. OF CAR PARKING SPACES (GLA = Gross Leasable Area)
Amusement Parlour	1/4 Patrons*
Betting Agency	1/20 m ² GLA
Civic Use	1/30 m ² GLA
Club Premises	1/50 m ² GLA
Consulting Rooms	4/Practitioner
Day/Family Care Centre	1/Staff member plus 1/4 patrons
Fast Food Outlet	1/4 Seated Patrons* & 1m queue length
Garden Centre	1/100 m ² GLA
Health Studio/Gym	1/30 m ² GLA
Hotel	1/4 m ² Patrons in Public Areas* plus 1/Bedroom
Industry—	
General	1/100 m ² GLA
Light & Service	1/50 m ² GLA
Laundromat	1/2 machines installed
Medical Centre	4/Practitioner
Motel	1/Unit plus 1/25 m ² Service Area
Nightclub	1/4 Patrons*
Office	1/40 m ² GLA
Public Amusement	1/4 Seats Provided
Public Worship	1/4 Seats Provided
Reception Centre	1/4 Patrons*
Residential	As per Residential Planning Codes
Restaurant	1/4 Patrons*
Motor Repair Station/Service Station	1/200 m ² Gross Site Area
Shop	1/20 m ² GLA
Tavern	1/4 Patrons
Veterinary Consulting	4/Practitioner
Warehouse/Showroom	1/100 m ² GLA
Other Uses Not Listed	Refer clause 4.13.2

(See Appendix 1 for Interpretation of Gross Leasable Area)

* Maximum number of Patrons is number patrons allowed in accordance with Health Act 1911.

4.13.2 UNLISTED USE

Where an application is made for Planning Consent and the purposes for which the land or building is to be used is not specified in Table 4, the Council shall determine the number of car parking spaces to be provided having regard to the nature of the proposed development, the number of likely employees, the prevention of the obstruction of roads and streets, the orderly and proper planning of the locality and the preservation of its amenities.

4.13.3 CAR PARKING STANDARDS

The dimensions of car parking spaces, parking angles, driveway widths and landscaping detail shall be in accordance with **Appendix 4**.

The Council may vary the dimensions specified—

- (a) where obstructions, site dimensions or topography result in the loss of a car parking space in any run of car parking spaces;
- (b) when the provisions of car parking space dimensions need to be enlarged to accommodate wider or longer vehicles.

4.13.4 CARPARKING CONSTRUCTION & MAINTENANCE

The owner or occupier of the premises on which car parking spaces are to be provided shall ensure that the parking area is landscaped and the car parking is laid out, drained, sealed and maintained in accordance with the approved plan relating thereto.

4.13.5 SHARED OR COMBINED PARKING

Where the number of car parking spaces proposed to be provided for a development the subject of an application for Planning Consent is less than the number required to be provided pursuant to the Scheme, the Council may approve the application if it can be demonstrated that private parking facilities in the near vicinity are available to cater for the requirements of the proposal and that arrangements to the satisfaction of the Council have been made to enable those facilities to be used for that purpose.

In granting Planning Consent under this clause, the Council may permit land uses to share parking facilities provided that—

- (a) the Council is satisfied that no conflict will occur as a result of the joint use of the parking facilities;
- (b) where required the owners sharing parking facilities enter into a legal agreement for reciprocal rights of access to the parking facilities.

4.13.6 PUBLIC PARKING

If public parking facilities are located or are proposed to be located in the near vicinity of land or buildings being the subject of an application for Planning Consent the Council may approve such application notwithstanding that the required number of car parking spaces are not to be provided on site subject to—

- (a) the Council being satisfied that the public parking facilities are sufficient to cater for the requirements of the land or buildings in addition to existing use; and
- (b) the applicant entering into an agreement with the Council to pay for the cost of providing and maintaining the required number of spaces including the value of the land.

4.13.7 TOWN CENTRE ZONE

In the Town Centre Zone, if the Council is satisfied that adequate constructed car parking is to be provided in close proximity to a proposed development, notwithstanding the provisions of Table 4, the Council may accept a cash payment in lieu of the provision of on site car parking spaces provided—

- (a) the cash-in-lieu payment is not less than the estimated cost to the owner of constructing the car parking spaces required by the Scheme plus the value, as estimated by the Valuer General of Western Australia, of that area of land which would have been occupied by the parking spaces;
- (b) before the Council agrees to accept a cash payment in lieu of the provision of car parking spaces, the Council must either have purchased land and/or have provided a public car park or on street car parking nearby or have firm proposals for providing a public car park nearby within a reasonable time of agreeing to accept the cash payment;
- (c) payment made under this Clause shall be paid into a special fund to be used to provide public car parks and the Council may use this fund to provide public car parking or on street car parking facilities within the Town Centre Zone or in close proximity of the site in respect of which a cash-in-lieu arrangement is made.

PART 5—SPECIAL CONTROL AREAS AND SPECIFIC ZONE PROVISIONS

5.1 OPERATION OF SPECIAL CONTROL AREAS

5.1.1 The following Special Control areas are shown on the Scheme Maps—

- Light Industrial Development;
- Residential Development; and
- Groundwater Protection.

5.1.2 In respect of the Special Control Areas shown on the Scheme maps, the provisions of the Special Control areas apply in addition to the provisions of the underlying zones, reserves and any general provisions of the Scheme.

5.2 LIGHT INDUSTRIAL AND RESIDENTIAL DEVELOPMENT AREAS

5.2.1 The purpose of identifying land on the scheme map as being within a Light Industrial Development Area or a Residential Development Area is to enable the planned and progressive development of the land for Light Industrial or Residential purposes respectively consistent with the proper planning of the land and the locality.

5.2.2 REQUIREMENT FOR DEVELOPMENT GUIDE PLAN

Prior to subdivision and development proceeding on land within the Light Industrial Development Area or the Residential Development Area Council shall require the preparation and endorsement of a Development Guide Plan for the land and rezoning of the land consistent with the proposed uses of the land under the endorsed Development Guide Plan.

5.2.3 APPROVAL UNDER BASE ZONING

Notwithstanding Clause 5.2.2 above Council may approve any development within a Light Industrial Development Area or Residential Development Area consistent with the zoning of the land without

requiring the preparation of a Development Guide Plan, where in the opinion of Council the development will not adversely affect the future subdivision and development of the land.

5.2.4 PREPARATION OF DEVELOPMENT GUIDE PLAN

A Development Guide Plan required by Clause 5.2.2 above shall comprehensively address, but not be limited to, the following matters—

- (a) the physical and environmental characteristics of the land;
- (b) the proposed allocation of land use, subdivision, including lot sizes and residential codes as applicable;
- (c) physical features the subdivision is intended to conserve and any areas to be set aside for public open space, pedestrian accessways, foreshore reserves and other reserves;
- (d) the principal road and other transport systems;
- (e) public utility and servicing arrangements, including connection to town sewer, water and power services, and groundwater protection;
- (f) methods to be used to control and dispose of stormwater runoff;
- (g) the allocation of Buffers and their treatment having regard for adjacent land;
- (h) the provision of community services and facilities;
- (i) staging of the development; and
- (j) such other information as the Council may require.

5.2.5 RESIDENTIAL LOT SIZES

A Development Guide Plan for land in the Residential Development Area shall provide for a predominant residential density of R10. Sites proposed for Group Dwelling development shall be specifically identified and limited to a maximum residential density of R20.

5.2.6 APPROVAL OF DEVELOPMENT GUIDE PLAN

Following receipt of a Development Guide Plan that the Council considers adequately addresses the orderly and proper planning of the land the Council shall require the Plan to be advertised in a local newspaper for a period not less than 21 days and invite comments from the public and affected authorities on the plan. Once the Council has resolved to adopt a Development Guide Plan, it shall as soon as practicable, send to the Western Australian Planning Commission a copy of the development plan, details of any conditions, and a précis of submissions received and request the Commission to endorse the plan.

5.2.7 IMPLEMENTATION OF DEVELOPMENT GUIDE PLAN

The subdivision or development of land the subject of an endorsed Development Guide Plan shall be in accordance with that plan.

5.2.8 MODIFICATION OF A DEVELOPMENT GUIDE PLAN

A proposed modification that materially affects a Development Guide Plan or a review of a Development Guide Plan shall for the purpose of Clause 5.2.4 to Clause 5.2.6 be a Development Guide Plan.

5.3 GROUNDWATER PROTECTION AREA

5.3.1 The purpose of identifying land on the scheme map as being within a Groundwater Protection Area is to control the development of certain landuses with the potential to contaminate water resources.

5.3.2 PROHIBITED USES

Notwithstanding any other provision of the scheme the development of land within a Groundwater Control Area for a Service Station, Motor Vehicle Repair Station or Motor Vehicle Wrecking is prohibited.

5.3.3 RESTRICTED USES

Where the Council receives an application for consent for the carrying out of development within the Groundwater Protection Area of a type listed hereunder the application shall notwithstanding any other provision of the Scheme be dealt with as if it were an 'SA' or 'AA' use and shall be referred to the Waters and Rivers Commission for comment, and, in deciding whether to grant consent the Council shall take into account its comments—

- (a) Rural Pursuit excluding broadacre agriculture and stables;
- (b) Aircraft or Boat servicing;
- (c) Caravan/trailer hire;
- (d) Agricultural Service Industry;
- (e) Veterinary Clinic;
- (f) Cemeteries;
- (g) General Industry;
- (h) Light Industry;
- (i) Power Station;
- (j) Hospital;
- (k) Mining-Mineral Processing;

- (l) Extractive Industry;
- (m) Mineral Exploration;
- (n) Processing Foodstuffs and Animal Products;
- (o) Storage of Toxic and Hazardous Substances;
- (p) Caravan Park;
- (q) Waste Disposal Sites;
- (r) Refuse Transfer Station;
- (s) Recycling Depot;
- (t) Sewage Pump Station;
- (u) Wastewater/Water Treatment Plant;
- (v) Irrigated Recreation Areas;
- (w) Motor Sport Facilities;
- (x) Public Swimming Pool; and
- (y) Transport Depot.

5.4 SPECIFIC INDUSTRIAL ZONE PROVISIONS

5.4.1 LOT SIZES—ALL INDUSTRIAL ZONES

Minimum lot sizes should be as shown in Table 5, however Council may support or recommend lot sizes that do not comply with these standards provided the Council is satisfied the lot sizes would not be contrary to the general objectives of the scheme and the relevant zone, and would not compromise the amenity and orderly and proper planning of the locality.

