

# WESTERN AUSTRALIAN GOVERNMENT Gazette

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## GOVERNMENT GAZETTE

### PUBLISHING DETAILS FOR CHRISTMAS 2004 AND NEW YEAR HOLIDAY PERIOD 2005

*NOTE: Due to Tuesday 28th December being a public holiday there will not be a gazette published on that day*

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Friday 31 December 2004 at 12 noon



# — PART 1 —

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## PROCLAMATIONS

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AA101\*

### ABORIGINAL AFFAIRS PLANNING AUTHORITY ACT 1972

#### PROCLAMATION

WESTERN AUSTRALIA } By His Excellency Lieutenant General John Murray  
John Sanderson, } Sanderson, Companion of the Order of Australia,  
Governor. } Governor of the State of Western Australia.  
[L.S.]

I, the Governor, acting under the *Aboriginal Affairs Planning Authority Act 1972* section 25(1)(c) on the recommendation of the Minister for Indigenous Affairs and with the advice and consent of the Executive Council, declare that the land described in the Schedule shall cease to be reserved for persons of Aboriginal descent.

Given under my hand and the Public Seal of the State on 7 December 2004.

By Command of the Governor,

JOHN KOBELKE, Minister for Indigenous Affairs.

GOD SAVE THE QUEEN !

---

#### Schedule

1. Reserve No. 25404, comprising—
  - (a) Lot 124 as shown on Deposited Plan 208364 and being the land described in qualified certificate of Crown Land title volume 3128 folio 683;
  - (b) Lot 139 as shown on Deposited Plan 208745 and being the land described in qualified certificate of Crown Land title volume 3128 folio 684;
  - (c) Lot 150 as shown on Deposited Plan 208746 and being the land described in qualified certificate of Crown Land title volume 3128 folio 685; and
  - (d) Lot 157 as shown on Deposited Plan 208750 and being the land described in qualified certificate of Crown Land title volume 3128 folio 686.
2. Reserve No. 26329, comprising Lot 2087 as shown on Deposited Plan 191644 and being the land described in qualified certificate of Crown Land title volume 3103 folio 452.
3. Reserve No. 24952, comprising —
  - (a) Lot 2085 as shown on Deposited Plan 218515 and being the land described in qualified certificate of Crown Land title volume 3128 folio 687;
  - (b) Lot 2086 as shown on Deposited Plan 218514 and being the land described in qualified certificate of Crown Land title volume 3128 folio 688;
  - (c) Lot 2088 as shown on Deposited Plan 218514 and being the land described in qualified certificate of Crown Land title volume 3128 folio 689;
  - (d) Lot 2089 as shown on Deposited Plan 218514 and being the land described in qualified certificate of Crown Land title volume 3128 folio 690; and
  - (e) Lot 2090 as shown on Deposited Plan 218514 and being the land described in qualified certificate of Crown Land title volume 3128 folio 691.

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## SUPERANNUATION BOARD

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GZ301\*

State Superannuation Act 2000

### State Superannuation Amendment Regulations (No. 5) 2004

Made by the Governor in Executive Council.

#### 1. Citation

These regulations may be cited as the *State Superannuation Amendment Regulations (No. 5) 2004*.

#### 2. The regulations amended

The amendments in these regulations are to the *State Superannuation Regulations 2001*\*.

[\* *Reprint 1 as at 7 November 2003.*

*For amendments to 12 November 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 367, and Gazette 25 June 2004.]*

#### 3. Regulation 3 amended

(1) Regulation 3 is amended as follows:

- (a) by inserting before “In these” the subregulation designation “(1)”;
- (b) by deleting the definitions of “accumulation account” and “accumulation Member”;
- (c) in the definition of “earning rate” by deleting “under regulation 69F, 188 or 216 (as the case requires)”;
- (d) in the definition of “Member” after “Income Member” by inserting —  
“ , a Term Allocated Pension Member ”;
- (e) by inserting the following definitions in the appropriate alphabetical positions —

“

“**Term Allocated Pension Member**” means a Member of the Term Allocated Pension Scheme;

“**Term Allocated Pension Scheme**” means the superannuation scheme established by regulation 196;

”.

- (f) at the end of the regulation by inserting the following subregulation —

“

- (2) In these regulations a reference to a benefit that is immediately payable to a person does not include a benefit that is payable —

- (a) from another scheme in circumstances where, if the SIS Regulations applied, the benefit would be payable; or
- (b) from another superannuation fund,

because the person has satisfied a condition of release in respect of which there is a cashing restriction that precludes the transfer of that benefit to the Fund.

”.

#### 4. Regulation 5 amended

After regulation 5(1) the following subregulation is inserted —

“

- (1a) The “payments, benefits and allowances” referred to in the definition of “remuneration” include a payment, benefit or allowance that is payable only in particular circumstances if —

- (a) it will be paid to the Member whenever those circumstances arise; and
- (b) the Employer reasonably expects those circumstances to arise in relation to the Member from time to time.

”.

#### 5. Regulation 179 amended

Regulation 179(2) is amended by deleting “sub-account.” and inserting instead —

“

sub-account,

at the time the sub-accounts are established.

”.

#### 6. Regulation 187 amended

Regulation 187(2) is repealed and the following subregulation is inserted instead —

“

- (2) For a Retirement Income Member who selects a personalised investment plan the Board must invest the Member’s assets as at the time the selection was made in accordance with the asset allocation selected by the Member, but the Board is not required to ensure that the investment of the Member’s assets remains in accordance with that asset allocation.

”.

7. **Part 4A inserted (r. 196 to 196V)**

After Part 4 the following Part is inserted —

“

**Part 4A — Term Allocated Pension Scheme**

**Division 1 — Establishment and preliminary**

**196. Establishment of Term Allocated Pension Scheme**

The Term Allocated Pension Scheme is established as a superannuation scheme under section 28 of the Act.

**196A. Interpretation**

In this Part —

“**pension day**” means —

- (a) for a Member who has selected monthly pension payments — the 15<sup>th</sup> of each month;
- (b) for a Member who has selected quarterly pension payments — the 15<sup>th</sup> of January, April, July and October; and
- (c) for a Member who has selected annual pension payments — the 15<sup>th</sup> of the month selected by the Member under regulation 196Q(1)(b);

“**Term Allocated Pension**” means a pension payable under this Part;

“**Term Allocated Pension account**” means an account kept under regulation 196E.

**Division 2 — Membership and purchase**

**196B. Members**

- (1) A person may apply to become a Term Allocated Pension Member if he or she is —
  - (a) a Member;
  - (b) in receipt of, or entitled to receive, a pension under the Pension Scheme;
  - (c) a former member, or a person who is or was a partner of a former member; or
  - (d) a Term Allocated Pension Member applying for a second or subsequent Term Allocated Pension,

and is entitled to immediate payment of —

- (e) a benefit from another scheme or another superannuation fund; or
- (f) any other eligible termination payment.

- (2) The Board is to accept an application under this regulation unless the Board considers that the applicant, if accepted as a Term Allocated Pension Member, will not comply with regulation 196D.
- (3) If a person becomes a Term Allocated Pension Member for a second or subsequent Term Allocated Pension, these regulations apply as if he or she were, in respect of each Term Allocated Pension, a separate person.

**196C. Cessation of membership**

A person ceases to be a Term Allocated Pension Member when the balance in the Member's Term Allocated Pension account is reduced to zero.

**196D. Transfer of benefit or ETP**

- (1) When a person becomes a Term Allocated Pension Member he or she must transfer to the Term Allocated Pension Scheme all or part of the benefit, lump sum or eligible termination payment referred to in regulation 196B.
- (2) The person may also transfer to the Term Allocated Pension Scheme all or part of any other —
  - (a) benefit that is immediately payable to the person from another scheme or another superannuation fund; or
  - (b) eligible termination payment immediately payable to the person.
- (3) A transfer under subregulation (1) or (2) must be made before the person's first pension day.
- (4) The total amount transferred under subregulations (1) and (2) must not be less than —
  - (a) \$30 000 for a person's first Term Allocated Pension; or
  - (b) \$10 000 for a second or subsequent Term Allocated Pension,unless the Board agrees to accept a lesser amount.
- (5) A transfer under this regulation must be made to the Term Allocated Pension Scheme directly from the other scheme or superannuation fund or the payer of the eligible termination payment.

**Division 3 — Term Allocated Pension accounts**

**196E. Term Allocated Pension accounts**

- (1) The Board is to establish and maintain in the Fund a Term Allocated Pension account for each Term Allocated Pension Member.

- (2) The Board may divide a Term Allocated Pension account into 2 or more sub-accounts.

**196F. Member may divide account into sub-accounts**

- (1) A Term Allocated Pension Member may request the Board to divide the Member's Term Allocated Pension account into a cash sub-account and an investment sub-account.
- (2) The Member must set out in a request under subregulation (1) —
  - (a) the amount that is to be allocated to each sub-account (the sum of which must be equal to the balance of the Member's account); or
  - (b) the proportion of the balance of the account that is to be allocated to each sub-account,at the time the sub-accounts are established.
- (3) A Member whose Term Allocated Pension account has been divided into sub-accounts under this regulation may request the Board to —
  - (a) transfer a specified amount from one sub-account to the other;
  - (b) change the proportion of the balance of the Member's account that is held in each sub-account; or
  - (c) combine the sub-accounts into a single account.
- (4) The Board is to comply with a request under subregulation (1) or (3) but is not otherwise required to ensure that the balances of the sub-accounts remain in accordance with the requested amounts or proportions.

**196G. Amounts to be credited to Term Allocated Pension accounts**

- (1) The Board is to credit to a Term Allocated Pension Member's Term Allocated Pension account —
  - (a) the amounts transferred to the Term Allocated Pension Scheme under regulation 196D; and
  - (b) earnings in accordance with regulation 196I.
- (2) The Board may temporarily keep amounts transferred for a Term Allocated Pension Member, together with amounts transferred for other Term Allocated Pension Members, in an account maintained for that purpose until those amounts are credited to the appropriate benefit accounts.



**196H. Amounts to be debited to Term Allocated Pension accounts**

- (1) The Board is to debit to a Term Allocated Pension Member's Term Allocated Pension account any amounts paid as benefits to, or in respect of, the Member under Division 5.
- (2) The Board may debit to a Term Allocated Pension Member's Term Allocated Pension account —
  - (a) administrative costs to the extent that they have not been taken into account in the determination of earning rates under regulation 196I; and
  - (b) any tax or other amounts required by a written law or a law of the Commonwealth to be paid by the Board in respect of the Member.
- (3) The Board may only debit an amount to a Term Allocated Pension account under subregulation (2)(a) if an actuary has advised that it is appropriate for that amount to be debited to that account.
- (4) If a Member's Term Allocated Pension account has been divided into sub-accounts under regulation 196F, then to the extent that the balance of the relevant sub-account is sufficient to allow it to do so, the Board is to debit —
  - (a) Term Allocated Pension payments made under regulation 196R to the Member's cash sub-account; and
  - (b) any other amount that is to be, or may be, debited to the Member's Term Allocated Pension account, to the Member's investment sub-account,

unless the Member requests otherwise.

**196I. Earnings**

- (1) The Board is to credit earnings to each Term Allocated Pension Member's Term Allocated Pension account at a rate equal to the Member's earning rate on the balance of the account —
  - (a) at least once every year; and
  - (b) when a lump sum benefit is to be paid, or an amount transferred, from the Member's Term Allocated Pension account under Division 5.
- (2) The Board is to decide whether the earning rate is to be applied to daily balances, average balances or on some other basis.
- (3) If a Member's Term Allocated Pension account has been divided into sub-accounts under regulation 196F the Board is to credit earnings to each sub-account as if it were a separate Term Allocated Pension account.

**Division 4 — Member investment choice****196J. Interpretation**

In this Division —

“**default plan**” means the readymade investment plan selected by the Board under regulation 196L as the default plan for Term Allocated Pension Members;

“**personalised investment plan**” means an investment plan established under regulation 196K(4);

“**readymade investment plan**” means an investment plan established under regulation 196K(1).

**196K. Board to establish investment plans**

- (1) The Board is to establish one or more investment plans for Term Allocated Pension Members with asset allocations determined by the Board.
- (2) One of the investment plans established under subregulation (1) must provide for investment in cash only.
- (3) Subject to subregulation (2), the Board may alter the asset allocation for a readymade investment plan whenever the Board considers it appropriate to do so.
- (4) The Board may establish an investment plan under which a Term Allocated Pension Member who selects that plan may select the Member’s own asset allocation subject to any conditions determined by the Board.
- (5) The Board must notify all Term Allocated Pension Members of —
  - (a) the establishment of a new investment plan for Term Allocated Pension Members including, in the case of a readymade investment plan, the asset allocation for that plan;
  - (b) any material change in the asset allocation of a readymade investment plan; and
  - (c) any material change in the conditions applying to a personalised investment plan,

before, or as soon as practicable after, the establishment or change occurs.

**196L. Default plan**

- (1) The Board is to select one of the readymade investment plans as the default plan for Term Allocated Pension Members.
- (2) The Board may change the plan selected as the default plan whenever the Board considers it appropriate to do so.

- (3) The Board must notify all Term Allocated Pension Members of any change of the selected default plan before, or as soon as practicable after, the change occurs.

**196M. Member to select investment plan**

- (1) A Term Allocated Pension Member is to select an investment plan to be used in determining the Member's earning rate and give notice of that selection to the Board.
- (2) If a Member selects a personalised investment plan the Member must also select the asset allocation to be applied to the Member's assets and give notice of that selection to the Board.
- (3) A Member may change his or her selection under subregulation (1) or (2) at any time by giving notice to the Board, and the Board must give effect to the notice as soon as practicable.
- (4) Until a Term Allocated Pension Member selects otherwise the Member is taken to have selected the default plan.