TABLE 5—MINIMUM LOT SIZES—INDUSTRIAL ZONES

General Industry	4000 m ²
Light Industry, Warehousing & Service Industry	1000 m ²
Port Industry	To be determined by Council having regard to the purpose of the lots, and the amenity and proper and orderly planning of the locality.
Light Industrial Development Area	2000 m ²

5.4.2 CONDITIONS OF PLANNING CONSENT

In issuing Planning Consent to development in any Industrial Zone, Council may impose conditions to achieve satisfactory standards of amenity and appearance relating to—

- (a) building materials;
- (b) landscaping;
- (c) location of storage areas;
- (d) fencing and signage;
- (e) stormwater disposal;
- (f) floor and ground levels; and
- (g) effluent disposal.

5.4.3 USE OF FRONT SETBACKS

The front setback of a lot within any Industrial Zone shall only be used for the following purposes—

- (a) car parking;
- (b) landscaping;
- (c) access;
- (d) trade displays.

5.4.4 FACTORY UNIT DEVELOPMENT

The development of factory tenement buildings, for the purpose of providing multiple factory units on one lot, shall not be permitted unless the following requirements are complied with—

- (a) no factory unit shall have a floor area of less than 100 m²; and
- (b) each factory unit shall have a service yard appurtenant to it which shall be a minimum of 50% of the unit floor area; and
- (c) access to any office attached to the factory unit and the major access to the unit itself shall not be through the service yard.

5.5 SETTLEMENT ZONE

5.5.1 REQUIREMENT FOR LAYOUT PLAN

No person shall commence to use or develop land within the Settlement zone except in accordance with a Layout Plan and Provisions approved by the Council of the Community that occupies that land, the Shire, and the Aboriginal Lands Trust where the land is in the control of that body, and the development requirements set out in this part of the Scheme.

5.5.2 APPROVAL OF MINOR DEVELOPMENT

Notwithstanding Clause 5.5.1 above Council may approve any development within a Settlement Zone without requiring an approved Layout Plan, where in the opinion of Council the development represents a minor addition to an existing landuse or building or minor additional landuse or landuse change that will not adversely affect the future development of the land or preparation of a Layout Plan.

5.5.3 PREPARATION OF LAYOUT PLAN

Layout Plans should be prepared in accordance with the Guidelines for the Preparation of Community Layout Plans for Western Australian Aboriginal Communities and any other relevant Council, State or Commonwealth Government Policy.

5.5.4 Council shall not consider a Layout plan or any proposed modification to an approved layout plan unless it is clearly demonstrated that the affected community has had an adequate opportunity to comment on the contents of the proposed plan or a proposed amendment to an approved plan.

5.5.5 ADVERTISING OF LAYOUT PLAN

Council may require the layout plan to be advertised for public comment for a 21 day period if it is of the opinion that —

- (a) the plan has the potential to affect the amenity of adjoining land; and/or
- (b) the affected community has not had sufficient opportunity to comment on the plan,

but prior to forming such an opinion shall advise the affected community of its intention and seek its comments.

5.5.6 REFERRAL TO SERVICE AUTHORITIES

A Layout Plan may be referred to servicing authorities and comments on the plan sought prior to consideration of the plan by Council.

5.5.7 APPROVAL OF LAYOUT PLANS

Following receipt of a Layout Plan which in the opinion of Council adequately addresses the requirements of this part, the Council shall assess the planning merits of the Layout plan and then resolve to either approve the plan with or without modifications or refuse the plan. Layout Plans approved pursuant to the Scheme shall be listed in Appendix 9 and a copy maintained with the Scheme for Public Inspection.

5.5.8 MODIFICATION TO LAYOUT PLAN

A proposed modification that materially affects a Layout Plan or a review of a Layout Plan shall for the purpose of Clause 5.5.3 to Clause 5.5.7 be a Layout Plan.

5.5.9 RESIDENTIAL DENSITY

Where land in the settlement zone is denoted with the split code of R5/R15, development shall be consistent with R5 code where no reticulated sewer is available and the R15 code where development is able to be connected to reticulated sewerage.

5.6 RURAL RESIDENTIAL DEVELOPMENT PROVISIONS

5.6.1 REQUIREMENT FOR DEVELOPMENT PLAN

Prior to subdivision and development proceeding within the Rural Residential zone, the Council may require a Development Plan to be prepared by the proponent and submitted to the Council for its consideration and adoption. Such a Development Plan should address, but not be limited to, the matters set out below and shall clearly identify—

- (a) the proposed subdivision pattern, including lot sizes and dimensions;
- (b) the physical and environmental characteristics of the land;
- (c) areas proposed for the grazing of animals and recommended stocking rates for those areas;
- (d) areas where conventional septic tanks may not be suitable and recommend alternative on-site effluent disposal systems acceptable to Council and the Health Department;
- (e) primary transport, servicing infrastructure and methods for disposal of stormwater;
- (f) physical features the subdivision is intended to conserve;
- (g) strategic fire breaks and other fire control mechanisms;
- (h) any areas to be set aside for public open space, pedestrian accessways and horse trails as may be considered appropriate; and
- (i) specific building and land management requirement applicable to the land.

5.6.2 ADVERTISING & APPROVAL OF DEVELOPMENT PLAN

Prior to approval of a Development Plan the Council shall require the Plan to be advertised in a local newspaper for a period not less than 21 days and invite comments from the public and affected authorities. Once the Council has resolved to adopt a Development Plan for land with potential for subdivision, it shall as soon as practicable, send to the Western Australian Planning Commission a copy of the development plan, details of any conditions, and a précis of submissions received and request the Commission to endorse the plan as a basis for the determination of subdivisions within the Plan area.

5.6.3 MODIFICATION OF DEVELOPMENT PLAN

A proposed modification that materially affects a Development Plan or a review of a Development Plan shall for the purpose of Clause 5.6.1 to Clause 5.6.2 be a Development Plan.

5.6.4 SUBDIVISION UNDER DEVELOPMENT PLAN

Subdivision shall generally accord with the Development Plan for the specified area. Minor amendments to the Development Plan that do not reduce general lot sizes may be permitted subject to the approval of Council and the Western Australian Planning Commission.

5.6.5 LOT SIZES

Lot sizes for land zoned Rural Residential should generally not be less than 2 hectares in area.

5.6.6 Further subdivision of land within the Hamlet Grove Rural Residential zone shall be generally in accordance with the original Development Plan for the area. Council may subject to the approval of the Water and Rivers Commission support minor amendments to the Development Plan which allows further subdivision of the land into lots smaller than 2 hectares providing proposed lot sizes are in general in accordance with those existing in the area.

5.6.7 On land zoned Rural Residential located north of Conway St and Reserve 1326 Council may support subdivision to a minimum lot size of 1Ha subject to connection of the subdivision to a reticulated water supply.

5.6.8 RURAL RESIDENTIAL GENERAL DEVELOPMENT REQUIREMENTS

In addition to other provisions of the Scheme as may affect it, development of any land included in the Rural Residential Zone shall be subject to the following provisions—

- (a) the breeding or keeping of animals other than as indicated in the definition of Rural Pursuit will not be permitted unless specifically approved by Council and subject to conditions Council deems necessary. Council shall in considering the approval of the keeping of animals take advice from the Department of Agriculture as to stocking rates;
- (b) notwithstanding any other provision of the scheme the keeping of pigs on land within the Rural Residential zone is prohibited;
- (c) not more than one dwelling house may be constructed on any lot. This provision shall not prevent the Council from consenting to the development of ancillary accommodation for the exclusive use of family members, provided such is integral to the dwelling, contains not more than one bedroom, utilises shared laundry facilities and does not exceed 40m² in floor area;
- (d) in addition to a building licence, the Council's approval to commence development is required for all development, except a single house (unless that house is a transportable or second-hand building) or an outbuilding of less than 60m² in area, and application for such approval shall be made in accord with Part 7 of the Scheme;
- (e) in order to enhance the amenity of the land in areas Council considers deficient in tree cover, it may require as a condition of any planning approval and request as a condition of subdivision the planting of trees and/or groups of trees of species as specified by the Council;
- (f) no trees or substantial vegetation may be felled, removed or damaged except for—
 - (i) clearing associated with approved development within the building envelope;
 - (ii) establishment of firebreaks as may be required by a Local Law or a notice issued by the Council or Bush Fires Board;
 - (iii) establishment of driveways and fencelines in association with approved development;
 - (iv) removal of vegetation that is dead, dying or dangerous, with the written approval of Council;
- (g) each dwelling shall be provided with a supply of potable water with a minimum capacity of 120,000 litres, of which 10,000 litres shall be kept in reserve for fire fighting purposes and shall be fitted with connections as required by the Fire and Emergency Services;
- (h) if, in the opinion of the Council, any lot is overgrazed or severely degraded it may serve notice under Part 9 of the Scheme requiring the removal of any stock, until required remedial works are carried out by the landowner to render the land stable and usable;
- (i) the construction of dams and the extraction of surface water from drainage lines delineated on the Development Plan is not permitted without the prior approval of the Waters and Rivers Commission and the Council;
- (j) strategic firebreaks, as shown on the Development Plan, shall be constructed and maintained to the satisfaction of the Council and the Fire and Emergency Services;
- (k) a Bush Fire Management Plan shall be prepared by the developer/subdivider to the satisfaction of the Fire and Emergency Services and the Council.

5.7 RURAL DEVELOPMENT PROVISIONS

5.7.1 RURAL GENERAL DEVELOPMENT PROVISIONS

In addition to other provisions of the Scheme as may affect it, development of any land included in the Rural Zone shall be subject to the following provisions—

- (a) notwithstanding any other provision of the scheme the keeping of pigs on land within the Rural zone is prohibited;
- (b) no more than one single dwelling shall be permitted on any lot in the Rural zone unless the written approval of Council is granted. The maximum number of single dwellings which Council may permit shall be restricted to two (2). The approval of the development of two dwellings on a Rural lot does not imply approval for subdivision of that lot. This provision shall not prevent the Council from consenting to the development of ancillary accommodation for the exclusive use of family members, provided such is integral to a dwelling, contains not more than one bedroom, utilises shared laundry facilities and does not exceed 40m² in floor area;

- (c) the construction of dams and the extraction of surface water from drainage lines is not permitted without the prior approval of the Waters and Rivers Commission and the Council.