**196N. Board to invest assets to reflect Member's choice**

- (1) For each Term Allocated Pension Member who selects a readymade investment plan the Board must, as far as is practicable —
  - (a) invest the Member's assets in accordance with the asset allocation determined under regulation 196K for that investment plan; and
  - (b) ensure that the investment of the Member's assets remains in accordance with that asset allocation until the Member selects a different investment plan.
- (2) For a Term Allocated Pension Member who selects a personalised investment plan the Board must invest the Member's assets as at the time the selection was made in accordance with the asset allocation selected by the Member, but the Board is not required to ensure that the investment of the Member's assets remains in accordance with that asset allocation.
- (3) If a Member's Term Allocated Pension account is divided into sub-accounts under regulation 196F, the Board is to invest the Member's assets in accordance with this regulation as if —
  - (a) each of the sub-accounts were a Term Allocated Pension account maintained for a separate person;

- (b) the person for whom the investment sub-account is maintained had selected, under regulation 196M, the investment plan selected by the Member under that regulation; and
  - (c) the person for whom the cash sub-account is maintained had selected, under regulation 196M, the investment plan referred to in regulation 196K(2).
- (4) In this regulation —  
“**Member’s assets**” means the assets of the Fund that represent the Term Allocated Pension account of a Term Allocated Pension Member.

**196O. Determination of earning rates**

- (1) At the end of each financial year and at any other time when the Board considers it desirable to do so, an earning rate is to be determined for —
- (a) each readymade investment plan; and
  - (b) each Term Allocated Pension Member who has selected a personalised investment plan.
- (2) The earning rates are to be determined —
- (a) by the Board; or
  - (b) on behalf of the Board in accordance with procedures or formulae determined by the Board.
- (3) In determining an earning rate, or the procedures or formulae to be used to determine an earning rate, the Board must have regard to —
- (a) the nett rate of return achieved by the investment of the assets of the Fund that represent the Term Allocated Pension accounts of the Members to whom the earning rate will apply;
  - (b) administrative costs; and
  - (c) the desirability of averaging returns in order to reduce fluctuations in earning rates.
- (4) An earning rate may be positive or negative.

**Division 5 — Pension and other benefits**

**196P. Selection of pension period**

- (1) A Term Allocated Pension Member is to select the period for which the Member’s Term Allocated Pension is to be paid and give notice of that selection to the Board before the Member’s first pension day.
- (2) Subject to subregulation (3), the period selected must be a whole number of years that is —
- (a) not less than the Member’s life expectancy; and

- (b) not more than what would be the Member's life expectancy if he or she were 5 years younger.
- (3) If —
- (a) the Member has selected a reversionary pension under regulation 196T;
  - (b) the selected reversionary pensioner is the Member's partner; and
  - (c) the partner's life expectancy is greater than the Member's,

then the period selected by the Member may be a whole number of years that is —

- (d) not less than the partner's life expectancy; and
  - (e) not more than what would be the partner's life expectancy if he or she were 5 years younger.
- (4) In this regulation —
- “life expectancy”**, in relation to a person, means the number of years in the person's expectation of life ascertained when the person became a Term Allocated Pension Member from the then most recent Australian Life Tables published by the Australian Government Actuary, rounded up to the nearest whole number.

**196Q. Selection of payment frequency**

- (1) A Term Allocated Pension Member is to select —
- (a) whether the Member's Term Allocated Pension is to be paid monthly, quarterly or annually; and
  - (b) if the Member selects annual payments, the month in which the Member's Term Allocated Pension is to be paid,

and give notice of those selections to the Board.

- (2) A Member may change his or her selection under subregulation (1) at any time by giving notice to the Board.
- (3) Until a Term Allocated Pension Member selects otherwise the Member is taken to have selected monthly pension payments.

**196R. Payment of Term Allocated Pension**

- (1) The annual pension amount for a Term Allocated Pension Member is —
- (a) in the financial year in which he or she becomes a Term Allocated Pension Member — the SIS annual amount calculated as at the day

- he or she becomes a Term Allocated Pension Member; and
- (b) in each subsequent financial year — the SIS annual amount calculated as at 1 July in that year.
- (2) If a Term Allocated Pension Member commutes part of his or her Term Allocated Pension the annual pension amount for the period from the commutation date to the end of the financial year in which the commutation occurs is the SIS annual amount calculated as at the commutation date.
- (3) On each pension day the Board is to pay to a Term Allocated Pension Member an amount equal to the Member's annual pension amount divided by the number of the Member's pension days in the financial year.
- (4) If, on a pension day, the balance of a Member's Term Allocated Pension account is less than the amount due to be paid under subregulation (3), the amount to be paid is an amount equal to that balance.
- (5) If after a Term Allocated Pension Member's last pension day there is still an amount in the Member's Term Allocated Pension account, the Board is to pay the Member a lump sum benefit of an amount equal to that amount within 28 days after the end of the pension period selected by the Member.
- (6) In this regulation —
- “SIS annual amount”** means the amount prescribed under the SIS Act as the total amount of payments that a superannuation fund's rules must require to be made in a year in order for a market linked pension payable for a term equal to the pension period selected by the Member to be taken to be a pension for the purposes of the SIS Act.

#### **196S. Commutation**

- (1) A Term Allocated Pension Member may request the Board to commute some or all of his or her Term Allocated Pension if —
- (a) the request —
- (i) is made within 6 months after he or she became a Term Allocated Pension Member; and
- (ii) does not relate to any amount transferred to the Term Allocated Pension Scheme under regulation 196D from the commutation of another SIS annuity or pension;

- (b) the commuted amount is to be used to pay contributions tax; or
  - (c) the commuted amount is to be used to purchase —
    - (i) another Term Allocated Pension; or
    - (ii) another SIS annuity or pension.
- (2) Subject to subregulation (3), the Board is to comply with a request under subregulation (1) and pay or transfer the commuted amount, in the case of a request under —
- (a) subregulation (1)(a) — to, or as requested by, the Member;
  - (b) subregulation (1)(b) — to the Member for payment to the Commonwealth Commissioner of Taxation;
  - (c) subregulation (1)(c)(i) — to a new Term Allocated Pension account for the Member; or
  - (d) subregulation (1)(c)(ii) — to the provider of the SIS annuity or pension.

- (3) The Board must not commute a Term Allocated Pension unless, or until, any applicable SIS minimum amount has been paid.

- (4) In this regulation —

**“contributions tax”** means tax imposed by the *Superannuation Contributions Tax Imposition Act 1997* or *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997* of the Commonwealth;

**“SIS annuity or pension”** means a benefit that is taken to be an annuity or pension for the purposes of the SIS Act;

**“SIS minimum amount”** means the amount prescribed under the SIS Act as the minimum amount that a superannuation fund’s rules must require to have been paid before a market linked pension can be commuted in order for the pension to be taken to be a pension for the purposes of the SIS Act.

#### **196T. Death benefit options**

- (1) A Term Allocated Pension Member is to select —
- (a) whether the benefit to be paid on the Member’s death (if he or she dies while still a Term Allocated Pension Member) is to be —
    - (i) a lump sum benefit under regulation 196U; or

- (ii) a reversionary pension under regulation 196V;
- and
- (b) if the Member selects a reversionary pension, the person to whom that pension is to be paid, and give notice of those selections to the Board before the Member's first pension day.
- (2) The person selected under subregulation (1)(b) must be a partner or dependant of the Member.
- (3) If a Term Allocated Pension Member has not given notice of the Member's selection to the Board before the Member's first pension day, or the Member's selection under subregulation (1)(b) does not comply with subregulation (2), the Member is taken to have selected a lump sum death benefit.

**196U. Lump sum death benefit**

If a Term Allocated Pension Member who selected a lump sum death benefit dies while there is still an amount in the Member's Term Allocated Pension account, the Board is to pay a benefit of an amount equal to the balance of the account to the executor or administrator of the Member's estate.

**196V. Reversionary pension**

- (1) On and after the death of a Term Allocated Pension Member who selected a reversionary pension (the "**primary Member**") —
  - (a) the Term Allocated Pension that would have been payable to the primary Member had he or she not died is to be paid to the reversionary pensioner; and
  - (b) these regulations apply as if the reversionary pensioner were the primary Member.
- (2) If a reversionary pensioner dies while there is still an amount in his or her Term Allocated Pension account, the Board is to pay a benefit of an amount equal to the balance of the account to the executor or administrator of the reversionary pensioner's estate.

”

**8. Regulation 244 amended**

Regulation 244(1a) and (2) are repealed and the following subregulation is inserted instead —

“

- (2) The cost to the Fund (if any) of paying a benefit under this regulation is to be assessed by an actuary and paid to the Fund by the person specified by the Treasurer in the direction.

”



**9. Regulation 246B inserted**

After regulation 246A the following regulation is inserted in Division 1 —

“

**246B. Exercise of investment powers after death or for incapacitated Member**

- (1) When a benefit (other than a reversionary pension) is payable because a Member has died the investment powers that would be exercisable by the Member if he or she were alive and entitled to the benefit may be exercised —
  - (a) if the benefit is payable to the executor or administrator of the estate of a Member —
    - (i) until probate of the will, or administration of the estate, of the Member is granted, by the Board; and
    - (ii) thereafter, by the executor or administrator;
  - or
  - (b) otherwise, by the Board.
- (2) If, under regulation 242, the Board does not pay a benefit to a person entitled to it, the investment powers exercisable by that person may be exercised —
  - (a) if there is a person authorised by or under a written law to administer the entitled person's affairs, by that authorised person; or
  - (b) otherwise, by the Board.
- (3) When exercising a power under this regulation the Board is to act in what it reasonably considers to be the best interests of the person who is or will become entitled to the benefit.
- (4) In this regulation —

**“investment powers”** means the powers exercisable by a Member under the regulations relating to investment choice for Members of the scheme of which the Member was a member.

”.

Certified under section 38(4) of the Act —

DERMOT BALSON

15/11/04  
Date

Approved under section 38(5) of the Act —

ERIC RIPPER  
Treasurer

30/11/04  
Date

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.

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## LOCAL GOVERNMENT

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LG301

### LOCAL GOVERNMENT ACT 1995

*City of Subiaco*

#### REPEAL OF LOCAL LAW 2003

Under the powers conferred by the Local Government Act 1995 and by all other powers, the local government of the City of Subiaco resolved to make the following local law on the 25 February 2003.

#### Repeal

The following local laws are repealed—

- Amusement No. 26 published in the *Government Gazette* of 13 July 1966 and all other amendments.
- Removal of refuse and Clearing of Land No. 45 as published in the *Government Gazette* of 8 May 1981 and all other amendments.
- Awnings Over Streets No. 17 as published in the *Government Gazette* of 12 March 1963 and all other amendments.
- Verandahs No. 43 as published in the *Government Gazette* of 18 June 1982.
- Walls of Buildings No. 24 as published in the *Government Gazette* of 19 August 1965 and all other amendments.

Dated the 7th day of December 2004.

The Common Seal of the City of Subiaco was affixed in the presence of—

A. V. COSTA, Mayor.  
C. BURTON, Chief Executive Officer.

LG302\*

### LOCAL GOVERNMENT ACT 1995

*City of Subiaco*

#### TRADING IN PUBLIC PLACES LOCAL LAW AMENDMENT 2000

Pursuant to its powers under the *Local Government Act 1995* the City of Subiaco resolved on the 25 February 2003 to make the following amendments to the City of Subiaco Trading in Public Places Local Law 2000 published in the *Government Gazette* on the 26 July 2000.

1. By deleting clause 50 from the Arrangement.
2. By renumbering clauses 51,52,53,54 and 55 inclusive to 50,51,52,53 and 54 respectively in the Arrangement.
3. By inserting the words “umbrellas, sunshades and planter boxes” after the word “table” in subclause 8(1)(d).

4. By inserting the words “and plaques placed on the footpath by the Local Government delineating the alfresco dining area” after the words “licence plan” in subclause 14(d)
5. By inserting the words “umbrellas, sunshades and planter boxes” after the word “chairs in subclause 17(b)(ii)
6. By inserting after the words “umbrellas, sunshades and planter boxes” after the word “chairs” in subclause 17(d).
7. By deleting clause 21 and substituting new clause 21 as follows—

**“Responsibilities of licensee**

21 A proprietor who is the person named in a licence—

- (a) Shall ensure that the alfresco dining area is conducted at all times in accordance with the provisions of this local law;
  - (b) Shall ensure that the alfresco dining area is kept in a clean and tidy condition at all times;
  - (c) Shall ensure the alfresco dining is conducted within the confines of the area specified in the licence plan and delineated by the local government plaques attached to the footpath;
  - (d) Shall not interfere with, move or remove plaques placed on the footpath by the local government to delineate the licence area;
  - (e) Shall ensure a minimum width of 2 metres is kept clear for pedestrian access;
  - (f) Shall maintain the chairs, tables, umbrellas, sunshades and planter boxes and other structures set up on the alfresco dining area in good and serviceable conditions at all times;
  - (g) Shall be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or construction of the street or public place arising from the conduct of the alfresco dining area or actions of persons in that area and the Council may recover such costs from the proprietor in a court of competent jurisdiction as a debt owing to it;
  - (h) Shall be solely responsible for the payment of all rates and taxes levied upon the land by the alfresco dining area;
  - (i) Shall display the licence in a conspicuous place in the adjoining eating house and whenever requested by an Environmental Health Officer to do so produce the licence to that officer.
8. By inserting the words ‘umbrellas, sunshades’ after the word “tables” in subclause 30(e).
  9. By inserting the words “umbrellas, sunshades” after the word “table” in subclause 33(1)(c).
  10. By inserting subclause 33(1)(ca) as follows—

“(ca) shall ensure all umbrellas and sunshades used in conjunction with the valid street trading licence shall have a base constructed so as to prevent—

    - (a) damage to the surface of the licence area; and
    - (b) falling over or being blown away;

and no umbrella or sunshade shall be provided unless they are completely within the street trading licence area and permit pedestrians to pass under them with safety.”
  11. By deleting the words “estimated or” from clause 43(3)
  12. By deleting from the First Schedule, Clause 21(1)(c). and substituting 21 (1)(e).
  13. By deleting from the First Schedule, Clause 21(1)(d) and substituting 21(1)(f).
  14. By inserting the words “umbrellas, sunshades and planter boxes” after the word “tables” in the First Schedule Description column of subclause 21(1)(f).
  15. By deleting from the First Schedule, Clause 21(1)(g) and substituting 21(1)(i).
  16. By deleting from the First Schedule. Clause 50(2), the associated Description and Modified Penalty.