PART 6—ADVERTISING SIGNS

6.1 POWER TO CONTROL ADVERTISEMENTS

6.1.1 For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Such planning consent is required in addition to any licence pursuant to Council's Local Laws.

6.1.2 Applications for Planning Consent pursuant to this Part shall be submitted in accordance with Clause 7 of the Scheme and shall be in the form set out at Appendix 6 giving details of the advertisement(s) to be erected, placed or displayed on the land.

6.2 EXISTING ADVERTISEMENTS

6.2.1 Advertisements which—

- (a) were lawfully erected, placed or displayed prior to the approval of this Scheme;
- or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the Council prior to the approval of this Scheme,

hereinafter referred to as 'existing advertisements', may, except as otherwise provided, continue to be displayed or be erected and displayed in accordance with the licence or approval as appropriate.

6.3 CONSIDERATION OF APPLICATIONS

6.3.1 Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

6.4 EXEMPTIONS FROM THE REQUIREMENT TO OBTAIN PLANNING CONSENT FOR SIGNS

6.4.1 Subject to the provisions of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of Clause 6.1, the Council's prior consent is not required in respect of those advertisements listed in Appendix 5 which for the purpose of this Part are referred to as 'exempted advertisements'.

6.4.2 The exemptions listed in Appendix 5 do not apply to buildings, conservation areas or landscape protection zones which are either—

- (a) listed by the Heritage Council;
- (b) listed on the register of the National Estate;
- (c) included in the local authority town planning scheme because of their heritage or landscape value.

6.5 DISCONTINUANCE OF ADVERTISING SIGN

6.5.1 Notwithstanding the Scheme objectives and Clause 6.4, where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Part, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within a period of time specified in the notice.

6.6 DERELICT OR POORLY MAINTAINED SIGNS

6.6.1 Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, Council may by notice in writing require the advertiser to—

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by Council in the notice,
- or
- (b) remove the advertisement.

6.7 NOTICES

6.7.1 'The advertiser' shall be interpreted as any one person or any group comprised of the owner, occupier, licensee or lessee, or other person having an interest in or drawing benefit from the display of the advertisement concerned.

6.7.2 Any notice served in exceptional circumstances pursuant to Clause 6.5 or pursuant to Clause 6.6 shall be served upon the advertiser and shall specify—

- (a) the advertisement(s) the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice;
- (c) the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.

6.7.3 Any person upon whom a notice is served pursuant to this Part may, within a period of 60 days from the date of the notice, appeal to the Hon. Minister for Planning or the Town Planning Appeal Tribunal in accordance with Part V of the Act, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

6.8 SCHEME TO PREVAIL

Where the provisions of this Part are found to be at variance with the provisions of the Council's Signs, Hoarding and Bill Posting Bylaws, the provisions of the Scheme shall prevail.

6.9 ENFORCEMENT & PENALTIES

The offences and penalties provisions specified in Clause 9.2 of the Scheme apply to the advertiser, landowner or occupier in this Part.

PART 7—PLANNING CONSENT

7.1 PLANNING CONSENT FOR DEVELOPMENT OF LAND

7.1.1 Subject to Clause 7.1.2 a person shall not commence or carry out development of land zoned or reserved under the Scheme including a change in use, without first having obtained the Planning Consent of the Council under the Scheme.

7.1.2 Planning Consent of the Council is not required for the following development of land—

- (a) the use of land in a Reserve, where such land is held by the Council or vested in a Public Authority by Council or that Authority respectively—
 - (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 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;
- (c) the carrying out of any 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 and which do not include a change of land use;
- (d) the carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services;
- (e) the erection on a Residential zoned lot of a Single dwelling (or additions thereto), except where—
 - (i) the single dwelling is a transportable or second-hand building;
 - or
 - (ii) the proposed dwelling requires Council to exercise its discretion to approve a variation pursuant to the R-Codes or a provision of the scheme;
- (f) the erection of an outbuilding with a floor area of less than 40m² on a Residential zoned lot;
- (g) the erection of a boundary fence except as otherwise required by the Scheme;
- (h) the erection on a Rural zoned lot of a Single dwelling, except where the Single dwelling is a transportable or second-hand building, or outbuilding;
- (i) a private swimming pool;
- (j) the erection on a Rural-Residential zoned lot of a Single dwelling, except where—
 - (i) the single dwelling is a transportable or second-hand building; or the proposed dwelling requires Council to exercise its discretion to approve a variation to a provision of the Scheme;
 - (ii) the erection of an outbuilding with a floor area of less than 60m² on a Rural Residential zoned lot;
- (k) the erection of pergola's, verandah's or patio's to any residential dwelling within any zone in compliance with the R-Codes and other relevant provisions of the Scheme.

7.1.3 Planning Consent for Single Dwellings

In respect to the requirement to obtain approval for a single Residential dwelling pursuant to Clause 7.1.2 above the applicant shall at the time of lodging an application for a building licence or earlier, apply to Council in accordance with this part, seeking Council's approval for the variation.

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

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

7.2 APPLICATION FOR PLANNING CONSENT

7.2.1 Every application for Planning Consent shall be made substantially in the form prescribed in Appendix 6 to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.

7.2.2 Unless Council waives any particular requirement every application for Planning Consent shall be accompanied by—

- (a) a plan or plans to a scale of not less than 1:500 (or as required by Council) showing—
 - (i) street names, lot number(s), north point and the dimensions of the site;
 - (ii) the location and proposed use of any existing buildings to be retained and the location and use of buildings proposed to be erected on the site;
 - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (v) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (vi) the location, dimensions and design of any landscaped, open storage or trade display area and particulars of the manner in which it is proposed to develop the same;
 - (vii) the location of any underground services;
 - (viii) existing and proposed floor and ground levels;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) any other plan or information that the Council may at any time reasonably require to enable the application to be determined;
- (d) all applications for Planning Consent for any non-residential use and all grouped dwelling developments shall be accompanied by a Landscaping Plan identifying the following—
 - (i) location of all existing and proposed landscaping and trees; and
 - (ii) type/species of all existing and proposed planting; and
 - (iii) proposed reticulation methods.

7.3 ADVERTISING OF APPLICATIONS

7.3.1 Where an application is made for Planning Consent to commence or carry out development which involves an 'SA' use the Council shall not grant consent to that application unless notice of the application is first given in accordance with the provisions of this Clause and any submissions received during the period of notice have been considered by Council.

7.3.2 Where an application is made for Planning Consent to commence or carry out development which involves an 'AA' use, or for any other development which requires the Planning Consent of the Council, the Council may require that notice of the application be served on owners and occupiers of land likely to be affected by the application for a period of not less than fourteen days and any submission received during the period of notice shall be considered by Council before consent to that use is granted in accordance with the provisions of this Clause.

7.3.3 Where the Council is required or decides to give notice of an application for Planning Consent which involves an 'SA' use the Council shall cause one or more of the following to be carried out—

- (a) notice of the proposed development to be served on the owners and occupiers of land within an area determined by the Council as likely to be affected by the granting of Planning Consent stating that submissions may be made to the Council within twenty-one days of the service of such notice;
- (b) notice of the proposed development to be published in a newspaper circulating in the Scheme area stating that submissions may be made to the Council within twenty-one days from the publication thereof;
- (c) a sign or signs displaying notice of the proposed development to be erected in a conspicuous position on the land for a period of twenty-one days from the date of publication of the notice referred to in paragraph (b) of this clause.

7.3.4 The notice referred to in Clause 7.3.2 and Clause 7.3.3 (a) and (b) shall be substantially in the form contained in Appendix 7 with such modifications as circumstances require.

7.3.5 After expiration of the period of notice of the proposed development, the publication of notice or the erection of a sign or signs, whichever is the later, the Council shall consider and determine the application.

7.4 CONSULTATIONS WITH OTHER AUTHORITIES

7.4.1 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 and where such consultation is undertaken have regard for the comments of that authority or party.

7.4.2 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.

7.5 MATTERS TO BE CONSIDERED BY COUNCIL

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

- (a) the provisions of this Scheme and any other relevant town planning scheme operating within the district;

- (b) the objectives and policies of the zone within which the development is proposed;
- (c) any relevant proposed new town planning scheme of the Council or amendment insofar as they can be regarded as seriously entertained planning proposals;
- (d) any approved Statement of Planning Policy of the Commission;
- (e) any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
- (f) any planning policy, strategy or plan adopted by the Council under the provision of clause 9.7 of this Scheme;
- (g) the impact of that development on the environmental and, where harm to the environment is likely to be caused, any means that may be employed to protect the environment on to mitigate that harm;
- (h) the preservation of any object or place of heritage significance;
- (i) the requirements of orderly and proper planning;
- (j) the preservation of the amenities of the locality;
- (k) any other planning considerations which the Council considers relevant;
- (l) any relevant submissions or objections received on the application.

7.6 DETERMINATION OF APPLICATIONS

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

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

7.6.2 The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality, may refuse to approve any application for Planning Consent or may grant its approval unconditionally or subject to such conditions as it thinks fit.

7.6.3 The Council shall issue its decision in respect of an application for Planning Consent substantially in the form prescribed in Appendix 8 to the Scheme.

7.7 TERM OF PLANNING CONSENT

Where the Council grants planning consent, that consent—

- (a) shall be substantially commenced within two years, or such other period as specified in the approval, after the date of determination; and
- (b) lapses if the development has not substantially commenced before the expiration of that period.

A written request may be made to the Council for an extension of the term of the Planning Consent at any time prior to the expiry of the consent.

7.8 SCOPE OF PLANNING APPROVAL

Planning approval may be granted—

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

7.9 DEEMED REFUSAL

7.9.1 Where the Council has not within sixty days of the receipt by it of an application for Planning Consent either conveyed its decision to the applicant, given notice of the application in accordance with Clause 7.3, or confirmed with the Applicant an extended period for consideration of the application, the application may be deemed to have been refused.

7.9.2 Where the Council has given notice of an application for Planning Consent in accordance with Clause 7.3 and where the Council has not within ninety days of receipt by it of the application conveyed its decision to the applicant, or confirmed with the Applicant an extended period for consideration of the application, the application may be deemed to have been refused.

7.9.3 Notwithstanding that an application for Planning Consent may be deemed to have been refused under Clauses 7.9.1 or 7.9.2 the Council may issue a decision in respect of the application at any time after the expiry of the sixty day or ninety day period specified in those clauses, as the case may be.