Dated this 7th day of December 2004.

The Common Seal of the City of Subiaco was affixed in the presence of—

A. V. COSTA, Mayor.  
C. BURTON, Chief Executive Officer.

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**TRANSPORT**

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TR301\*

Taxi Act 1994

**Taxi Amendment Regulations (No. 5) 2004**

Made by the Governor in Executive Council.

**1. Citation**

These are the *Taxi Amendment Regulations (No. 5) 2004*.

**2. The regulations amended**

The amendments in these regulations are to the *Taxi Regulations 1995\**.

[\* Reprinted as at 12 December 1997.

*For amendments to 30 November 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 381, and Gazette 9 and 23 January, 20 February and 10 September 2004.]*

**3. Regulations 5A and 5B replaced by regulation 5A**

Regulations 5A and 5B are repealed and the following regulation is inserted instead —

“

**5A. Director General may impose conditions in relation to leasing taxis and taxi plates**

For the purposes of section 20(1), the following are matters in relation to which the Director General may impose conditions on the operation of a taxi using specified taxi plates —

- (a) the leasing of the taxi (with its taxi plates), including —
  - (i) the provision to the Director General of information about the terms and conditions of the lease and any variation of those terms and conditions; and
  - (ii) the maximum amounts that may be charged in relation to the lease;
- (b) the leasing of the taxi plates from the plate holder who is the owner of the plates, including —
  - (i) the provision to the Director General of information about the terms and

- conditions of the lease and any variation of those terms and conditions; and
- (ii) the maximum amounts that may be charged in relation to the lease.
- ”

**4. Regulation 13 amended**

After regulation 13(1)(aa) the following paragraph is inserted —

- “
- (ab) the driver has reasonable grounds to believe that the hiring would result in a breach of a condition imposed by the Director General under section 20 on the operation of the taxi;
- ”

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.

TR302\*

Transport Co-ordination Act 1966

## **Country Taxi-cars (Fares and Charges) Amendment Regulations 2004**

Made by the Governor in Executive Council.

**1. Citation**

These are the *Country Taxi-cars (Fares and Charges) Amendment Regulations 2004*.

**2. The regulations amended**

The amendments in these regulations are to Schedule 1 to the *Country Taxi-Cars (Fares and Charges) Regulations 1991\**.

[\* *Reprinted as at 26 April 2000.*

*For amendments to 19 November 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 392.]*

### 3. Part 1 — Goldfields Region amended

Part 1 is amended by deleting the portion of the Part from, and including, the heading “Metered rates” to the end of the Part and inserting instead —

“

#### Metered rates

	Flagfall	Distance rate	Detention
<b>Tariff 1</b>			
Monday to Friday 6 am to 6 pm	\$3.10	\$1.25/km	\$33.80/hour
<b>Tariff 2</b>			
All other times	\$4.40	\$1.25/km	\$33.80/hour
<b>Tariff 3</b>			
When carrying more than 5 passengers	\$4.40	\$1.78/km	\$48.30/hour

#### Off meter rates

##### Distance

(during hiring and for forward or return journey) \$0.80/km

##### Detention

\$33.20/hour

#### Other charges

##### Cleaning

(when soiled during hiring — for time required to clean) \$32.00/hour

##### Surcharge

Christmas Day —  
midnight to midnight \$3.65

New Year's Eve —  
6 pm New Year's Eve  
to 6 am New Year's Day \$4.10

”

### 4. Part 2 — Kalbarri Region amended

Part 2 is amended by deleting the portion of the Part from, and including, the heading “Metered rates” to the end of the Part and inserting instead —

“

#### Metered rates

	Flagfall	Distance rate	Detention
<b>Tariff 1</b>			
Monday to Friday 6 am to 6 pm	\$3.10	\$1.24/km	\$31.70/hour
<b>Tariff 2</b>			
All other times	\$4.40	\$1.24/km	\$31.70/hour
<b>Tariff 3</b>			
When carrying more than 5 passengers	\$4.40	\$1.84/km	\$45.60/hour

#### Off meter rates

##### Distance

(during hiring and for forward or return journey) \$0.73/km

##### Detention

\$31.80/hour

**Other charges****Cleaning**

(when soiled during hiring — for time required to clean) \$30.80/hour

**Surcharge**

Christmas Day —  
midnight to midnight \$3.65

New Year's Eve —  
6 pm New Year's Eve  
to 6 am New Year's Day \$4.10

5. **Part 3 — Kimberley Region amended**

Part 3 is amended by deleting the portion of the Part from, and including, the heading "Metered rates" to the end of the Part and inserting instead —

**Metered rates**

	<b>Flagfall</b>	<b>Distance rate</b>	<b>Detention</b>
<b>Tariff 1</b>			
Monday to Friday 6 am to 6 pm	\$3.10	\$1.61/km	\$32.30/hour
<b>Tariff 2</b>			
All other times	\$4.40	\$1.61/km	\$32.30/hour
<b>Tariff 3</b>			
When carrying more than 5 passengers	\$4.40	\$2.38/km	\$45.60/hour

**Off meter rates****Distance**

(during hiring and for forward or return journey) \$0.92/km

**Detention** \$31.80/hour

**Other charges****Cleaning**

(when soiled during hiring — for time required to clean) \$30.20/hour

**Surcharge**

Christmas Day —  
midnight to midnight \$3.65

New Year's Eve —  
6 pm New Year's Eve  
to 6 am New Year's Day \$4.10

6. **Part 4 — Mid West Region amended**

Part 4 is amended by deleting the portion of the Part from, and including, the heading "Metered rates" to the end of the Part and inserting instead —

**Metered rates**

	<b>Flagfall</b>	<b>Distance rate</b>	<b>Detention</b>
<b>Tariff 1</b>			
Monday to Friday 6 am to 6 pm	\$3.10	\$1.22/km	\$31.80/hour

<b>Tariff 2</b> All other times	\$4.40	\$1.22/km	\$31.80/hour
<b>Tariff 3</b> When carrying more than 5 passengers	\$4.40	\$1.83/km	\$45.70/hour

**Off meter rates****Distance**

(during hiring and for forward or return journey)

\$0.73/km

**Detention**

\$31.80/hour

**Other charges****Cleaning**

(when soiled during hiring — for time required to clean)

\$30.80/hour

**Surcharge**

Christmas Day —

midnight to midnight

\$3.65

New Year's Eve —

6 pm New Year's Eve

to 6 am New Year's Day

\$4.10

7. **Part 5 — Pilbara Region amended**

Part 5 is amended by deleting the portion of the Part from, and including, the heading "Metered rates" to the end of the Part and inserting instead —

**Metered rates**

	<b>Flagfall</b>	<b>Distance rate</b>	<b>Detention</b>
<b>Tariff 1</b> Monday to Friday 6 a.m. to 6 p.m.	\$3.10	\$1.64/km	\$32.30/hour
<b>Tariff 2</b> All other times	\$4.40	\$1.64/km	\$32.30/hour
<b>Tariff 3</b> When carrying more than 5 passengers	\$4.40	\$2.44/km	\$45.50/hour

**Off meter rates****Distance**

(during hiring and for forward or return journey)

\$0.90/km

**Detention**

\$31.80/hour

**Other charges****Cleaning**

(when soiled during hiring — for time required to clean)

\$30.60/hour

**Surcharge**

Christmas Day —

midnight to midnight

\$3.65

New Year's Eve —

6 pm New Year's Eve

to 6 am New Year's Day

\$4.10



**8. Part 6 — South West Region amended**

Part 6 is amended by deleting the portion of the Part from, and including, the heading “Metered rates” to the end of the Part and inserting instead —

“

**Metered rates**

	<b>Flagfall</b>	<b>Distance rate</b>	<b>Detention</b>
<b>Tariff 1</b> Monday to Friday 6 am to 6 pm	\$3.10	\$1.22/km	\$30.60/hour
<b>Tariff 2</b> All other times	\$4.40	\$1.22/km	\$30.60/hour
<b>Tariff 3</b> When carrying more than 5 passengers	\$4.40	\$1.84/km	\$45.50/hour

**Off meter rates****Distance**

(during hiring and for forward or return journey)

\$0.68/km

**Detention**

\$30.70/hour

**Other charges****Cleaning**

(when soiled during hiring — for time required to clean)

\$29.60/hour

**Surcharge**

Christmas Day —

midnight to midnight

\$3.65

New Year's Eve —

6 pm New Year's Eve

to 6 am New Year's Day

\$4.10

”

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.

TR303\*

Port Authorities Act 1999

## **Port Authorities Amendment Regulations (No. 2) 2004**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Port Authorities Amendment Regulations (No. 2) 2004*.

**2. The regulations amended**

The amendments in these regulations are to the *Port Authorities Regulations 2001*\*.

[\* *Published in Gazette 18 May 2001, p. 2417-545.*  
*For amendments to 7 October 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 296, and Gazette 13 February 2004.*]

**3. Regulation 80 amended**

Regulation 80(3) is amended by deleting “1999” and inserting instead —

“ 2003 ”.

**4. Regulation 118A inserted**

After regulation 118 the following regulation is inserted —

“

**118A. Prescribed “port services” (section 35(9))**

Under section 35(9) of the Act, “quarantine services” are prescribed for the purposes of the definition of “port services” in that subsection.

”.

**5. Schedule 3 amended**

(1) After Schedule 3 item 1A the following item is inserted —

“

1AA. Regulation 71: placing or leaving dead animals or waste substances in a port ..... \$200.00

”.

(2) After Schedule 3 item 1J the following item is inserted —

“

1JA. Regulation 92(1): obstruction of navigable waters by fishing gear ..... \$200.00

”.

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.



TR304\*

Road Traffic Act 1974

## Road Traffic Code Amendment Regulations (No. 3) 2004

Made by the Governor in Executive Council.

### 1. Citation

These are the *Road Traffic Code Amendment Regulations (No. 3) 2004*.

### 2. The regulations amended

The amendments in these regulations are to the *Road Traffic Code 2000\**.

[\* Reprinted as at 27 August 2004.]

### 3. Regulation 3 amended

The Table to regulation 3(2) is amended after item 5 by inserting the following items —

“

6. The period of Thursday 23 December 2004 to Sunday 9 January 2005 (inclusive).
7. The period of Thursday 24 March 2005 to Monday 28 March 2005 (inclusive).
8. The period of Thursday 22 December 2005 to Sunday 8 January 2006 (inclusive).
9. The period of Thursday 13 April 2006 to Monday 17 April 2006 (inclusive).
10. The period of Thursday 21 December 2006 to Sunday 7 January 2007 (inclusive).
11. The period of Thursday 5 April 2007 to Monday 9 April 2007 (inclusive).
12. The period of Thursday 20 December 2007 to Sunday 6 January 2008 (inclusive).

”

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.

TR305\*

Road Traffic Act 1974

## Road Traffic (Drivers' Licences) Amendment Regulations (No. 5) 2004

Made by the Governor in Executive Council.

### 1. Citation

These are the *Road Traffic (Drivers' Licences) Amendment Regulations (No. 5) 2004*.

### 2. The regulations amended

The amendments in these regulations are to the *Road Traffic (Drivers' Licences) Regulations 1975\**.

[\* Reprinted as at 5 April 2002.

For amendments to 17 November 2004 see *Western Australian Legislation Information Tables for 2003, Table 4, p. 333, and Gazette 20 April, 1 July and 4 September 2004.*]

### 3. Regulation 2 amended

The Table to regulation 2(2) is amended after item 5 by inserting the following items —

“

6. The period of Thursday 23 December 2004 to Sunday 9 January 2005 (inclusive).
7. The period of Thursday 24 March 2005 to Monday 28 March 2005 (inclusive).
8. The period of Thursday 22 December 2005 to Sunday 8 January 2006 (inclusive).
9. The period of Thursday 13 April 2006 to Monday 17 April 2006 (inclusive).
10. The period of Thursday 21 December 2006 to Sunday 7 January 2007 (inclusive).
11. The period of Thursday 5 April 2007 to Monday 9 April 2007 (inclusive).
12. The period of Thursday 20 December 2007 to Sunday 6 January 2008 (inclusive).

”

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.

## — PART 2 —

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### AGRICULTURE

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AG401\*

**AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976**  
**AGRICULTURE AND RELATED RESOURCES PROTECTION (PROPERTY QUARANTINE)**  
**REGULATIONS 1981**

AGRICULTURE AND RELATED RESOURCES PROTECTION (PROPERTY QUARANTINE)  
REVOCATION NOTICE 2004

Made by the Agriculture Protection Board of Western Australia under Regulation 10.

**1. Citation**

This notice may be cited as the *Agriculture and Related Resources Protection (Property Quarantine) Revocation Notice 2004*.

**2. Revocation**

The *Agriculture and Related Resources Protection (Property Quarantine) Notice 1988* is revoked.  
Dated 6th December 2004.

CHRISTOPHER JOHN RICHARDSON, Chairman.  
Agriculture Protection Board of Western Australia.

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AG402\*

**AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976**  
**AGRICULTURE AND RELATED RESOURCES PROTECTION (PROPERTY QUARANTINE)**  
**REGULATIONS 1981**

AGRICULTURE AND RELATED RESOURCES PROTECTION (PROPERTY QUARANTINE)  
REVOCATION NOTICE (NO. 2) 2004

Made by the Agriculture Protection Board of Western Australia under Regulation 10.

**1. Citation**

This notice may be cited as the *Agriculture and Related Resources Protection (Property Quarantine) Revocation Notice (No. 2) 2004*.

**2. Revocation**

The *Agriculture and Related Resources Protection (Property Quarantine) Notice (No. 2) 1988* is revoked.

Dated 6th December 2004.

CHRISTOPHER JOHN RICHARDSON, Chairman.  
Agriculture Protection Board of Western Australia.

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### ELECTORAL COMMISSION

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EC401\*

**ELECTORAL ACT 1907**  
**(SECTION 62H)**

Registration of Political Parties

Fremantle Hospital Support Group

I hereby give notice in accordance with Section 62H(5)(c) of the Electoral Act 1907, that I registered Fremantle Hospital Support Group as a political party in Western Australia on 6 December 2004.

WARWICK GATELY AM, Acting Electoral Commissioner.

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## HEALTH

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HE401\*

**MENTAL HEALTH ACT 1996**  
**MENTAL HEALTH (AUTHORIZED MENTAL HEALTH PRACTITIONERS)**  
**REVOCATION ORDER (NO. 5) 2004**

Made by the Chief Psychiatrist under section 20.

**Citation**

1. This order may be cited as the *Mental Health (Authorized Mental Health Practitioners) Revocation Order (No. 5) 2004*.

**Commencement**

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

**Revocation of designation**

3. The designation, as an authorized mental health practitioner, of the mental health practitioner specified in Schedule 1 to this order is revoked.

**Schedule 1**

NAME	PROFESSION
Fairclough, Natalie	Psychologist

Dated: 6th December 2004.

Dr ROWAN DAVIDSON, Chief Psychiatrist.

HE402\*

**MENTAL HEALTH ACT 1996**  
**MENTAL HEALTH (AUTHORIZED MENTAL HEALTH PRACTITIONERS)**  
**ORDER (NO. 6) 2004**

Made by the Chief Psychiatrist under section 20.

**Citation**

1. This order may be cited as the *Mental Health (Authorized Mental Health Practitioners) Order (No. 6) 2004*.

**Commencement**

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

**Authorized mental health practitioner**

3. The mental health practitioner specified in Schedule 1 to this order is designated as an authorized mental health practitioner.

**Schedule 1**

NAME	PROFESSION
Sorensen, Susan	Social Worker

Dated: 6th December 2004.

Dr ROWAN DAVIDSON, Chief Psychiatrist.

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## JUSTICE

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JU401\*

**COURT SECURITY AND CUSTODIAL SERVICES ACT 1999**  
**PERMIT DETAILS**

Pursuant to the provisions of section 51 of the *Court Security and Custodial Services Act 1999*, the Director General of the Ministry of Justice has issued the following persons with Permits to do High-Level Security Work—

Surname	First Name(s)	Permit Number	Date Permit Issued	Permit Commence Date	Permit Expiry Date
Smith	John Simon	CS5-074	26/11/2004	26/11/2004	30/07/2005
Moffitt	Timothy Euan	CS5-075	26/11/2004	26/11/2004	30/07/2005

Surname	First Name(s)	Permit Number	Date Permit Issued	Permit Commence Date	Permit Expiry Date
Newhill	Troy Anthony	CS5-076	26/11/2004	26/11/2004	30/07/2005
Xanthis	Tania Jane	CS5-077	26/11/2004	26/11/2004	30/07/2005
Cherrie	Graeme Robert	CS5-078	26/11/2004	26/11/2004	30/07/2005
Fraser	Ian William	CS5-079	26/11/2004	26/11/2004	30/07/2005
Higgins	Alan Richard	CS5-080	26/11/2004	26/11/2004	30/07/2005
Timpany	Elizabeth	CS5-081	26/11/2004	26/11/2004	30/07/2005
Tidbury	David Robert	CS5-102	30/11/2004	26/11/2004	30/07/2005

Pursuant to the provisions of section 56 of the *Court Security and Custodial Services Act 1999*, the Director General of the Ministry of Justice has revoked the following Permit to do High-Level Security Work—

Surname	First Name(s)	Permit Number	Date Permit Revoked
Tidbury	David Robert	CS2-244	30/11/2004

This notice is published under section 57(1) of the *Court Security and Custodial Services Act 1999*.

BRIAN YEARWOOD, Director, Contracted Services.

**JU402\***

### COURT SECURITY AND CUSTODIAL SERVICES ACT 1999

#### PERMIT DETAILS

Pursuant to the provisions of section 51 of the *Court Security and Custodial Services Act 1999*, the Director General of the Ministry of Justice has issued the following person with Permit to do High-Level Security Work—

Surname	First Name(s)	Permit Number	Date Permit Issued	Permit Commence Date	Permit Expiry Date
Sheppard	Mark	CS5-056	17/11/2004	16/11/2004	30/07/2005

This notice is published under section 57(1) of the *Court Security and Custodial Services Act 1999*.

BRIAN YEARWOOD, Director, Contracted Services.

## LOCAL GOVERNMENT

**LG401\***

### DOG ACT 1976

*Shire of Corrigin*

#### APPOINTMENTS

It is hereby notified for public information that the following persons have been appointed under the provisions of the Dog Act 1976 (as amended) for the municipality of the Shire of Corrigin—

#### REGISTRATION OFFICERS

Mrs Karen Wilkinson  
Miss Davina Watson  
Miss Heather Blacklock  
Miss Shannon Baker

#### AUTHORISED OFFICERS

Mr Bruce Mead  
Miss Heather Blacklock  
Mr Mark Channon  
Mr Greg Tomlinson  
Mr Shane Robinson  
Mr Daniel Cunneen

All previous appointments are hereby cancelled.

BRUCE MEAD, Chief Executive Officer.

**LG402\*****BUSH FIRES ACT 1954***Shire of Corrigin***FIRE CONTROL OFFICERS**

The following have been appointed as Bush Fire Control Officers for the Shire of Corrigin in accordance with the Bush Fires Act 1954.

All previous appointments are hereby cancelled.

Allen Price—(Chief Bush Fire Control Officer)

Wes Baker—(Deputy Chief Bush Fire Control Officer)

Sadow Jacobs	Ray Hathaway
Rob Wallace	Phil Pontifex
David Bolt	Adam Rendell
Bruce Mills	Steven Bolt
Tim George	Graeme Bowden
Don Stevens	Trevor Elsegood
Bruce Mead	Kevin Evans
Brian Downing	Greg Doyle
Norm Talbot	Craig Jespersen
Tony Guinness	Charlie Bell
John Hewett	Carl Price
Quenton Rae	

The following have been appointed Dual Fire Control Officers for—

Shire of Corrigin & Quairading—	Bruce Mills, Ray Hathaway, Carl Price, John Simpson
Shire of Corrigin & Wickepin—	Craig Jespersen, Trevor Elsegood, Greg Doyle, Ashley Lewis
Shire of Corrigin & Bruce Rock—	Sadow Jacobs and Tim George
Shire of Corrigin & Narembeen—	Phil Pontifex, Tim George, DR Cheetham, AJ Yandle
Shire of Corrigin & Kondinin—	Norm Talbot, Tim George, P Browning
Shire of Corrigin & Kulin—	Greg Doyle, Brian Downing, Gerald Noble
Shire of Corrigin & Pingelly—	Kevin Evans, Wes Baker, Allen Price, Rodney Shaddick, Neville Giles, Kim Melvin, Jeff Edwards and Victor Lee
Shire of Corrigin & Brookton—	Ray Hathaway, Wes Baker, Allen Price, Ian Eva and Daryl Turner

The following have been appointed as Fire Weather Officers—

Allen Price, Wes Baker and Sadow Jacobs.

B. W. MEAD, Chief Executive Officer.

**LG403\*****CITY OF ROCKINGHAM****Appointment**

It is hereby notified for public information that Jason Anthony McColl and Alan Stacy Wood have been appointed as Parking Officers for the City of Rockingham and authorised on behalf of the Council of the City of Rockingham to administer the following legislation within the boundaries of the Rockingham City Shopping Centre Parking Station Number 4, Council Avenue, Rockingham—

1. The City of Rockingham Parking Facilities Local Law 2000
2. Local Government (Parking for Disabled Persons) Regulations 1998

The appointment of Andrew John Paige, Angelo Amara, William Haig McCaskey, Robert Hugh Cable, Russell Brian Guelfi, Sandy Nicol Hall and Gregory William Edwards are hereby cancelled.

G. G. HOLLAND, Chief Executive Officer.

**LG404****CITY OF WANNEROO****Authorised Officers**

It is hereby notified for public information that the following persons have been appointed by Council as officers empowered to enforce the provisions of the following—

Local Government Act 1995 and related Local Laws



All other legislation Council is empowered to enforce.

- Craig Henry
- Dat Nguyen Phan
- David Giles
- James Skouros
- Glynn Dobson
- Thomas Zimmerman
- Paolo Di Girolami

The following appointments are hereby cancelled—

- Brad Pawlenko

CHARLES JOHNSON, Chief Executive Officer.

**LG405\***

**LOCAL GOVERNMENT ACT 1995**

*City of Stirling*

**APPOINTMENTS**

It is hereby notified for public information that the following persons—

Russell John Oakford	Damien Gomez
Ben McCutcheon	David Suddell

have been appointed Honorary Parking Inspectors in accordance with section 9.10 of the Local Government Act 1995, to administer the provisions of the Local Government Uniform General (Parking for Disabled) By-laws 1988 and the City of Stirling Local Laws dealing with parking within the No. 12 Parking Station, Karrinyup Shopping Centre, Karrinyup.

All previous appointments are hereby cancelled.

LINDSAY DELHAUNTY, Chief Executive Officer.

**LG406\***

**BUSHFIRE ACT 1954**

*City of Swan*

**BUSH FIRE CONTROL OFFICERS**

It is hereby advised that the following person is appointed as a City of Swan Bush Fire Control Officer under the Bush Fires Act 1954, Part IV Division 1 Section 38 for the inspection of firebreaks.

**BUSHFIRE CONTROL OFFICERS:**

David Vickery-Howe \*

\* refers to restricted role as BFCO

By order of the Council

EWT LUMSDEN, Chief Executive Officer.

**LG501\***

**BUSH FIRES ACT 1954**

*Shire of Plantagenet*

**PROHIBITED BURNING TIMES**

Pursuant to Section 25 1(a) of the Bush Fires Act 1954, the lighting of fires in the open air within the district of the Shire of Plantagenet for the purpose of camping or cooking during the prohibited burning times is prohibited, unless the fire is—

- (a) located at a persons home or residence; and
- (b) contained within a properly constructed barbecue of brick or rock and mortar; or
- (c) contained within a purpose built steel container recognisable as a properly constructed barbecue; and
- (d) with the barbecue situated no further than ten (10) metres into the twenty (20) metre Building Protection Zone where the barbecue is situated on a rural, rural residential, or landscape protection zoned property outside of the gazetted townsites; and
- (e) the barbecue is attended to at all times; and
- (f) access to water is available in the event of fire occurring.

ROB STEWART, Chief Executive Officer.

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**MINERALS AND PETROLEUM**

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MP101

**CORRECTION  
MINING ACT 1978**

The notice at page 5088 of the *Government Gazette* dated 19 November 2004 and signed by S. P. SHARRATT, (SM), Warden, to be corrected as follows—

“Prospecting Licence 39/3689”

to read—

“Prospecting Licence 39/3869”

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MP401\*

Commonwealth of Australia  
**PETROLEUM (SUBMERGED LANDS) ACT 1967**  
RENEWAL OF EXPLORATION PERMIT WA-18-P (R6)

The renewal of Exploration Permit No. WA-18-P (R6) has been approved and will take effect from the 30/11/04.

W. L. TINAPPLE, Director Petroleum & Royalties Division.

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MP402\*

Commonwealth of Australia  
**PETROLEUM (SUBMERGED LANDS) ACT 1967**  
Section 105(1)  
CANCELLATION OF EXPLORATION PERMIT WA-310-P

I, William Lee Tinapple, Director Petroleum and Royalties Division in the Department of Industry and Resources, the delegate of the Designated Authority in respect of the adjacent area in respect of the State of Western Australia and on behalf of the Commonwealth-Western Australian Offshore Petroleum Joint Authority, hereby cancel Exploration Permit No. WA-310-P of which West Oil (Carnarvon) Pty Ltd is the registered holder, on the grounds of—

Non compliance with Condition 1 (work commitments) of Exploration Permit No. WA-310-P

Dated at Perth this 3rd day of December 2004.

Made under the Petroleum (Submerged Lands) Act 1967 of the Commonwealth of Australia.

W. L. TINAPPLE, delegate of the Designated Authority.

Pursuant to the Instrument of Delegation dated 2 April 2004.

For and on behalf of the Commonwealth-Western Australia Offshore Petroleum Joint Authority.

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MP403

**MINING ACT 1978**  
APPLICATION FOR AN ORDER FOR FORFEITURE

Department of Industry  
and Resources, Leonora.