7.10 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS

7.10.1 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, but are not limited to, the siting, design, external appearance of the buildings, means of access or landscaping.

7.11 APPROVAL OF EXISTING DEVELOPMENTS

7.11.1 The Council may grant approval to a development already commenced or carried out regardless of when it commenced or was 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 a discretion provided in the Scheme, as to all matters other than the provisions requiring Council's approval prior to the commencement of development.

7.11.2 The application to the Council for approval under Clause 7.1.1 shall be made on the form prescribed in Appendix 6.

7.11.3 A development which was not permissible under this 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 8—HERITAGE PRECINCTS & PLACES OF CULTURAL SIGNIFICANCE

8.1 CONSERVATION OF BUILDINGS & PLACES OF HERITAGE SIGNIFICANCE

8.1.1 PURPOSE & INTENT

The purpose and intent of the heritage provisions are to—

- (a) ensure the conservation of any place, area, building, object or structure of heritage value;
- (b) afford the opportunity for existing traditional uses to be continued or allow for the approval of alternative uses which are compatible with the heritage values and amenity of the locality;
- (c) ensure that development or redevelopment within or adjacent to places of heritage value has due regard to the heritage value of the place and is in harmony with the character of the locality.

8.2 HERITAGE LIST

8.2.1 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.

8.2.2 For the purposes of this part, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the Heritage List.

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

8.3 DESIGNATION OF HERITAGE PRECINCTS

8.3.1 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.

8.3.2 The Council shall adopt for each heritage precinct a policy statement which shall comprise—

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

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

8.3.4 The Council before designating a heritage precinct shall—

- (a) advertise notice of Council's intention in a newspaper circulating in the district and 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;
- (b) invite submissions on Council's intention within 28 days of the date specified in the notice in (a) above;
- (c) carry out such other consultation as it thinks fit;
- (d) consider any submissions made and resolve to designate the heritage precinct with or without modification or reject the proposal;
- (e) forward notice of its decision to the Heritage Council of WA and State Planning Commission.

8.3.5 The Council may modify or may cancel a heritage precinct or any policy statement which relates to it by following the procedure set out in Clause 8.3.4 above.

8.4 APPLICATIONS FOR DEVELOPMENT APPROVAL

8.4.1 In dealing with any matters which may affect a heritage precinct or individual entry on the Heritage list, including any application for development approval, Council shall have regard to any heritage policy of Council.

8.4.2 The Council may, in considering any application that may affect a heritage precinct or individual entry on the Heritage List, solicit the views of the Heritage Council of WA, the Australian Heritage Commission, the National Trust of Australia (WA) and those of any other relevant bodies, and take those views into account when determining the application.

8.4.3 Notwithstanding any other provision of the Scheme, no person shall commence or carry out any development affecting any building, object, structure or place listed in the Inventory or contained within a heritage precinct without first having applied for and obtained the planning approval of the Council pursuant to the provisions of Part 7 of the Scheme.

8.4.4 For the purposes of Clause 8.4.3 the term 'development' shall have the meaning as set out in the Town Planning and Development Act (as amended) but shall also include, in relation to any building, object, structure or place entered in the Heritage List or contained within a Heritage Precinct, any act or thing that—

- (a) is likely to change the character of the place or the external appearance of any building;
- or
- (b) would constitute an irreversible alteration to the fabric of any building.

8.5 FORMALITIES OF APPLICATION

In addition to the application formalities prescribed in Clause 8.4 and any formalities or requirements associated with development applications contained in any other provision of the Scheme, the Council may require an application for development approval, where the proposed development may affect a place of cultural heritage significance or a heritage precinct, to provide the following to assist the Council in its determination of 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) side and rear elevations of the proposed development, drawn to a scale of not smaller than 1:100;
- (c) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type, height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
- (d) an assessment of the cultural significance of any existing buildings and the development site according to policy guidelines adopted by the Council;
- (e) 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
- (f) any other information which the Council indicates that it considers relevant.

8.6 POWER TO DETERMINE APPLICATION

8.6.1 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 development approval, the Council in dealing with any application for development approval may for reasons related to the conservation of a place of cultural heritage significance or a heritage precinct—

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

8.7 VARIATIONS TO SCHEME PROVISIONS

8.7.1 The Council may approve any development which involves the conservation of 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.

8.8 CONSERVATION INCENTIVES

8.8.1 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.

8.8.2 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 7.3 and shall have regard to any expressed views prior to making its decision to grant the incentive.

8.8.3 In granting a conservation incentive under Clause 8.8.1, the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the incentive. The agreement may specify the owner's obligations and contain covenants noted on relevant Certificates of Title.

PART 9—ADMINISTRATION

9.1 POWERS OF THE SCHEME

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 an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme;
- (b) the Council may acquire any land or buildings within the district 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 provisions of the Scheme or the Act in accordance with law and for such purpose may make such agreement 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.

9.2 OFFENCES

9.2.1 No person shall depart from or permit or suffer any departure from the requirements of the Scheme, nor shall any person use or suffer or permit the use of any land or buildings to 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 consents required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the grant and issue of any consent required by the Scheme have been and continue to be complied with;
- (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 land or building or that part have been and continue to be complied with.

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

9.3 COMPENSATION

9.3.1 Except where otherwise provided in the Scheme, the time limit for the making of claims for compensation pursuant to Section 11 of the Act resultant from the making of it, or the making of an amendment to, the Scheme is six (6) months after the date of publication of the Scheme in the *Government Gazette*.

9.3.2 Where, in respect of any application of planning consent to commence and carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants consent 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 (6) months of the date of the relevant decision, claim compensation from the Council for injurious affection.

9.4 ELECTION TO PURCHASE AND VALUATION

9.4.1 Where compensation for injurious affection is claimed pursuant to either sub clauses 9.3.1 or 9.3.2, the Council may, at its discretion elect to acquire the land so affected instead of paying compensation.

9.4.2 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 (3) months of the claim for compensation.

9.4.3 Where the Council elects to acquire land as provided in sub-clause 9.4.1, 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 as determined in accordance with sub-clause 9.4.4.

9.4.4 The value of the land referred to in sub-clause 9.4.3 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 (as amended);
- 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 this Scheme.

9.4.5 The Council may deal with or dispose of land acquired for a Local Reserve or pursuant to the preceding sub-clause 9.4.4 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.

9.5 RIGHTS OF APPEAL

9.5.1 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.

9.5.2 In relation to the preparation and adoption of Development Plans required under this Scheme, a proponent may appeal in accordance with Clause 9.5 under any of the following circumstances—

- (a) where the Council has approved the Development Plan subject to conditions unacceptable to the proponent;
- (b) where the Council has refused the Development Plan;
- (c) where the Plan and all required details have been supplied to the Council, the Council is not precluded from approving the Plan by some written law, the Plan has been advertised and submissions received, and the Council has not made a decision within 90 days from the closure of the advertising period.

9.6 NOTICES

9.6.1 Twenty eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 9 of the Act.

9.6.2 The Council may recover expenses under Section 9(2) of the Act in a court of competent jurisdiction.

9.7 PLANNING POLICIES

9.7.1 The Council may prepare a planning policy (hereinafter after 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.

9.7.2 A Policy shall become operative only after the following procedures have been completed—

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

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

9.7.4 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 9.7.2.

9.7.5 A Policy may only be altered or rescinded by—

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

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

9.7.7 THE SCHEME SHALL PREVAIL

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.

9.7.8 POLICY STATEMENTS SHALL BE CONSISTENT WITH THE SCHEME

The Policy Statements prepared pursuant to this Part shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

9.8 DELEGATION

9.8.1 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 Consent made under this Scheme—

- (a) a member of the Council being the Chairman of the committee required at the direction of Council to consider and report all applications for Planning Consent 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 Municipal Town Planners Certificate, appointed to the position of Town Planner for the purposes of the Local Government Act 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 (a) and (b) above.

9.8.2 Any delegation made under sub-clause 9.8.1 shall have the effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.

9.8.3 A delegation of authority pursuant to the provisions of this clause has the 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.

9.8.4 The performance of the function by a delegate under sub-clause 9.8.1 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.

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

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

9.8.7 An officer 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.

9.8.8 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 this Scheme.

9.9 AMENDMENTS TO THE SCHEME

9.9.1 The Council shall keep the Scheme under constant review and where appropriate carry out investigations and study with a view to maintaining the Scheme as an up to date and efficient means for pursuing community objectives regarding development and land use.

9.9.2 The Council may, from time to time, initiate an amendment to the Scheme in accordance with the Act and Regulations and shall give consideration to any application to have the Scheme amended subject to the provision of sufficient information that clearly establishes the purpose and intent of the proposed amendment.

9.9.3 In the case of a proposed amendment to the zoning of land other than requested by the owner, the Council shall, before initiating any amendment to the Scheme, invite comment from the owner of the land concerned.

9.9.4 Council shall take into consideration any comments or submissions received in respect of a proposed amendment and shall only proceed with the amendment where it is satisfied the amendment would be consistent with the objectives of the Scheme and would not be contrary to the public interest.

9.10 RURAL RESIDENTIAL REZONING REQUIREMENTS

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 the submission shall include—

- (a) a statement of the purpose or intent for which the zone is being created;
- (b) a plan or plans showing contours to adequately depict landform and physical features such as existing buildings, other improvements, rock outcrops, tree areas or groups, streams, wells, other significant improvements;
- (c) servicing arrangements for connection to town water as appropriate, power services and access;
- (d) a development plan prepared in accordance with Part 5 of the Scheme; and
- (e) methods to be used to control and dispose of stormwater runoff.

APPENDIX 1 INTERPRETATIONS

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

Absolute Majority: shall have the same meaning as is given to it in and for the purposes of the Local Government Act 1995 (as amended).

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

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

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

Airfield: means land and buildings used in connection with the operation of aircraft, including a passenger terminal, offices, parking and servicing of aircraft, and car parking, but not including occasional or seasonal use of temporary facilities for purposes associated with agriculture.

Amenity Building: means a building or part of a building that employees or persons engaged in an industry or business use for their personal comfort, convenience or enjoyment or leisure as distinct from 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 a machine, device or games table, mechanically or electronically powered, that releases or makes available balls, discs or other items for projection in or on the machine by the use of springs, flippers, paddles or cues, or electronic devices which are controlled or partly controlled by computer associated with electronic screen(s) operated by one or more players for amusement or recreation.