In accordance with Regulation 49(2) (c) of the *Mining Regulations 1981*, notice is hereby given that the following licences are liable to forfeiture under the provisions of Section 96 (1) (a) of the *Mining Act 1978*, for breach of covenant, viz, failure to comply with the prescribed expenditure conditions.

K. H. AUTY (SM) Warden.

To be heard in the Warden's Court at Leonora on 6th January 2005.

MOUNT MARGARET MINERAL FIELD

*Mount Morgans District*

Prospecting Licence

39/4211—AXIS Consultants

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**MP404**

**MINING ACT 1978**

APPLICATION FOR AN ORDER FOR FORFEITURE

Department of Industry and Resources,  
Mt Magnet.

In accordance with Regulation 49(2)(c) of the *Mining Act 1978*, notice is hereby given that the licences are liable to forfeiture under the provisions of Section 96(1)(a) for breach of covenant, viz, non-payment of rent.

S. RICHARDSON, Warden.

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To be heard in the Warden's Court, Mt Magnet on the 11th January 2005.

MURCHISON MINERAL FIELD

P58/771—CANAVAN, Tèrrance John  
EASTLAND, Francis Joseph

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**MP405**

**MINING ACT 1978**

APPLICATION FOR AN ORDER FOR FORFEITURE

Department of Industry and Resources,  
Mt Magnet.

In accordance with Regulation 49(2)(c) of the Mining Act 1978-1983 notice is hereby given that the licences are liable to forfeiture under the provision of Section 96(1)(a) for breach of covenant, non compliance with the expenditure condition.

S RICHARDSON SM, Warden.

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To be heard in the Warden's Court at Mt Magnet on 11th January, 2005.

MURCHISON MINERAL FIELD

P20/1791—St. Barbara Mines Ltd

P58/1107—Lachmund, Imtraud Margarete Ursula; Youngs, Peter William

P58/1108—Lachmund, Imtraud Margarete Ursula; Youngs, Peter William

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**PLANNING AND INFRASTRUCTURE**

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PI701\*

**TOWN PLANNING AND DEVELOPMENT ACT 1928**  
**ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME***Shire of Chittering*

Town Planning Scheme No. 6

Ref: 853/3/4/6

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Minister for Planning and Infrastructure approved the Shire of Chittering Town Planning Scheme No. 6 on 30 November 2004, the Scheme Text of which is published as a Schedule annexed hereto.

J. STAGBOUER, President.  
K. DONOHUE, Chief Executive Officer.

## SCHEDULE

**PART 1—PRELIMINARY****1.1 Citation**

The Shire of Chittering District Planning Scheme No. 6 (the Scheme) comes into operation on its Gazettal date.

The following Scheme is revoked—

*Shire of Chittering Town Planning Scheme No. 5*

*Date of Gazettal, 23rd of January, 1987.*

**1.2 Responsible Authority**

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

**1.3 Scheme Area**

The Scheme applies to the Scheme Area, which covers all of the Local Government of the Shire of Chittering as shown on the Scheme Map.

**1.4 Contents of Scheme**

The Scheme comprises—

- (a) This Scheme Text;
- (b) The Scheme Map.

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

**1.5 Purposes of the Scheme**

The purpose of the Scheme are to—

- (a) *Set out the Local Government's aims and intentions for the Scheme Area;*
- (b) *Set aside land as reserves for public purposes;*
- (c) *Zone land within the Scheme Area for the purposes defined in the Scheme;*
- (d) *Control and guide land use and development;*
- (e) *Set out procedures for the assessment and determination of planning applications;*
- (f) *Make provisions for the approval procedures, administration and enforcement of the Scheme;*
- (g) *Address other matters contained in Schedule 1 of the Town Planning Act;*

**1.6 The Aims of the Scheme**

The Aims of the Scheme are—

- a. *To provide environmental protection and enhancement of biodiversity and the natural resources including land, air and water quality;*
- b. *To protect good quality agricultural soils suitable for sustainable farming and horticulture from inappropriate subdivision and development for non-agricultural purposes;*
- c. *To ensure all developments comply with the principles of catchment management;*
- d. *To maintain the rural lifestyle as part of the community structure and well being;*
- e. *To provide for, but contain, settlement growth in designated areas of a local village character as service centres for the local population and tourists;*
- f. *To provide for rural residential development in controlled settlement areas;*
- g. *To protect and improve areas of remnant vegetation and, waterways from further degradation;*
- h. *To facilitate vegetated wildlife corridors and greenways, particularly along the primary water courses throughout the Shire by means of reserves and partnerships with government agencies and private landholders;*
- i. *To protect the landscape values of any designated landscape precinct/area/zone;*
- j. *To identify and protect basic raw materials resources for extraction and set standards for management and rehabilitation;*

- k. To promote employment opportunities by setting aside land for light and service industry development;*
- l. To provide for a coherent and efficient road system throughout the Shire;*
- m. To provide a cohesive framework on which to manage the development of the Shire;*
- n. To co-operate with community groups and to assist in sustainable enterprises for the benefit of the agricultural industry and the community as a whole.*
- o. To provide for essential infrastructure consistent with and as needed to support the other aims of the Scheme.*

### **1.7 Definitions**

1.7.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have—

- (a) in the Town Planning Act; or
- (b) if they are not defined in that Act—
  - (i) in the “*Dictionary of Defined Words and Expressions*” in Schedule 1; or
  - (ii) in the Residential Planning Codes.

1.7.2 If there is conflict between the meaning of a word or expression in the “*Dictionary of Defined Words and Expressions*” in Schedule 1 and the meaning of that word or expression in the Residential Planning Codes—

- (a) in the case of residential development, the definition in the Residential Planning Codes prevails; and
- (b) in any other case the definition in the Dictionary prevails.

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

### **1.8 Relationship with Local Laws**

Where a provision of this Scheme is inconsistent with a Local Law, the provision of this Scheme prevails.

### **1.9 Relationship with other Schemes**

There are no other Schemes of the Shire of Chittering, which apply to the Scheme Area.

## **PART 2—LOCAL PLANNING POLICY FRAMEWORK**

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

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

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

### **2.2 Local Planning Policies**

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

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

and may amend or add to or rescind the Policy.

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

2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for Planning Approval but the Local Government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

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

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

2.4.1 If a Local Government resolves to prepare a Local Planning Policy, the Local Government—

- (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme Area, giving details of—
  - (a) where the draft Policy may be inspected;
  - (b) the subject and nature of the draft Policy;
  - (c) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such consultation as the Local Government considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the Local Government is to—

- a. review the proposed Policy in the light of any submissions made; and
- b. resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

2.4.3 If the Local Government resolves to adopt the Policy, the Local Government is to—

- (a) publish notice of the Policy once in a newspaper circulating in the Scheme Area; and
- (b) if, in the opinion of the Local Government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.

2.4.4 A Policy has effect on publication of a notice under clause 2.4.3 (a).

2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the Local Government.

2.4.6 Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

### **2.5 Revocation of a Local Planning Policy**

A Local Planning Policy may be revoked by—

- (a) the adoption by a Local Government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
- (b) publication of a notice of revocation by the Local Government once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.

## **PART 3—RESERVES**

### **3.1 Reserves**

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

### **3.2 Regional Reserves**

There are no Regional Reserves in the Scheme Area.

### **3.3 Local Reserves**

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

### **3.4 Use and Development of Local Reserves**

3.4.1 A person must not—

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

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

3.4.2 In determining an application for Planning Approval the Local Government is to have regard to—

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

3.4.3 In the case of land reserved for the purposes of a public authority, the Local Government is to consult with that authority before determining an application for Planning Approval.

## **PART 4—ZONES AND THE USE OF LAND**

### **4.1 Zones**

The Scheme Area is classified into the zones shown on the Scheme Map.

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

### **4.2 Objectives of the Zones**

The objectives of the zones are:

#### **4.2.1 Townsite Zone**

##### **4.2.1.1 Objectives**

*To provide for a range of compatible uses within the Bindoon and Muchea townsites to provide for a high range of services, residential types, community and recreational facilities in a village with rural character;*

*To prohibit land uses which may adversely effect the living and visual amenity of the location;*

*To provide for the protection of the natural environment;*

*To protect or enhance any local reserves.*

#### **4.2.2 Light Industrial Zone**

##### **4.2.2.1 Objectives**

*To designate land for the development of strategically located light and service industries to provide supporting service to local agriculture and to create employment opportunities.*

#### 4.2.3 Agricultural Resource Zone

##### 4.2.3.1 Objectives

*To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;*

*To protect the landform and landscape values of the district against despoliation and land degradation;*

*To encourage intensive agriculture and associated tourist facilities, where appropriate;*

*To allow for the extraction of basic raw materials where it is environmentally and socially acceptable.*

#### 4.2.4 Small Rural Holdings Zone

##### 4.2.4.1 Objectives

*To preserve productive land suitable for intensive horticulture and other compatible productive rural uses in a sustainable manner;*

*To protect the landform and landscape values of the district against despoliation and land degradation.*

*Note: "There is currently no land zoned in the scheme for this purpose."*

#### 4.2.5 Rural Retreat Zone

##### 4.2.5.1 Objectives

*To promote land protection and environmental remediation.*

*To permit a range of land uses which are compatible with the capability of the landform for limited agricultural, viticultural, horticultural, tourism and rural lifestyle development.*

*Note: "There is currently no land zoned in the scheme for this purpose."*

#### 4.2.6 Rural Residential Zone

##### 4.2.6.1 Objectives

*To designate areas where rural residential developments can be accommodated without detriment to the environment or the rural character of the area.*

*To meet the demand for a rural lifestyle on small lots, generally in excess of 5000m<sup>2</sup>.*

*To maintain and enhance the rural character and amenity of the locality.*

### 4.3 Zoning Table

4.3.1 The Zoning Table contained in Schedule Two, indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Areas in the various zones. The permissibility of any uses is determined by cross-reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

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

'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.

'D' means that the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval.

'A' means that the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval after giving special notice in accordance with clause 9.4.

'X' means a use is not permitted by the Scheme.

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

(a) the Local Government has exercised its discretion by granting Planning Approval—

(b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;

(c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the land or

(d) the change is to an incidental use that does not change the predominant use of the land.

*Note:*

(1) *The Planning Approval of the Local Government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances, one application is made for both the use and development of land.*

(2) *The Local Government will not refuse a "P" use because of the unsuitability of the use for the zone but may impose conditions on the use of the land with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*

(3) *In considering a "D" or "A" use, the Local Government will have regard to matters set out in Clause 10.2.*

(4) *The Local Government must refuse to approve any "X" use of land. Approval to an "X" use of land may only proceed by way of an amendment to the Scheme.*

### 4.4 Interpretation of the Zoning Table

4.4.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Local Government may—

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or
- (b) determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for Planning Approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

#### 4.5 Additional Uses

Despite anything contained in the Zoning Table, the land specified in Schedule 3 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

*Note: An Additional Use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in the zone that applies to the land.*

#### 4.6 Restricted Uses

Despite anything contained in the Zoning Table, the land specified in Schedule 4 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 4 with respect to that land.

*Note: A Restricted Use is the only use or uses that are permitted on a specific portion of land and other uses that would otherwise be permissible in the zones are not permitted.*

#### 4.7 Special Use Zones

*Note: Special Use Zones apply to special categories of land use, which do not comfortably sit with any other zone in the Scheme.*

4.7.1 Special Use Zones are set out in Schedule 5 and are in addition to the zones in the Zoning Table.

4.7.2 A person must not use any land, or any structure or buildings on land, in a Special Use Zone except for the purpose set out against that land in Schedule 5 and subject to compliance with any condition set out in Schedule 5 with respect to that land

#### 4.8 Non-Conforming Uses

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

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date;
- (b) the carrying out of any development for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 4.9.3, the continued display of advertisements, which were lawfully erected, placed or displayed prior to the Gazettal date.

*Note: "Land" has the same meaning as in the Town Planning Act 1928 (As Amended) and includes houses, buildings and other works and structures.*

#### 4.9 Extensions and Changes to a Non-Conforming Use

4.9.1 A person must not—

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

without first having applied for and obtained Planning Approval under this Scheme

4.9.2 An application for Planning Approval under this clause shall be advertised in accordance with clause 9.4.

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

#### 4.10 Discontinuance of Non-Conforming Use

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

#### 4.11 Termination of a Non-Conforming Use

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

*Note: Section 13 of the Town Planning Act enables the Local Government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town Planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.*



#### **4.12 Destruction of Non-Conforming Use Buildings**

If a building used for a non-conforming use is destroyed to 75% or more of its value, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the Planning Approval of the Local Government.

### **PART 5—GENERAL DEVELOPMENT REQUIREMENTS**

#### **5.1 Compliance with Development Standards and Requirements**

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

#### **5.2 Residential Planning Codes**

5.2.1 A copy of the Residential Planning Codes is to be kept and made available for public inspection at the offices of the Local Government.

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

5.2.3 The Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the Residential Planning Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Planning Code density, as being contained within the area defined by the centre-line of those borders.

#### **5.3 Special Application of Residential Planning Codes**

There are no exclusions or variations to the Residential Planning Codes, which apply to the Scheme.

In the area coded R 10/30, the R 10 Code shall apply unless—

- (a) a connection to a reticulated sewer network is available or otherwise in accordance with the provisions of any relevant Government Sewerage Policy;
- (b) the proposed development satisfies the design requirements of the Council for development at the higher code.

#### **5.4 Restrictive Covenants**

5.4.1 Subject to the provisions of sub-clause 5.4.2, a restrictive covenant affecting any land in the Scheme Area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Planning Codes which apply under the Scheme.

5.4.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant, the Local Government is not to grant Planning Approval to the development of the land, which would, but for the operation of clause 5.4.1, have been prohibited, unless the application has been dealt with as an “A” use and has complied with all of the advertising requirements of clause 9.4.