- Amusement Parlour:** means land and buildings, 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.
- Art Gallery:** means premises used for the showing of works of art.
- 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.
- Betting Agency:** means a building operated in accordance with the Totalisator Agency Board Betting Act 1960 (as amended).
- Builder's Storage Yard:** means land and 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:** shall have the same meaning as is given to it in and for the purposes of the Residential Planning Codes.
- Building Codes:** means the Building Code, and associated Regulations, of Australia (1996).
- Building Envelope:** means an area of land within a lot marked on an approved plan outside which building development is not permitted.
- Building Line:** means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act.
- Building Setback:** means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected.
- Camping Area:** means land used for the lodging of persons in tents or other temporary shelter.
- Caravan:** means a vehicle as defined under the Road Traffic Act 1974-82 maintained in condition suitable for licence under that Act all times and being designed or fitted or capable of use as a habitation or for a dwelling or sleeping purposes.
- Caravan Park:** means an area of land specifically set aside for the parking of caravans and park homes or for the erection of camps on bays or tent sites allocated for that purpose.
- Caretaker's Dwelling:** means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.
- Car Park:** means 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.
- Cattery:** means the use of an approved out-building constructed in accordance with the Health Act Model By-laws Series 'A' Part One—General Sanitary Provisions (as amended) for the purpose of keeping more than three (3) cats over the age of three (3) months.
- Civic Building:** means a building designed, used or intended to be used by a Government Department, an instrumentality of the Crown, or the Council for administrative, recreational or other purpose.
- Civic Use:** means land and buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose.
- Club Premises:** means land and buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Act 1970 (as amended) or not and which building or premises are not otherwise classified under the provisions of the Scheme.
- Commission:** means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985.
- Community Home:** means a building primarily used for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care and managed by a constituted community-based organisation, with a recognised voluntary charitable or religious organisation, a Government Department or instrumentality of the Crown.
- Community Purposes:** means the use of premises designed or adapted primarily for the provision of education, social, cultural and recreational or other purposes as deemed appropriate by Council.
- Community Service Depot:** means land and buildings used for the garaging of vehicles and equipment used to provide a community service such as a fire brigade, ambulance and the like.
- Consulting Rooms:** means a building (other than a hospital or medical centre) used by no more than two 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 two practitioners may be of the one profession or any combination of professions or practices.
- Convenience Store:** means land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 200 m² gross leasable area.
- Day Care Centre:** means land and buildings used for the daily or occasional care of children in accordance with the Child Welfare (care Centres) Regulations, 1968 (as amended).

Development: shall have the same meaning given it in and for the purposes of the Act.

Display Home Centre: means a group of two or more dwellings which are intended to be open for public inspection as a demonstration of housing design.

District: means the Municipal District of the Shire of Derby-West Kimberley.

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

Drive-In Theatre: means land and buildings used to make provision for an audience to view the entertainment while seated in motor vehicles.

Dry Cleaning Agency: means a building at which the public may lodge and receive articles for dry cleaning and where in some instances subject to the provisions of the Health Act a limited amount of dry cleaning may be carried out on the premises.

Dry Cleaning Premises: means land and buildings used for the cleaning of garments and other fabrics by chemical processes.

Eating House: means any house, building or structure or any part thereof in which meals are served to the public for gain or reward and the expression includes a restaurant or cafe. The term does not include—

- (a) any premises in respect of which an hotel licence, tavern licence, a restaurant licence or winehouse licence has been granted under the Liquor Act;
- (b) any residential building;
- (c) any building or structure used temporarily for serving meals to the public at any fair, show, military encampment, races or other sports, games or amusements.

Educational Establishment: means a school, college, university, technical institute, academy or other educational centre, but does not include a reformatory or institutional home.

Effective Frontage: means the width of a lot at the minimum distance from the street alignment at which buildings may be constructed, and shall be calculated as follows—

- (a) where the site boundaries of a lot are parallel to one another, the length of a line drawn at right angles to such boundaries;
- (b) where the side boundaries of a lot are not parallel to one another, the length of a line drawn parallel to the street frontage and intersecting the side boundaries at the minimum distance from the street alignment at which buildings may be constructed;
- (c) where a lot is of such irregular proportions or on such steep grade that neither of the foregoing methods can reasonably be applied, such length as determined by the Council.

Equestrian Centre: means land and buildings used for the stabling and exercise of horses and includes facilities for events of a competitive nature.

Factory Unit Building: means an industrial building designed, used or adapted for use as two or more separately occupied production or storage areas.

Family Day Care: shall have the same meaning as given to this use by the Community Service (Child Care) Regulations.

Fast Food Outlet: means land and 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, but does not include a fish shop.

Fish Shop: means a building where wet fish and similar foods are displayed and offered for sale.

Floor Area: shall have the same meaning given to it and for the purposes of the Building Code of Australia.

Frontage: means the boundary line or lines between a site and the street or streets upon which the site abuts.

Fuel Depot: means land and buildings used for the storage and sale in bulk of solid or liquid gaseous fuel, but does not include a service station.

Funeral Parlour: means land and buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation.

Garden Centre: means land and 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 pre-fabricated garden buildings.

Gazettal Date: means the date of which this Scheme is published in the *Government Gazette*.

Gross Leasable Area: means in relation to a building, the area of all floors capable of being occupied by a tenant for his exclusive use, which area is measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas.

Harbour Installations: means land and buildings used for and incidental to the purposes of loading, unloading and maintaining ships.

Health Centre: means a maternal or X-ray centre, a district clinic, a masseur's establishment, or a medical clinic.

Health Studio: means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.

Hire Service: means land and buildings used for the storage and hire of machinery and other bulky equipment.

Holiday Accommodation and Tourist Uses: means land and buildings constructed and used for the accommodation and recreation of holiday makers and organisations in accordance with the provisions of the Local Government Model By-law (Holiday Accommodation No18, the Health Act (Caravan Parks and Camping Grounds) Regulations, 1997, the Local Government Model By-laws (Caravan Parks and Camping Grounds) No. 2, and may include, with the approval of the Council, uses incidental to the normal functioning of a holiday accommodation facility such as a restaurant, cafe, recreational facility or similar use.

Home Occupation: means a business or activity carried on with the written permission of the Council within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that—

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection due to the emission of light, noise, vibration, electrical interferences, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, liquid wastes or waste products or the unsightly appearance of the dwelling house or domestic outbuilding or the land on which the business is conducted;
- (b) does not entail employment of any person not a member of the occupier's family;
- (c) does not occupy an area greater than forty square metres;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located;
- (e) does not display a sign exceeding 0.2 m² in area;
- (f) in the opinion of the Council it is compatible with the principal uses to which land in the zone in which it is located may be put and will not in the opinion of the Council generate a volume of traffic that would prejudice the amenity of the area;
- (g) does not entail the presence, use or calling of a vehicle of more than two tonnes tare weight;
- (h) does not entail the presence of more than one commercial vehicle; and
- (i) does not entail the offering for sale or display of motor vehicles machinery or goods (other than goods manufactured or serviced on the premises).

Hospital: means a building in which persons are received and lodged for medical treatment or care and includes maternity hospital.

Hospital Special Purposes: means a building used or designed for use wholly or principally for the purpose of a hospital or sanatorium for the treatment of infectious or contagious diseases, or hospital for the treatment of the mentally ill or similar use.

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

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

- (a) the winning, processing or treatment of minerals;
- (b) the making, altering, repairing, or ornamentation, painting, finishing, cleaning, packing or canning or adapting, 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 goods, 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) site work on buildings, work or land;
- (iii) in the case of edible goods the preparation of food for sale from the premises.

Industry—Cottage: means an industry which produces arts and crafts goods which cannot be carried out under the provisions relating to a "home occupation" and that—

- (a) does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury, or prejudicial affection, due to the emission of light, noise, vibration, steam, soot, ash, dust, grit, oil, liquid wastes or waste products;
- (b) where operated in a Residential Zone, does not entail the employment of any person not a member of the occupier's family normally resident on the land;
- (c) is conducted in an out-building which is compatible to the zone and its amenity and does not occupy an area in excess of 55m²;
- (d) does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located, and;
- (e) does not display a sign exceeding 0.2m² in area.

Industry Extractive: means an industry which 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 is extracted or on land adjacent thereto; or
- (b) the production of salt by the evaporation of sea 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, waste water or other waste products; and
- (b) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

Industry Noxious: means an industry which is subject to licencing as 'Prescribed Premises' under the Environmental Protection Act 1986 (as amended).

Industry Rural: means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality but excludes the packing only of product for transport where that product is harvested on the same lot.

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.

Kindergarten: means land and buildings used as a school for the education of young children by object-lessons, toys, games, singing and similar methods.

Kit Home: means a dwelling that is partly or wholly pre-fabricated at any place other than on the lot upon which it is to be erected and which by virtue of architectural design and external appearance is compatible with the standards and design of non-prefabricated residential dwellings.

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

Laundromat: means a building, open to the public, in which coin-operated or other washing machines, with or without provision for drying clothes, are available for use.

Liquor Store: means a building the subject of a Store Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended).

Lot: shall have the same meaning given to it in and for the purposes of, the Act and "allotment" has the same meaning.

Marine Collector's Yard: means land and buildings used for the storage of marine stores under the provisions of the Marine Stores Act 1902 (as amended) and land Marine Dealer's Yard and Marine Store have the same meaning.

Marine Filling Station: means land and buildings used for the storage and supply of liquid fuels and lubricants for marine craft, but in which no industry is carried on; but does not include a service station.

Market: means land and buildings used for a fair, a farmers' or producers' market, or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stall holders 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 interpretations of consulting rooms but also for ancillary services such as chemists, pathologists and radiologists.

Milk Depot: means land and buildings to which milk is delivered for distribution to consumers but in which milk is not processed or pasteurised.

Mobile Home: means any vehicle or similar relocatable structure having been manufactured with wheels (whether or not such wheels have been removed) and having no footings other than wheels, jacks or skirtings, and so designed or constructed as to permit independent occupancy for continuous dwelling purposes incorporating its own facilities including bathroom and toilet facilities.

Mobile Home Park: means land upon which two or more mobile homes, occupied for dwelling purposes, are located regardless of whether or not a charge is made for such accommodation.

Motel: means land and buildings used or intended to be used to accommodate patrons in a manner similar to a Hotel or Boarding House but in which special provision is made for the accommodation of patrons with motor vehicles and to which a licence under the Liquor Licensing Act 1988 has been granted.

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

Motor Vehicle Hire Station: means land and buildings used for the hiring out of motor vehicles and when conducted on the same site, the storage and cleaning of motor vehicles for hire but does not include mechanical repair or servicing of such vehicles.

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

Motor Vehicle Wash Station: means land and buildings where vehicles are washed and cleaned by or primarily by mechanical means.

Motor Vehicle Wrecking Premises: means land and buildings used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.

Multiple Occupancy: means the use and occupation of a rural holding at a residential density higher than normally associated with traditional rural living and which may be characterised by the following—

- (a) an approved agreement for management of and responsibility for the whole or parts of the holding;
- (b) more than one separate dwelling unit for use by families or unrelated groups of persons;
- (c) a defined area for separate occupation for residential and ancillary uses.

Museum: means land and buildings used for storing and exhibiting objects illustrative of antiquities, natural history, art, nature and curiosities.

Non-conforming Use: means a use of land which, though lawful immediately prior to the coming into operation of this Scheme, is not in conformity with the Scheme.

Nursery: means land and buildings used for the propagation, rearing and sale of products associated with horticultural and garden decor.

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

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

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

Outbuilding: refers to a non-habitable building located in association with, but not necessarily connected to, a dwelling, and used for purposes ancillary to the residential use of the property.

Park Home: means a movable dwelling, not being a vehicle as defined under the Road Traffic Act 1974-1982 but constructed and maintained on its own chassis and wheels and capable of mobility at all times although stabilised by jacks and provided with skirtings and so designed and constructed as to permit independent occupancy for dwelling purposes.

Park Home Park: means an area of land set aside exclusively for the parking of park homes occupied for residential purposes whether for short or long stay purposes, but includes the provision of buildings and uses incidental to the predominant use of the land, including ablution blocks, recreation areas office and storage space and, as approved by Council, a shop or kiosk and refuelling facilities, but the term shall be interpreted to exclude the parking of caravans, camper trailers and the erection of tents.

Petrol Filling Station: means land and 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 1911-1979 (as amended).

Plot Ratio: except for a single house, attached house, grouped dwelling or multiple dwelling where it shall have the same meaning given to it in the Residential Planning Codes, plot ratio means the ratio of the gross total of the areas of all floors to the area of land within the site boundaries, and in calculating the gross total of the areas of all floors the areas shall be measured over any walls provided that lift shafts, stairs, toilets and amenities, external wall thicknesses, plant rooms and the gross floor area of any floor space used for the parking of wheeled vehicles including access to and from that space within the building shall not be included.

Potable Water: means water in which levels of physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in 'International Standards for Drinking Water—Third Edition, World Health Organisation—1971'.

Poultry Farm: means land and buildings used for hatching, rearing or keeping of poultry for either egg or meat production which does not constitute an offensive trade within the meaning of the Health Act 1911-1979 (as amended).

Prison: shall have the same meaning given to it in and for the purposes of the Prisons Act 1981 (as amended).

Private Hotel: means land and buildings used for residential purposes the subject of a Limited Hotel Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended).

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

Produce Store: means land and buildings wherein fertilisers and grain are displayed and offered for sale.

Professional Office: means a building used for the purposes of his profession by an accountant, architect, artist, author, barrister, chiroprapist, consular official, dentist, doctor, engineer, masseur, nurse, physiotherapist, quantity surveyor, solicitor, surveyor, teacher (other than a dancing teacher or a music teacher), town planner, or valuer, or a person having an occupation of a similar nature, and Professional Person has a corresponding interpretation.

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 Mall: means any public street or right-of-way designed especially for pedestrians who shall have the right of way and vehicle access shall be restricted to service vehicles at times specified by the Council.

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

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

Public Worship—Place Of: means land and buildings used for the religious activities of a church but does not include an institution for primary, secondary, or higher education or a residential training institution.

Radio and T.V. Installation: means land and buildings used for the transmission, relay and reception of signals and pictures, both commercial and domestic, but does not include domestic radio and television receivers.

Reception Centre: means land and buildings used by parties for functions on formal or ceremonious occasions, but not for unhosted use for general entertainment purposes.

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

Refuge/Safe House: means a building or buildings which is used for the purpose of providing emergency accommodation for persons affected by domestic violence.

Rehabilitation Centre: means a building used or designed for use wholly or principally for the purpose of rehabilitation and includes a sobering up shelter.

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

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

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

Residential Planning Codes: means the Residential Planning Code, set out in Appendix 3 to the Statement of Planning Policy No. 1 together with any amendments thereto as published in the *Government Gazette* on January 30, 1985.

Restaurant: means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside the building is not the principal part of the business.

Restoration: means any work or process on at or in respect of a building structure or place which wholly or partly brings back the building structure or place to its original condition or which reinstates its historic or natural character either by rebuilding or repairing its fabric or by removing accretions or additions.

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

- (a) publications that are classified as restricted publications pursuant to the Indecent Publications and Articles Act 1902 (as amended); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity.

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

- (a) the growing of vegetables, fruit, cereals or food crops;
- (b) the rearing or agistment of goats, sheep, cattle or beasts of burden;
- (c) the stabling, agistment or training of horses;
- (d) the growing of trees, plants, shrubs, or flowers for replanting in domestic, commercial or industrial gardens;

- (e) the sale of produce grown solely on the lot;
- (f) aquaculture,

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

- (i) poultry farming;
- (ii) the processing, treatment or packing of produce;
- (iii) the breeding, rearing or boarding of domestic pets.

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

Sawmill: means land and buildings where logs or large pieces of timber are sawn but does not include a joinery works unless logs or large pieces of timber are sawn therein.

Schedule: means a schedule to the Scheme.

Second-hand Building: means any building or structure which does not consist of substantially all new material and may be transported or moved to a site for the purpose of re-erection.

Service Station: means land and buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use, but does not include transport depot, panel beating, spray painting, major repairs or wrecking.

Shared Dwelling: means a building used primarily for living purposes by not more than five persons residing therein as a single household; the term also includes such outbuildings and recreational uses and gardens as are ordinarily used therewith, but does not include a private hotel, motel or boarding house.

Shop: means a building wherein goods are kept, exposed or offered for sale by retail, but does not include a bank, fuel depot, market, service station, milk depot, marine collector's yard, timber yard or land and buildings used for the sale of vehicles or for any purpose falling within the definition of industry.

Short Stay Accommodation: means any land or buildings used for the overnight or holiday accommodation of patrons in self-contained units and/or shared accommodation and may include ancillary facilities. It includes dormitory style accommodation, hostel/backpackers, tourist lodgings and guest houses, but excludes single suite bed and breakfast facilities.

Showroom: means a building wherein goods are displayed and may be offered for sale by wholesale and/or by retail of: foodstuffs, liquor or beverages; items of clothing or apparel, magazines, books or paper products; medical or pharmaceutical products; china, glassware or domestic hardware; and items of personal adornment.

Single House: means an independently constructed dwelling standing wholly on its own lot created pursuant to the Town Planning and Development Act 1928.

Sports Ground: means any land used for any sport, but does not include land within the curtilage of a dwelling, if not used commercially.

Stables: means land and building used for the housing and keeping of horses.

Staff Quarters: means a building or buildings used or designed for use wholly or principally for the exclusive accommodation of staff employed by an organisation or business existing on or carried on the same site and may include incidental facilities such as swimming pools, sporting facilities and recreational facilities for the exclusive use of staff only.

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

Storey: means for other than residential development, that portion of a building which is situated between the top of the floor next above it: and if there is no floor above it, that portion between the top of the floor and the ceiling above it.

Tavern: means land and buildings the subject of a Tavern Licence granted under the provisions of the Liquor Act 1970 (as amended).

Temporary Accommodation: means any habitable building not permanently affixed to the ground and includes any caravan, transportable dwelling, or any structure used for habitation for the purposes of accommodation for a period not exceeding six months.

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

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

Transportable Building: means any structure that is prefabricated at any place other than on the site upon which it is to be erected but does not include a "Kit Home".

Veterinary Consulting Rooms: means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight.

Veterinary Hospital: means a building used in connection with the treatment of sick animals and includes the accommodation of sick animals.

Video Sales and/or Hire: means premises used for the sale or hire of video equipment or tapes used in video recorders.

Warehouse: means a building wherein goods are stored and may be offered for sale by wholesale.

Waterway: means an artificial channel, lake, harbour or embayment, for the navigational, irrigational, ornamental, and recreation purposes, or for any of those purposes; and includes any addition to or alteration of a waterway as so defined.

Wayside Stall: means a building which offers for sale to the general public produce or any commodity which is produced on the land upon which the buildings are located or immediately adjoining.

Wholesale: means the sale of any goods to any person or persons other than the ultimate consumer of those goods by a person or his trustee, registered as a 'wholesale merchant' for Sales Tax purposes under the provisions of the Sales Tax Assessment Act No. 1 1930, (as amended).

Wine House: means land and buildings the subject of a Wine House Licence granted under the provisions of the Liquor Act 1970, (as amended).

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

Zoological Gardens: means land and 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.

APPENDIX 2

Shire of Derby/West Kimberley

Town Planning Scheme No. 5

SCHEDULE OF ADDITIONAL USES (CLAUSE 3.4)

	LOT NO.	STREET	CURRENT USES	PERMITTED ADDITIONAL USES	DATE
A1	Lot 1	Derby Highway	Special Rural and Tearooms	Tearooms and Nursery	As at Gazettal of this Scheme
A2	Lot 170	Windjana Road	Rural Residential Dog Kennels	Dog Kennels (Boarding/Breeding)	As at Gazettal of this Scheme

APPENDIX 3

Shire of Derby/West Kimberley

Town Planning Scheme No. 5

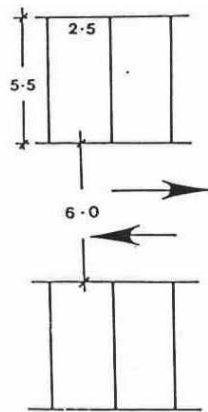
SPECIAL SITE SCHEDULE (CLAUSE 3.5)

MAP REF	LOT NO.	LOCATION	PURPOSE	DEVELOPMENT PROVISIONS
S1	Lot 9 & 10	Derby Highway	Shortstay Accommodation	Development is subject to connection to town sewer system or other approved system and reticulated water supply.
S2	50, 51 & 1218	Sutherland & Stanley Streets	Shortstay Accommodation and Offices	Expansion of existing uses subject to capacity of on-site effluent disposal.
S3	84	Loch Street	Service Station Motor Repair Station Convenience Store	As determined by Council.
S4	520	Loch Street	Motel/Accommodation	As per planning consent.
S5	Reserve 39791	Rowan Street	Aged Persons Dwellings	As determined by Council.
S6	Reserve 17765	Rowan Street	Caravan and Camping Park	As determined by Council and Caravan Park and Camping Ground Regulations 1997 (as amended).
S7	527	Lovegrove Street	Shortstay Accommodation Rural Residential	Connection to reticulated water supply. Effluent disposal system subject to Waters and Rivers Commission and Health Department approval. Any development application is required to be advertised for public comment.