#### **5.5 Variations to Site and Development Standards and Requirements**

5.5.1 Except for development in respect of which the Residential Planning Codes apply, if a development is the subject of an application for Planning Approval and does not comply with a standard prescribed under the Scheme, the Local Government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the Local Government thinks fit.

5.5.2 In considering an application for Planning Approval under this clause, where, in the opinion of the Local Government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site, which is subject of consideration for the variation, the Local Government is to—

- (a) consult the affect parties by following one or more of the provisions for advertising uses under clause 9.4;
- (b) have regard to any expressed views prior to making its determination to grant the variation.

5.5.3 The power conferred by this clause may only be exercised if the Local Government is satisfied that—

- (a) Approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development, the inhabitants of the locality or upon the likely future development of the locality.

#### **5.6 Environmental Conditions**

5.6.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are incorporated into the Scheme by Schedule 11 of the Scheme.

5.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.

5.6.3 The Local Government is to—

- (a) maintain a register of all relevant statements published under Section 48F and 48G of the EP Act; and
- (b) make the statements available for public inspection at the offices of the Local Government.

*Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the environmental Protection Act.*

## **5.7 Dwellings in the Agricultural Resource, Rural Retreat & Rural Residential Zones**

### *Agricultural Resource Zone*

Local Government may grant approval to two dwellings on any lot, where the land is managed for agricultural production, tourism, religious or education purposes and where the occupants are engaged in those specified predominant land uses or activities.

### *Rural Residential Zone*

Only one dwelling will be permitted on any lot, within the designated building envelope as shown on an adopted Detailed Area Plan.

Local Government may permit ancillary accommodation providing it is located within the building envelope.

## **5.8 Development Provisions—Rural Residential Zone, Rural Retreat Zone and Small Rural Holding Zone**

Subdivision and development of rural land for rural residential, rural retreat or small rural holding purposes will require an amendment to the town planning scheme .

The following general clauses will apply to the development and use of land in these rural zones.

### **5.8.1. Requirement for a Development Plan**

Subdivision shall be generally in accordance with a Development Plan or any subsequent variation approved by the Council.

An application for subdivision of land in these zones is to be accompanied by a Development Plan which indicates and addresses the following but is not limited to—

- (a) lot sizes, dimensions and identification of building envelopes or building exclusion areas;
- (b) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc, as may be considered appropriate;
- (c) strategic firebreaks;
- (d) any Catchment Management Plan recommendations;
- (e) any part of the natural environment which is required to be protected from degradation or required for landscape protection;
- (f) an assessment of the presence and impacts of Dieback in consultation with Council and CALM and the ability of the subdivision design and works to mitigate against the spread and effect of Dieback;
- (g) any facilities which the purchasers of the lots will be required to provide (eg. their own potable water supply, liquid or solid waste disposal, etc);
- (h) areas where conventional septic tanks may not be suitable;
- (i) The description of adjoining land(s) and their uses;
- (j) Remnant vegetation and any land affected by rare and endangered flora and fauna;
- (k) Location of watercourses, drainage lines and areas of inundation and the distance of any infrastructure from these.

### **5.8.2 Building Envelopes/Setbacks**

Development will only be permitted in the areas identified as building envelopes provided that Council may vary the boundaries of such envelopes if it is satisfied that such variation is desirable and will not detrimentally affect the objective for the Zone or the amenity of the area generally.

Clearing of remnant vegetation for the construction of buildings within the defined envelope shall not exceed 2000m<sup>2</sup> without prior approval of Council.

If no building envelopes are identified on the Development Plan, then the following setbacks from the cadastral boundaries shall be applied—

#### Front

- Lots fronting a Highway shall be a minimum of 100 metres
- Lots fronting a Major Road shall be a minimum of 50 metres
- Lots fronting a subdivisional road shall be a minimum of 20 metres

Side 15 metres

Rear 20 metres

If the site is to have a sand pad for the proposed dwelling greater than 0.5 metres above Natural Ground Level, then for every 0.5 metre of height above natural ground level, setback distances shall be increased by 2 metres.

### **5.8.3 Planning Approval**

Planning approval will be required for all residential development in the rural residential zone. In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the Council shall have regard to the following—

- (a) the colour and texture of external building materials;
- (b) building size, height, bulk, roof pitch;

- (c) setback and location of the building on its lot;
- (d) architectural style and design details of the building;
- (e) relationship to surrounding development; and
- (f) other characteristics considered by the Council to be relevant

Dwelling houses and ancillary buildings shall be constructed of non-reflective material (excluding glazed areas).

All earthworks and construction shall be carried out in a manner which minimises disturbance of vegetation, to control dust and noise emissions in accordance with Department of Environmental Protection guidelines, to minimise soil tillage and to employ stormwater management practices to the satisfaction of the Council.

Residential use will not be permitted in a building other than one approved by the Council for that purpose, except that Council may grant permission for occupation of a caravan for a period not exceeding 12 months if a building permit for a dwelling is concurrently in force or an application for such is before Council

#### 5.8.4 Fencing

No fencing shall be permitted or undertaken within an area designated for vegetation protection as depicted on the Development Plan unless approved in writing by the Council.

The Council may determine the type, height, materials and extent of any fencing.

#### 5.8.5 Non-Potable Water Supply

All buildings intended for residential use must include provision for the storage of water in tanks of not less than 120,000 litres capacity unless satisfactory arrangements have been made for connection to a reticulated water supply provided by a licensed water provider. Council may permit the reduction in the size of storage tanks if the quality of water on-site meets or is treated to potable water standards.

#### 5.8.6 Land Management

The Council may require the landowner to undertake a replanting programme or remedial works to the Council's satisfaction in any area depicted on the Development Plan for the purposes of environmental protection or regeneration of vegetation.

Outside areas designated for vegetation protection use of endemic local species is encouraged, but non-endemic and non-invasive species may be used, provided these comply with any guidelines, adopted by the Council.

All owners or occupiers shall maintain the land, including any watercourses or drainage swales, in a manner, which prevents degradation of the land or any vegetation thereon. A suitable buffer is to be maintained around the watercourse or drainage swale and stock access managed to minimise degradation to the watercourse.

All earthworks and construction shall be carried out in a manner which minimises disturbance of vegetation, to control dust and noise emissions in accordance with Department of Environmental Protection guidelines, to minimise soil tillage and to employ stormwater management practices to the satisfaction of the Council.

#### 5.8.7 Dams and Water Courses

The construction of dams and/or the extraction of surface water are not permitted without the approval of Council and Water Rivers Commission.

#### 5.8.8 Protection of Vegetation and Tree Cover

In order to enhance the rural amenity of the land in areas, that the Council considers deficient in understorey and tree cover, it may require as a condition of any planning approval the planting of such understorey and trees and/or groups of trees and species as specified by the Council

Areas of Vegetation Protection identified on the adopted Development Plan using Clause 5.8.1 of the Scheme shall not be cleared, felled or removed except where necessary in the following situations—

- (a) the vegetation is dead, diseased or poses a danger to humans or stock;
- (b) the clearing is necessary for any firebreak required by law;
- (c) the clearing is for the purpose of access to an approved dwelling or outbuildings;
- (d) the clearing is within a defined building envelope and limited to that area;
- (e) the clearing is necessary for the construction of a dwelling, outbuildings and an area of 20m width surrounding the dwelling for the purpose of bush fire protection.

#### 5.8.9 Fire Control

Strategic Fire Breaks as shown on the Development Plan shall be constructed by the developer and maintained to the satisfaction of the Council and the Fire and Emergency Services Authority by the landholder.

A Bush Fire Management Plan shall be prepared by the developer/subdivider to the satisfaction of Council and Fire Emergency Services Authority and shall be referred to any government agency that owns or manages land with a common boundary with the area the subject to the Bush Fire Management Plan.

#### 5.8.10 Effluent Disposal

Appropriate disposal systems are required to be installed to the satisfaction of the Council and the Health Department.

#### 5.8.11 Livestock Management

With the intention of preventing overstocking or other practices detrimental to the amenity of the zone and to prevent land degradation and nutrient export, the keeping of livestock shall not be permitted without approval in writing from the Council.

In considering any applications for the keeping of livestock, the Council will have regard to advice from Agriculture Western Australia and to the Water & Rivers Commission (or its successor agency) in relation to protection of watercourses, wetlands and ground and surface water quality.

#### 5.8.12 Agricultural Activities

Where commercial agriculture vineyards and/or orchards are established, the application shall be supported by a Land Management Plan, addressing the issues of dust, noise and spray management, fertiliser, irrigation and pest management, waste solids and liquids disposal, together with surface water quality monitoring to the satisfaction of the Council in consultation with the Department of Environmental Protection.

#### 5.8.13 Vendor Responsibility

The developer/vendor shall inform prospective purchasers of any lot, in writing, of the provisions of the Council's Town Planning Scheme relating to the management of the land.

### 5.9 Development Provision In Light Industrial Zone

The Local Government shall, when assessing any application for planning approval or subdivision for industrial uses take into consideration—

- (a) the effect on the environment by means of discharge of pollutants or contaminants into the air or the ground,
- (b) any other requirement as included in a Local Planning Policy adopted by the Council.

### 5.10 Development Of Lots Abutting Unconstructed Roads

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

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

### 5.11 Advertisements—Power to Control

5.11.1 For the purpose of this Scheme, the erection, placement or display of any sign and the use of land or any building for the display of any sign involving non site specific advertising is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Such planning approval is required in addition to any licence pursuant to Council's Signs and Hoarding and Bill Posting Local Laws.

5.11.2 Applications for Council's planning approval pursuant to this Part shall be submitted in accordance with the provisions of Clause 9.1.1 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Schedule Nine giving details of the sign to be erected, placed or displayed on the land. The Council may waive the requirement to submit an application in this form and consequently may only require an application for a sign licence under Council's Local Law.

#### 5.11.3 Existing Signs

Signs 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 in this Part referred to as "existing signs", may, except as otherwise provided, continue to be displayed or be erected and displayed in accordance with the Licence or approval as appropriate.

#### 5.11.4 Consideration of Applications

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for approval to erect, place or display a sign, 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.

#### 5.11.5 Exemptions from the Requirement to Obtain Planning Approval

Subject to the provisions of the Main Roads (Control of Signs) Regulations and notwithstanding the provisions of clause 5.9.3.1 the Council's prior approval is not required in respect of those advertisements listed in Schedule Seven (7) which for the purpose of this Part are referred to as "exempted advertisements".

#### 5.11.6 Discontinuance

Notwithstanding the scheme objectives and sub-clause 5.9.3.4 where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict

with the objectives of the Scheme, 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.

#### 5.11.7 Derelict or Poorly Maintained Signs

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, the Council may by notice in writing require the advertiser to—

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

#### 5.11.8 Notices

- (a) “The advertiser” shall be interpreted as anyone or any group comprised of the landowner, occupier, or licensee.
- (b) any notice served in exceptional circumstances pursuant to sub-clause 5.9.3.5 or pursuant to sub-clause 5.9.3.6 shall be served upon the advertiser and shall specify—
  - i. the advertisement(s) the subject of the notice;
  - ii. full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice;
  - iii. the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.
- (c) any person upon whom a notice is served pursuant to this sub-clause may within a period of 60 days from the date of the notice appeal 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.

#### 5.12 Car Parking Requirements

Car parking shall be in accordance with the Local Government’s Local Planning Policy—Car Parking Requirements.

#### 5.13 Unstable Sites

For any land of an unstable nature, the Local Government shall require any application for Planning Approval to be accompanied by a geotechnical report demonstrating the stability of the land for any development.

#### 5.14 Transported & Transportable Buildings

Planning approval is required for the erection of a new or prefabricated transportable building, kit home or a transported dwelling on a lot and shall be approved where—

- (a) the design and location of the building is to the satisfaction of the Local Government, and in its opinion, does not adversely affect the amenity of the locality;
- (b) the dwelling has—
  - i. a constructed verandah
  - ii. has a pitched roof capable of rainwater collection, if Scheme Water is not available
  - iii. is connected to an approved septic disposal system
- (c) the proposal complies with the intent of the Scheme and its duly adopted Local Planning Policies.

#### 5.15 Highway and Major Road Reserves

Development, which abuts Highway Reserves and utilises them for access, must gain approval from Main Roads. Development, which abuts a Highway Reserve, shall be setback a minimum distance of 100 metres.

Major Road Reserves as identified on the Scheme Map shall have a minimum reserve width of 30 metres and construction shall be in accordance with Council’s Roads and Drainage Policy. Development, which abuts Major Road Reserves, shall be setback a minimum distance of 50 metres.

#### 5.16 Basic Raw Materials

- (a) Extraction of essential materials for roads and construction are to be permitted in areas where they will not adversely affect living environments, the landscape quality or contribute to land degradation problems during and after operations;
- (b) Extraction of basic raw materials within the rural zones is to be managed in accordance with best industry practices including consideration of end use and rehabilitation at time of decommission;
- (c) Appropriate buffer areas are to be applied to protect both the extractive operations as well as the living or agricultural environment in nearby areas;
- (d) Council will not support development within those buffer areas, which may be detrimental to the efficiency of the industries. This is to protect the basic raw materials precincts from development that may compromise its operations.

**PART 6—SPECIAL CONTROL AREAS****6.1 Operation of Special Control Areas**

6.1.1 The following special control areas shown on the Scheme Maps—

- Landscape Protection
- Water Prone
- Basic Raw Materials
- Military Considerations
- Land Refuse

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

**6.2 Landscape Protection Areas**

6.2.1 The Landscape Protection Areas are delineated on the Scheme Map. Planning Approval is required for any development within the Special Control Area.