MAP REF	LOT NO.	LOCATION	PURPOSE	DEVELOPMENT PROVISIONS
S8	538 & 1210	Maxted Street	Tourism Accommodation Uses and Rural Residential	Development of the site may include— Caravan Park; Convenience Store; Museum; Art Gallery Gift Shop, Caretakers dwelling; Backpackers Hostel; Café and Rural Residential subdivision. Tourist accommodation development is subject to connection to the town sewer system or alternative as approved by the Health Department of WA. Any development application is required to be advertised for public comment.
S9	1198	Loch Street	Accommodation Resort	As determined by Council.

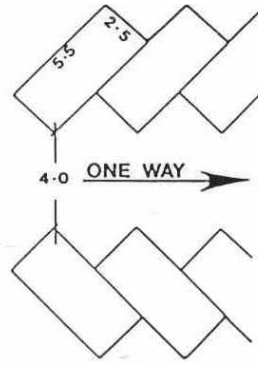
APPENDIX 4

Shire of Derby/West Kimberley
Town Planning Scheme No. 5
CAR PARKING STANDARDS

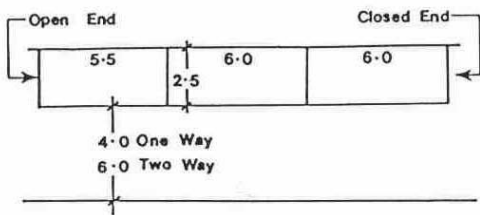


90° Parking

90° & 45° Parking - 5.5m x 2.5m



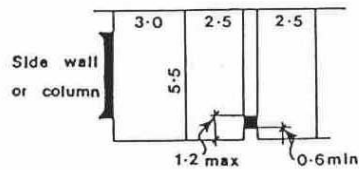
45° Parking



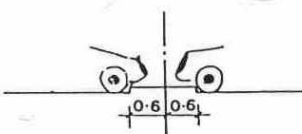
Parallel Parking

Parallel Parking - 6.0m x 2.5m

OR: - 5.5m x 2.5m where Open Ended

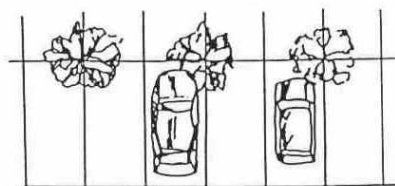


Obstructions



Wheel Stop Modifications

Not to affect drainage



Shade Tree Landscaping

Kerb ring not to exceed 900mm diam

APPENDIX 5

Shire of Derby / West Kimberley

Town Planning Scheme No. 5

EXEMPTED ADVERTISEMENTS PURSUANT TO CLAUSE 7.0

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER REQUIRING ADVERTISEMENT (Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	One professional name-plate as appropriate.	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly.	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ²
Shops, Showrooms and other uses appropriate to a Shopping Area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	Not Applicable
Industrial and Warehouse Such Premises.	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any advertisements shall not exceed 15m ² Maximum permissible total area shall not exceed 10m ² & individual advertisement signs shall not exceed 6m ²
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	N/A
Public Places and Reserves	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and (b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the council of a municipality, and (c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A N/A N/A

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER REQUIRING ADVERTISEMENT (Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings.	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m ²
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows)—		
(i) Dwellings	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m ²
(ii) Multiple Dwellings, Shops Commercial & Industrial projects.	One sign as for (i) above.	5m ²
(iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One sign as for (i) above. One additional sign showing the name of the project builder.	10m ² 5m ²
Sales of Goods or Livestock.	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m ²
Property Transactions. Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows—		
(a) Dwellings	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.	Each sign shall not exceed an area of 2m ²
(b) Multiple dwellings, shops, Commercial & Industrial Properties.	One sign as for (a) above.	Each sign shall not exceed an area of 5m ²
(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha.	One sign as for (a) above.	Each sign shall not exceed an area of 10m ²

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN TYPE AND NUMBER REQUIRING ADVERTISEMENT (Includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Display Homes.	(i) One sign for each dwelling on display.	2m ²
Advertisement signs displayed for the period over which homes are on display for public inspection.	(ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	5m ²

APPENDIX 6

Shire of Derby/West Kimberley

APPLICATION FOR APPROVAL

PLEASE TICK WHICH APPROVAL IS BEING SOUGHT & FILL IN THE APPROPRIATE SECTION(S) ONLY—

- | | | | |
|--------------------|--------------------------|------------------|--------------------------|
| Planning Approval | <input type="checkbox"/> | Building Licence | <input type="checkbox"/> |
| Demolition Licence | <input type="checkbox"/> | Sign Licence | <input type="checkbox"/> |

PROPERTY DETAILS—

Lot No.*..... House/Street No..... Location No.*..... Plan or Diagram*.....
 Certificate of Title:.....Vol.*..... Folio*..... Lot Area (m²)
 Title Encumbrances*.....
 Street Name.....Suburb.....
 Nearest Street Intersection*.....
 Ward*.....
**Note: These details should be provided where known to assist in the processing of this application.*

OWNER DETAILS (IF PLANNING CONSENT IS REQUIRED)—

Name.....
 Address (Postal).....
 Postcode.....
 Phone (Work)..... (Home)..... Fax.....
 Contact Person
 Signature(s)
 Signature(s) Date.....
The signature of the landowner(s) is required for Planning Approval. This application will not proceed without that signature.

APPLICANT DETAILS: (To be completed only if different from the owner)

Name.....
 Address (Postal).....
 Postcode.....
 Phone (Work)..... (Home)..... Fax.....
 Contact Name.....
 Signature(s) Date.....

OFFICE USE ONLY

Accepting Officer's Initials:

Date Received:

Application No:

PLANNING APPROVAL—

Existing Building/Land Use.....
 Approx. Cost of Development..... Est. Date of Completion.....
 Description of Development/or Proposed Use

BUILDING LICENCE

Description of proposed development

Type of Work:	New Buildings	Alterations/Internal Additions	Outbuildings
1A	<input type="checkbox"/> New Building	2A <input type="checkbox"/> Habitable	9A <input type="checkbox"/> Habitable
1B	<input type="checkbox"/> Display Home	2B <input type="checkbox"/> Internal Additions	9B <input type="checkbox"/> Workshop
1C	<input type="checkbox"/> Preliminary Application	2C <input type="checkbox"/> Garage	9C <input type="checkbox"/> Carport
	<input type="checkbox"/> Other (specify)	2D <input type="checkbox"/> Carport	9D <input type="checkbox"/> Above ground pool
		2E <input type="checkbox"/> Verandah	9E <input type="checkbox"/> Below ground pool
		<input type="checkbox"/> Other (specify)	9I <input type="checkbox"/> Garage
			9J <input type="checkbox"/> Other (specify)
Type of Building:	House	Multi-Residential	Other
11	<input type="checkbox"/> Separate House	21 <input type="checkbox"/> Single storey	<input type="checkbox"/> Other (specify)
12	<input type="checkbox"/> Kit House	22 <input type="checkbox"/> 2 or more storey	
19	<input type="checkbox"/> Transportable	23 <input type="checkbox"/> 1 or 2 storey flat/units	
		<input type="checkbox"/> Other (specify)	
Materials:	Walls	Floor	Roof
11A	<input type="checkbox"/> Double Brick	20A <input type="checkbox"/> Concrete—85mm	10 <input type="checkbox"/> Tiles
12	<input type="checkbox"/> Brick Veneer	20B <input type="checkbox"/> Concrete—Other	60A <input type="checkbox"/> 'Colorbond'
11B	<input type="checkbox"/> Thermalite interior	10 <input type="checkbox"/> Timber	60B <input type="checkbox"/> 'Zincalume'
60A	<input type="checkbox"/> 'Colorbond' Walls	<input type="checkbox"/> Other (specify)	<input type="checkbox"/> Other (specify)
60B	<input type="checkbox"/> 'Zincalume' Walls		
60C	<input type="checkbox"/> Steel Columns		
60D	<input type="checkbox"/> Timber Posts		
50A	<input type="checkbox"/> Fibreglass (pools)		
	<input type="checkbox"/> Other (specify)		

Builder Name.....
 Address (Postal).....
 Registration No..... Phone..... Fax.....
 Building Details: Area (m²).....Outbuildings Area (m²).....
 Contract Value \$.....Building Height.....Signature.....
(Inclusive of GST)

DEMOLITION LICENCE—

Application to be made on separate form.

SIGN LICENCE—

Type of Sign

Position

Dimensions.....Materials

Illumination—Internal/External

Wording/Illustration (Plan/Design attached)

APPENDIX 6

All applications shall be accompanied by—

- (a) a location plan showing the land and the subject of the application and its relationship to surrounding lots and streets;

and in the case of an application for the erection of new buildings—

- (b) a site plan or plans showing—
- (i) the position, type and use of all existing buildings and improvements on the land; indicating those to be removed as part of the proposal;
 - (ii) the position, type and use of any new buildings and improvements proposed on the land;
 - (iii) the position of any trees on the site showing those to be removed and those to be retained;
 - (iv) areas to be landscaped, surfaced for parking or developed for any other purpose within the site;
 - (v) contours and any earthworks to be undertaken as a part of the development;
 - (vi) the location and description of any buildings, places or objects (vide Section 2.4);
 - (vii) the method by which stormwater run-off is to be contained on the site or discharged from the site;

or in the case of an application for a change in the use of land and or buildings;

- (c) a site plan and, where applicable, floor plan(s) of the existing building(s) indicating the uses to be made of the land and the respective buildings or portions of the building(s).

APPENDIX 7

NOTICE OF PROPOSED APPLICATION
FOR APPROVAL TO COMMENCE DEVELOPMENT
AVAILABLE FOR INSPECTION
TOWN PLANNING SCHEME NO. 5

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

PROPOSAL—

PROPERTY—

INSPECTION AND ENQUIRIES—

Council Offices, Development Services Building, Loch Street, Derby, from 8.30 a.m. to 4.00 p.m. weekdays, up to and including _____(date)_____.

SUBMISSIONS—

Your written comments should be submitted to the Chief Executive Officer, Shire of Derby/West Kimberley, P.O. Box 94, Derby W.A. 6728, by not later than 4.00 p.m. _____(date)_____.

PLEASE NOTE—

THIS IS A PROPOSAL ONLY. YOUR WRITTEN COMMENTS ARE WELCOMED AND WILL BE TAKEN INTO ACCOUNT BY THE COUNCIL IN DETERMINING THIS PROPOSAL.

CHIEF EXECUTIVE OFFICER.

APPENDIX 8

Shire of Derby/West Kimberley
Town Planning Scheme No. 5
GRANT OF PLANNING CONSENT

APPLICANT:

OWNER:

POSTAL ADDRESS:

PROPOSAL:

PROPERTY:

DATE OF ISSUE:

Planning Consent for the above proposal is GRANTED in accordance with the application and plans submitted on and subject to the following conditions—

Conditions —

SHIRE PLANNER

APPENDIX 9*Shire of Derby/West Kimberley*

Town Planning Scheme No. 5

SCHEDULE OF APPROVED LAYOUT PLANS

COMMUNITY	PROPERTY DETAILS	APPROVED DATE
Karmulinunga	Reserve 5952 : Family Area 1	29/10/97
	Reserve 13980 : Family Area 2	29/10/97
	Reserve 30725 : Djimung Gnuda	29/10/97
	: Budulah	29/10/97

ADOPTION

Adopted by Resolution of the Council of the Shire of Derby West Kimberley at the ordinary meeting of the Council held on the 30th day of April 1997.

E. ARCHER, President.
J. THROSSELL, Chief Executive Officer.

FINAL APPROVAL

Adopted for final approval by resolution of the Council of the Shire of Derby West/Kimberley at the ordinary meeting of the Council held on the 15th day of December 1999 and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of—

E. ARCHER, President.
J. THROSSELL, 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 this Scheme and to which formal approval was given by the Hon. Minister for Planning on the date shown below.

Recommended/submitted for final approval by the Western Australian Planning Commission.

EUGENE FERRARO, for Chairperson of the Western
Australian Planning Commission.

Date: 30 August 2001.

Final approval granted.

ALANNAH MacTIERNAN, Minister for Planning and Infrastructure.

Date: 18 September 2001.

POLICE

PO401**MISUSE OF DRUGS ACT 1981**

In accordance with Section 3A(1)(a) of the Misuse of Drugs Amendment Act 1995, I Barry Eldon Matthews, Commissioner of Police for Western Australia, declare the following analysts attached to the Australian Government Analytical Laboratories to be approved analysts for the purposes of that Act—

- Catherine Ann Morrice
- Aaron Charles Heagney
- Donald Pandich
- Sasha Vujic

B. E. MATTHEWS, Commissioner of Police.

WATER AND RIVERS

WR401*

WATER BOARDS ACT 1904 BUSSELTON WATER BOARD

Notice is hereby given under Section 79 of the above Act that the Rates and Charges for the Busselton Water Board have been approved for the period 1 July 2001 to 30 June 2002 and records may be inspected at the office of the Board during normal office hours.

Pursuant to Section 94 of the Water Boards Act No. 4 of 1904, the Busselton Water Board has resolved and the Minister has approved, that the following Rates and Charges shall apply for the twelve months ending 30 June 2002.

Residential

Standard Supply Charge—\$95.05

Water Consumption Charges

First 150kl	38 cents per kilolitre
Next 200kl	55 cents per kilolitre
Next 200kl	59 cents per kilolitre
Next 200kl	69 cents per kilolitre
Next 400kl	114 cents per kilolitre
Next 400kl	162 cents per kilolitre
Next 400kl	188 cents per kilolitre
Thereafter	218 cents per kilolitre

Residential Strata Titled Units existing at 1 July 1996 rated at 2.99 cents in the dollar of Gross Rental Value.

Commercial and Industrial

Rated at 1.953 cents in the dollar of Gross Rental Value.

Vacant Land

Rated at 2.982 cents in the dollar of Gross Rental Value.

All Rated Land

Subject to a Minimum Charge on each assessment in each classification—\$141.75.

Water Allowance—1 kilolitre of water for each 50.52 cents of rate paid.

Excess Water Charge—for each kilolitre in excess of allowance—56 cents.

Non Rated Water Services

Minimum Charge for each assessment—\$95.05

Water Allowance—1 kilolitre for each 50.52 cents of charge paid.

Excess Water—for each kilolitre in excess of allowance—66 cents

Water to Properties Outside of Board Area

100 cents per kilolitre

Penalty for Overdue Rates and Charges

A penalty charge equal to 10% per annum will accrue on a daily basis on all Rates and Charges which are overdue for payment.

A. J. La MANCUSA, Chairman.
D. G. McCUTCHEON, Chief Executive Officer.

WR402*

WATER AGENCIES (POWERS) ACT 1984

Water Supply Improvements, Shire of Coolgardie-Koorarawalyee

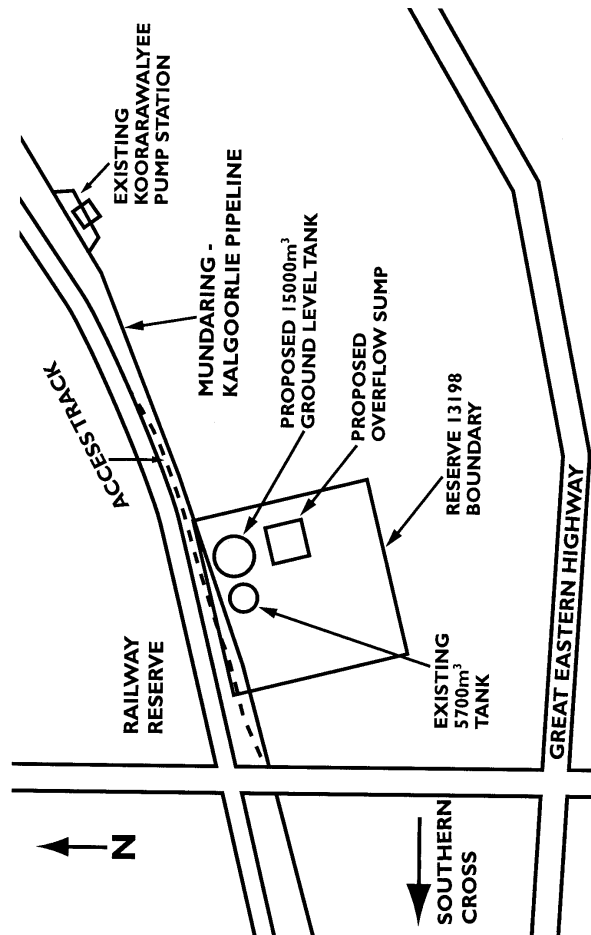
Notice of Proposal to Construct a 15 000m³ Ground Level Tank

To improve the Goldfields and Agricultural Water Supply, the Water Corporation proposes to construct a ground level water storage tank of either steel or reinforced concrete, associated pipework including valves, meters and concrete valve pits, and an excavated/bunded overflow stump.

This project will commence in July 2003 and will continue for approximately eight months.

For further information on this essential water supply project please contact Joss Rhodes on 9420 2367.

Objections to the proposed works should be lodged in writing to the Project Manager, Joss Rhodes, Water Corporation, John Tonkin Water Centre, 629 Newcastle Street, Leederville WA 6007, before the close of business on 22 October 2001.



WORKSAFE

WS401

OCCUPATIONAL SAFETY AND HEALTH ACT 1984
OCCUPATIONAL SAFETY AND HEALTH REGULATIONS 1996
EXEMPTION CERTIFICATE PURSUANT TO REGULATION 2.13
 (No. 6 of 2001)

I, Brian Thomas Bradley, WorkSafe Western Australia Commissioner, hereby grant an exemption to the Fire and Emergency Services Authority of Western Australia from the requirements of Regulation 4.2 of the *Occupational Safety and Health Regulations 1996* in relation to the operating of an unregistered Bronto elevating work platform F32 HDT.

This exemption is subject to the following conditions—

- (i) the supporting documentation (and fees) are submitted for registration before expiry to this exemption; and
- (ii) this exemption is valid until 11 December 2001.

Dated this 18th day of September 2001.

BRIAN THOMAS BRADLEY, WorkSafe Western Australia Commissioner.

PUBLIC NOTICES

ZZ201

TRUSTEES ACT 1962

In the Estate of Christian Michel Le Juge De Segrais also known as Emu, late of 99 Shemeld Street, Beacon in the State of Western Australia, Retired Soldier, deceased.

Creditors and other persons having a claim (to which Section 63 of the Trustees Act 1962 relates) in respect of Christian Michel Le Juge De Segrais, deceased, who died on the 27th day of August 2001 at Royal Perth Hospital, Perth in the said State are hereby required by the Executor of the said deceased Neil Douglas Curnow of 3 Aster Street, The Basin, Victoria to send particulars of their claims to Messrs. Clayton Utz, 109 St George's Terrace, Perth by 30th October 2001 after which date the Executor 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**

Creditors and other persons having claims (to which Section 63 of the Trustees Act 1962 relates) in respect of the estates of the undermentioned deceased persons are required by the personal representatives of care of Messrs Frank Unmack & Cullen, 11 Cantonment Street, Fremantle to send particulars of their claims to them within one month from the date of publication of this notice at the expiration of which time the personal representatives may convey or distribute the assets having regard only to the claims of which they have then had notice—

Cordy, Ashley Claude George Moseley late of Lot 3 Richardson Street, Serpentine, died 21 August 2001.

Kerr, Geoffrey Ronald late of Unit 223, 11 Marchamley Place, Carlisle, died 23 April 2001.

Dated this 14th day of September 2001.

FRANK UNMACK & CULLEN.

WESTERN AUSTRALIA

RAIL SAFETY ACT 1998

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Plus postage on 123 grams**

*Prices subject to change on addition of amendments.

WESTERN AUSTRALIA

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AUTHORITY OF W.A. ACT 1998**

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Plus postage on 72 grams**

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