6.2.2 Purpose

- (a) To secure the areas delineated on the Scheme Map from undue subdivision and development that would detract from the landscape value of the rural environment;
- (b) to conserve and enhance the character of the significant landscape area; and
- (c) to ensure land use and developments are compatible with the landscape values.

6.2.3 Landscape Areas

The Landscape Protection Areas are—

- (a) the Chittering Valley Landform System: for the protection of the Brockman River Catchment its biodiversity and the drainage pattern and land degradation problems;
- (b) the Gingin Scarp: for the protection of the landform against denudation, water quality (nutrient export) and erosion;
- (c) the northern uplands: for the agricultural quality of the undulating landforms and rural production.

6.2.4 Planning Requirements

In dealing with an application for Planning Approval, the Local Government will not support—

- (a) a dwelling or outbuilding on any ridgeline as may be prominently visible from any public road or which may adversely affect the aspects of neighbouring dwellings;
- (b) land uses which are not related to the general objectives of the zone;
- (c) the storage or keeping of non-agricultural vehicles or materials on the land as may be visible from any public road;
- (d) the removal of any natural vegetation from any ridgeline;
- (e) the removal or lopping of trees other than for—
  - i. fire fighting or fire protection purposes;
  - ii. the removal of dead or dying trees;
  - iii. clearance for power lines, emergency access, emergency works by a public authority, sight lines and traffic safety on roads;
  - iv. if the vegetation is posing a risk to public safety;
  - v. the vegetation is part of an area planted for fodder, timber plantation, or any other crop;
  - vi. in association with the establishment of a Building Envelope.

The Local Government may require, where appropriate, as a condition of any planning approval, additional planting of vegetation to be undertaken to ensure no net loss of vegetation or to repair any degraded landscape.

6.2.5 Relevant Considerations

In considering an Application for Planning Approval, the Local Government shall have regard to—

- (a) the statement and the nature of the key elements of the landscape and its character;
- (b) the conservation and enhancement of the landscape values;
- (c) the impact of any buildings and associated works on the landscape due to height, bulk, colour, general appearance and the need to remove vegetation;
- (d) the requirement for all roofing of any building to be of a non-reflective nature;
- (e) a change of land use where in the opinion of the Local Government the proposed development may cause a deterioration of the landscape value and/or cause an adverse effect(s) on the environment.

6.2.6 Referrals for Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

**6.3 Water Prone Area—Ellen Brook Palusplain**

6.3.1 Land subject to Inundation or flooding are delineated on the Scheme Map. Planning Approval is required for any development within the Special Control Area.

### 6.3.2 Purpose

- a. To manage development in areas where there is high risk of inundation so as to protect people and property from undue damage and where there is a potential risk to human health.
- b. To preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems.
- c. To ensure that wetland environmental values and ecological integrity are preserved and mentioned.

### 6.3.3 Planning Requirements

The Local Government will impose conditions on any Planning Approval relating to—

- (a) the construction and occupation of any dwelling or outbuilding;
- (b) the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council;
- (c) minimum floor levels for any building above the highest known water levels;
- (d) any land use that may contribute to the degradation of the surface or sub-surface water quality.
- (e) no development other than for conservation purposes will be permitted within 30 metres of any water body;
- (f) damming, draining or other developments which may alter the natural flow of surface water will not be permitted unless such works are part of an approved Catchment Management Plan.

### 6.3.4 Relevant Considerations

In considering applications for Planning Approval, the Local Government shall have regard to—

- (a) the likely impact on the health and welfare of future occupants;
- (b) the proposed activities for the land and their potential increase in the risk of causing an increase in nutrients entering the water regimes;
- (c) any provision or recommendation from any Catchment Management Plan.
- (d) the likely impact on any wetland;
- (e) buffer distances from any wetland.

### 6.3.5 Referral of Applications for Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

## 6.4 Basic Raw Materials

6.4.1 Basic Raw Materials Areas are delineated on the Scheme Map.

### 6.4.2 Purpose

To secure known basic raw materials resources, and protect future resources.

### 6.4.3 Planning Requirements

Planning Approval is required to extend a dwelling or other building within the Buffer Area.

No new dwellings shall be approved within this buffer area.

### 6.4.4 Relevant Considerations

Whether development in the buffer area will affect future Extractive Industry operations.

### 6.4.5 Referral of Applications for Rezoning or Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

## 6.5 Military Considerations (RAAF)

6.5.1 The Military Considerations Area (for RAAF Base Pearce-Flight Paths) are delineated on the Scheme Map.

### 6.5.2 Purpose

To protect the integrity of the operations of the RAAF Air Base Pearce and its flight paths and to provide conditions on development on land within the designated Special Control Areas which may be effected by noise.

To minimise the number of people residing in the delineated flight path subject to significant levels of aircraft noise.

### 6.5.3 Planning Requirements

Planning Approval is required for any development within this Special Control Area.

Any new dwelling shall be constructed so as to comply with any noise attenuation measures required by *Australian Standard AS 2021-2000 Aircraft Noise Intrusion—Building Siting and Construction issue by the Standards Association of Australia*.

Within this area, reflective roofs are not permitted.

The Local Government shall not permit the construction and occupation of more than one dwelling or holiday or other short term accommodation on any one lot within the designated area.

#### 6.5.4 Relevant Considerations

In considering any Application for Planning Approval the Local Government shall have regard to—

- (a) the increase in number of dwellings and occupants likely to be affected by aircraft noise;
- (b) whether the proposal is compatible with the current and future operation of the aerodrome;
- (c) whether any buildings proposed for human occupation requires noise attenuation measures;
- (d) whether the proposal constitutes a hazard or interference to aircraft flying in the area.

#### 6.5.5 Referrals of Applications for Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

### 6.6 Land Refuse

The Land Refuse Areas are shown on the Scheme Map.

#### 6.6.1 Purpose

To establish buffer areas around established Land Refuse Centres, so that development does not encroach within the buffer area.

#### 6.6.2 Planning Requirements

Planning Approval is required to extend a dwelling or other building within the Buffer.

No new dwellings shall be approved within the designated buffer area.

#### 6.6.3 Referrals of Applications for Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

## PART 7—HERITAGE PROTECTION

### 7.1 Heritage List

7.1.1 The Local Government is to establish and maintain a Heritage List to identify those places within the Scheme Area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2 In the preparation of the Heritage List the Local Government is to—

- (a) have regard to the municipal inventory prepared by the Local Government under Section 45 of the *Heritage of Western Australia Act 1990*; and
- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

7.1.3 In considering a proposal to include a place on the Heritage List, the Local Government is to—

- (a) notify in writing the owner and the occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
- (c) carry out other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

7.1.4 Where a place is included on the Heritage List, the Local Government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and the owner and occupier of the place.

7.1.5 The Local Government is to keep a copy of the Heritage List with the Scheme documents for public inspection.

7.1.6 The Local Government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

*Note:*

- (1) *The purpose and intent of the heritage provisions are—*
  - (a) *to facilitate the conservation of places of heritage value;*
  - (b) *to ensure as far as possible that development occurs with due regard to heritage values.*
- (2) *A 'place' is defined in Schedule 1 and may include, works, buildings and contents of buildings.*

### 7.2 Designation of a Heritage Area

7.2.1 If, in the opinion of the Local Government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the Local Government may, by resolution, declare that area as a heritage area.

7.2.2 The Local Government is to—

- (a) adopt for each Heritage Area a Local Planning Policy, which is to comprise—
  - i. a map showing the boundaries of the heritage area;
  - ii. a record of places of heritage significance;
  - iii. objectives and guidelines for the conservation of the heritage area; and
- (b) keep a copy of the Local Planning Policy for any designated Heritage Area with the Scheme documents for public inspection.



7.2.3 If a Local Government proposes to designate an area as a heritage area, the Local Government is to—

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) advertise the proposal by—
  - i. publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme Area;
  - ii. erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
  - iii. such other methods as the Local Government considers appropriate to ensure widespread notice of the proposal; and
- (c) carry out such other consultation as the Local Government considers appropriate.

7.2.4 Notice of a proposal under clause 7.2.3 (b) is to specify—

- (a) the area subject of the proposed designation;
- (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
- (c) in what form and in what period (being not less than 21 days from the date the notice is published or the sign is erected, as the case requires) submissions may be made.

7.2.5 After the expiry of the period within which submissions may be made, the Local Government is to—

- (a) review the proposed designation in the light of any submissions made; and
- (b) resolve to adopt the designations with or without modification, or not to proceed with the designation.

7.2.6 If the Local Government resolves to adopt the designation, the Local Government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of the land affected by the designation.

7.2.7 The Local Government may modify or revoke a designation on a heritage area.

7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

### 7.3 Heritage Agreements

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

*Note:*

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

### 7.4 Heritage Assessment

Despite any existing assessment on record, Local Government may require a heritage assessment to be carried out prior to the approval of any development proposed in a Heritage Area or in respect of a heritage place included on the Heritage List.

### 7.5 Variations to Scheme Provisions for a Heritage Place or Heritage Area

Where desirable to—

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under sub-clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area declared under sub-clause 7.2.1,

the Local Government may vary any site or development requirement specified in the Scheme or the Residential Planning Codes, by following the procedures set out in sub-clause 5.5.2.

## PART 8—DEVELOPMENT OF LAND

### 8.1 Requirement for Approval to Commence Development

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

*Note:*

- (1) The Planning Approval of the Local Government is required for both the development of land (subject to of this Part) and the use of land (subject of Part 4).
- (2) Development includes the erection, placement and display of any advertisements.

## 8.2 Exempted Development

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the Planning Approval of Local Government—

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
  - i. located in a place that has been entered into the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - ii. the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - iii. included on the Heritage List under clause 7.1 of this Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where—
  - i. the proposal requires the exercise of a discretion by the Local Government under the Scheme to vary the provisions of the Residential Planning Codes; or
  - ii. the development will be located in a heritage area designated under the Scheme;
  - iii. the proposal is located within a Rural Residential zone;
  - iv. the proposal is located within Special Control Area;
  - v. the proposal requires access from a un-constructed road;
  - vi. the development utilises transported and transportable buildings.
- (c) the demolition of any building or structure except where the building or structure is—
  - i. located in a place that has been entered into the Register of Places under the Heritage Act of Western Australia Act 1990;
  - ii. the subject of an order under Part 6 of the Heritage Act of Western Australia Act 1990;
  - iii. included on the Heritage List under clause 7.1 of the Scheme, or
  - iv. located within a Heritage Area designated under the Scheme.
- (d) a home office;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the Local Government agrees;
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included on the Heritage List or in a Heritage Area.
- (g) the erection, construction, maintenance, improvement or alteration of a rural boundary fence or wall, or other means of boundary enclosure;
- (h) the erection of windmills, the sinking of bores and wells and associated water tanks in Agricultural Resource zones;
- (i) the installation of service ducts, cables, pipes, conduits, for domestic or rural purposes;

*Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under Section 20D Town Planning Act*

## 8.3 Amending or Revoking a Planning Approval

The Local Government may, on written application from the owner of land in respect of which a Planning Approval has been granted, revoke or amend the Planning Approval, prior to the commencement of the use or development subject of the Planning Approval.

## 8.4 Unauthorised Existing Developments

8.4.1 The Local Government may grant Planning Approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of Planning Approval and the continuation of development unlawfully commenced is to taken to be lawful upon the grant of Planning Approval.

*Note:*

- (1) *Applications for approval to an existing development are made under Part 9.*
- (2) *The approval by the Local Government of an existing development does not affect the power of the Local Government to take appropriate action for a breach of the Scheme or the Act in respect of he commencement or carrying out of development without Planning Approval.*

# PART 9—APPLICATIONS FOR PLANNING APPROVAL

## 9.1 Form of Application

9.1.1 An application for approval for one or more of the following—

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a 'P' use, which does not comply with all the relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
- (c) commencement of a "D" use or an "A" use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2 (b);

- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent Planning Approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

is, subject to clause 9.1.2, to be made in the form prescribed in Schedule Seven (7) and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

9.1.2 An application for the erection, placement or display of an advertisement is to be accompanied by the additional information set out in the form in Schedule 9.

*Note: An Application for Planning Approval in respect of land which is wholly within the management of the Swan River trust shall be referred by the Local Government for determination by the Minister responsible for the Swan River Trust Act 1988.*

## 9.2 Accompanying Material

Unless Local Government waives any particular requirement (which the applicant shall be advised in writing), every application for Planning Approval shall be accompanied by—

- (a) a plan or plans to a scale of not less than 1:1000 showing—
  - i. the location of the site including street names, lot numbers and tenure of the subject land and all adjoining parcels of land, north point and dimensions of site;
  - ii. the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures and vegetation proposed to be removed;
  - iii. the existing and proposed use of the site, including the proposed hours of operation, and buildings and structures to be erected on the site;
  - iv. the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - v. the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - vi. the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - vii. the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same;
  - viii. the nature and extent of any open space and landscaping proposed for the site.
  - ix. the location of any streamline or watercourse on the site; and
  - x. any remnant vegetation on the site.
- (b) plans, elevations, and sections of any building proposed to be erected or altered and any building it is intended to retain;
- (c) any specialist studies that Local Government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the Local Government may require to enable the application to be determined.

## 9.3 Additional Material for Heritage matters

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

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

## 9.4 Advertising of Applications

9.4.1 Where an application is made for Planning Approval to commence a use or commence or carry out development, which involves a use, which is—

- (a) an “A” use as referred to in clause 4.3.2; or
- (b) a use not listed in the Zoning,

the Local Government is not to grant approval to that application unless notice is first given in accordance with the provisions of sub-clause 9.4.3.

9.4.2 Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the Local Government may require notice to be given in accordance with clause 9.4.3.

9.4.3 The Local Government may give notice or require the applicant to give notice or decide to give notice of an application for Planning Approval in one or more of the following ways—

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the Local Government, are likely to be affected by the granting of Planning Approval, stating that submissions may be made to the Local Government by a specified date not less than fourteen days from the day the notice is served;
- (b) notice of the proposed use or development to be published in a newspaper circulating in the Scheme Area stating that submissions may be made to the Local Government by a specified day being not less than fourteen days from the day the notice is published;
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

9.4.4 The notice referred to in clause 9.4.3 (a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the Local Government.

9.4.5 Any person may inspect the application for Planning Approval referred to in the notice and material accompanying that application at the offices of the Local Government.

9.4.6 After the expiration of the period specified from the serving of notice of the application for Planning Approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the Local Government is to shall consider and determine the application.

## PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1 Consultation with Other Authorities

10.1.1 In considering an application for Planning Approval the Local Government may consult with any other statutory, public or planning authority it considers appropriate.

10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Local Government is to consult with that authority before making its determination.

### 10.2 Matters to be considered by Local Government

The Local Government in considering an application for Planning Approval, is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application—

- (a) the aims and provisions of the Scheme;
- (b) the requirements of orderly and proper planning including any relevant proposed new district planning scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any approved environmental protection policy under *the Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;
- (g) the aims and objectives of Catchment Management Plans and Principles for the Scheme Area;
- (h) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (i) the conservation of any place that has been registered in the Register of Places within the meaning of the *Heritage Act of Western Australia 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (j) the compatibility of a use or development within its setting taking into consideration any Special Control Area.
- (k) any social issues that have an effect on the amenity of the locality;
- (l) the cultural significance of any place or area affected by the development;
- (m) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (n) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (o) the preservation of the amenity of the locality;
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (t) whether the public utility services are available and adequate for the proposal. This includes existing facilities and those planned for construction to meet the needs of the proposal and future servicing requirements of the Scheme Area.
- (u) Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (v) whether adequate provisions have been made for access by disabled persons;
- (w) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (x) whether the proposal is likely to cause soil erosion or land degradation;
- (y) the potential loss of any community service or benefit resulting from the Planning Approval;
- (z) any relevant submissions received on the application;
- (aa) the comments or submissions received from any authority consulted under clause 10.1.1;
- (bb) any other planning consideration the Local Government considers relevant.

### **10.3 Determination of Applications**

In determining an application for Planning Approval the Local Government may—

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

### **10.4 Form and Date of Determination**

10.4.1 As soon as practicable after making a determination in relation to the application the Local Government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the Local Government's determination.

10.4.2 Where the Local Government refuses an application for Planning Approval the Local Government is to give reasons for its refusal.

### **10.5 Term of Planning Approval**

10.5.1 Where the Local Government grants planning approval for the development of land—

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

10.5.2 A written request may be made to the Local Government for an extension of the term of Planning Approval at any time prior to the expiry of the approval period in clause 10.5.1.

### **10.6 Temporary Planning Approval**

Where Local Government grants Planning Approval, the Local Government may impose conditions limiting the period of time for which the approval is granted.

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

### **10.7 Scope of Planning Approval**

Planning Approval may be granted—

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

### **10.8 Approval Subject to Later Approval of Details**

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

10.8.2 In respect of an approval requiring subsequent Planning Approval, the Local Government may require such further details as it thinks fit prior to considering the application.

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

### 10.9 Deemed Refusal

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

10.9.2 An application for Planning Approval, which is subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the Local Government within 90 days of the receipt of the application by the Local Government, or within such further time as is agreed in writing between the applicant and the Local Government.

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

### 10.10 Appeals

An applicant aggrieved by a determination of the Local Government in respect of the exercise of a discretionary power under the Scheme may appeal under Part V of the Town Planning Act.

## PART 11—ENFORCEMENT AND ADMINISTRATION

### 11.1 Powers of the Local Government

11.1.1 The Local Government in implementing the Scheme has the power to—

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme Area under the provisions of the Scheme or the Town Planning Act;
- (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the Town Planning Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

11.1.2 An employee of the Local Government authorised by the Local Government, may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

### 11.2 Removal and Repair of Existing Advertisements

11.2.1 Where an existing advertisement at, or at any time after, the coming into force of the Scheme, is, in the opinion of the Local Government, in conflict with the amenity of the locality, the Local Government may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertisement.

11.2.2 Where, in the opinion of the Local Government, an advertisement has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the Local Government may by written notice require the advertiser to—

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

11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify—

- (a) the advertisement the subject of the notice—
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, being not less than 60 days from the date of the Local Government's determination, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may appeal under Part V of the Town planning Act against the determination of the Local Government.

### 11.3 Delegation of Functions

11.3.1 The Local Government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation

11.3.2 The CEO may delegate to any employee of the Local Government the exercise of any of the CEO's powers or the discharge of any of the Chief Executive Officer's duties under clause 11.3.1.

11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995*, and the regulations referred to it in section 5.46 apply to a delegation made under this clause as if the delegation were under Division 4 of Part 5 of that Act.

### 11.4 Person Must Comply With Provisions of Scheme

11.4.1 A person must not—

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme Area—
  - i. otherwise in accordance with the Scheme;
  - ii. unless all approvals required by the Scheme have been granted and issued;
  - iii. otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
  - iv. otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the Local Government under the Scheme with respect to that building or that use.

*Note: Section 10(4) of the Town Planning Act provides that a person who—*

- (a) *contravenes or fails to comply with the provisions of a town planning scheme; or*
  - (b) *commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under the scheme,*
- is guilty of an offence.*

*Penalty: \$50 000 and a daily penalty of \$5000.*

### 11.5 Compensation

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

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

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

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

*Note: A claim for compensation under section 11(1) of the Town Planning Act may be made in the Form No. 7 in Appendix A of the Town Planning Regulations 1967.*

### 11.6 Purchase or Taking of Land

11.6.1 If, where compensation for injurious affection is claimed under the Town Planning Act, the Local Government elects to purchase or take the land compulsorily the Local Government is to give written notice of that election to the claimant within three months of the claim for compensation being made.

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

*Note: Section 13 of the Town Planning Act empowers the Local Government to purchase or compulsorily acquire land comprised in a Scheme.*

### 11.7 Notice for Removal of Certain Buildings

11.7.1 Under section 10(1) of the Town Planning Act, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The Local Government may recover expenses under section 10 (2) of the Act in a court of competent jurisdiction.

### 11.8 Offences

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

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

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

SCHEDULE ONE  
DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

**GENERAL DEFINITIONS**

**Absolute majority** shall have the same meaning as is given to the term in the *Local Government Act 1995*.

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

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

**Building Clearing Area** means the area within a defined building envelope that may be cleared for the purposes of erecting a dwelling, outbuildings and management of vegetation for gardens, car parking, driveways and fire hazard reduction.

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

**Conservation** has the same meaning as in the *Heritage of Western Australia Act 1990*.

**Cultural Heritage Significance** has the same meaning as in the *Heritage of Western Australia Act 1990*.

**Development** shall have the same meaning as in the Town Planning Act.

**Floor Area** has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board.

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

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

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

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

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

**Incidental Use** means a use of premises which is ancillary and subordinate to the predominant use.

**Local Government** means the Shire of Chittering.

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

**Lot** has the same meaning as in the Town Planning Act but does not include a strata or survey strata lot.

**Minerals** has the same meaning as in the *Mining Act 1978*.

**Net Lettable Area (nla)** means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—

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

**Non-Conforming Use** has the same meaning as it has in section 12(2)(a) of the Town Planning Act.

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

**Place** in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*.

**Plot Ratio** in the case of residential dwellings has the same meaning as in the Residential Planning Codes.



**Precinct** means a definable area where particular planning policies, guidelines or standards apply.

**Predominant Use** means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary.

**Premises** means land or buildings.

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

**Retail** means the sale or hire of goods or services to the public.

**Substantially Commenced** means that work or development the subject of a planning approval has been begun by the performance of some substantial part of that work or development.

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

**Wholesale** means the sale of goods or materials to be sold by others.

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

## LAND USE DEFINITIONS

### IN THE SCHEME

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

**Aged or Dependent Person** means a person who is aged 55 years or over or a person with a recognised form of handicap requiring special accommodation provisions for independent living or special care.

**Agriculture—Extensive** means premises used for the raising of stock or crops but does not include agriculture intensive and animal husbandry-intensive.

**Agriculture—Intensive** means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following—

- (a) the production of grapes, vegetables, flowers, exotic and native plants, or fruit and nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production and irrigated pasture (including turf farms);
- (d) aquaculture.

**Agro-Forestry** means land used commercially for tree production and agriculture where trees are planted in blocks of more than one hectare.

**Airfield** means premise used in connection with the operation of aircraft, including occasional and seasonal use of temporary facilities for the purposes associated with agriculture.

**Amusement Facility** means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than five amusement machines operating within the premises.

**Animal Establishment** means premises used for breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry—intensive or veterinary centre.

**Animal Husbandry—Intensive** means premises used for keeping, rearing or fattening of livestock in feedlots, but does not include poultry.

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

**Arts and Crafts Centre** means premises used for the manufacture, display and selling of works of art or craft.

**Bed and Breakfast** means a dwelling used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short term commercial basis and includes the provisions of breakfast.

**Betting Agency** means an office or totalisator agency established under the *Totalisator Agency Board Betting Act 1960*.

**Builders Storage Yard** means premises used for the storage of building material, pipes or similar items related to any trade, and may include the manufacture, assembly and dismantling processes incidental to the predominant use.

**Camping Area** means premises used for the lodging of persons in tents.

**Caravan Park** has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*.

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

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

**Cellar Door Sales** means premises used for wine tasting and wine sales.

**Cemetery** has the same meaning as the *Cemeteries Act 1986*.

**Child Care Premises** has the same meaning as in the *Community Services (Child Care) Regulations 1988*.

**Cinema/Theatre** means premises where the public may view a motion picture or theatrical production.

**Civic Use** means premises used by a government department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purposes.

**Club Premises** means premises used by a legally constituted club or association or other body of persons united by a common interest.

**Commercial Vehicle** means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or any earthmoving machine whether self propelled or not. The term shall not include a vehicle designed for the use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to car loads of not more than 1.5 tonnes.

**Community Purpose** means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.

**Consulting Rooms** means premises used by no more than five health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care.

**Convenience Store** means premises;

- (a) used for retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 300 square metres net lettable area;

**Corrective Institution** means premises used to hold and reform persons committed to it by a Court, such as a prison or other type of detention facility.

**Educational Establishment** means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other education centre.

**Exhibition Centre** means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery.

**Equestrian Centre** means a premises used for the showing, competition or training of horses and includes a riding school.

**Factory Unit Building** means premises, or group of buildings or structures on one lot, in which two or more separate industries or storage areas are carried out.

**Family Day Care** means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*.

**Farmstay** is development designed for short term detached tourism accommodation units, which may be fully self contained or not, and which are generally of single storey or split level construction and have a character not dissimilar to farm dwellings or cabins and may be limited to 6 per lot.

**Farm Supply Centre** means a premises used for the sale of farm supplies including vegetable seed, fertilisers, agricultural chemicals, stock foods, tractors, equipment, implements or components, or irrigation equipment.

**Fast Food Outlet** means premises 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 lunch bar.

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

**Funeral Parlour** means premises used to prepare and store bodies for burial or cremation.

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

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

- (a) does not employ more than two full time or equivalent ratio of people on average per year, who are not members of the occupiers household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50m<sup>2</sup> except for land in the Agricultural Resource zone or Small Rural Holdings zone under the Scheme the Local Government may permit an area up to 200m<sup>2</sup>;
- (d) does not involve the retail sale, display or hire of goods of any nature and does not include provision for refuelling, repair or maintenance of motor vehicles;

- (e) in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle of more than 3.5 tonnes tare weight, and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone.
- (g) does not display a sign of more than 1.0m<sup>2</sup>;

**Home Store** means any shop with a net lettable area not exceeding 100m<sup>2</sup> attached to a dwelling and which is operated by a person resident in the dwelling.

**Hospital** means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital.

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

**Industry—Cottage** means an activity producing goods which cannot be carried out under the provisions relating to a home business and which—

- (a) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in the Townsite zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an out-building which is compatible with the principal uses to which the land in the zone in which it is located may be put;
- (d) does not occupy an area of more than 50m<sup>2</sup> ;
- (e) does not display a sign exceeding 0.2m<sup>2</sup> in area;

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

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

- (a) the storage of goods;
- (b) the work of administering or accounting;
- (c) the selling of goods by wholesale or retail; or
- (d) the provision of amenities for employees,

incidental to any of those industrial operations.

**Industry—General** means an industry other than a cottage, extractive, light, mining, 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, do not cause any injury to or adversely affect the amenity of the locality and does not emit pollutants into the air or water;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

**Industry—Mining** means land used commercially to extract minerals from the land.

**Industry—Noxious** means an industry which is subject to licensing as "Prescribed Premises" under the *Environmental Protection Act 1986* (as amended) and or means an industry in which the processes involved constitutes an offensive trade within the meaning of the Health Act 1911 but does not include a Poultry Farm or piggery.

**Industry—Rural** means—

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

**Industry—Service** means—

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

**Landfill/Refuse Centre** means premises used in the disposal, storage and recycling of waste material.

**Landscape Supplies** means premises used for the storage and sale of items such as wood chips, logs, rocks, sand, stone and other such materials.

**Lodging House** shall have the same meaning as is given to the term in and for the purposes of the *Health Act 1911*.

**Lunch Bar** means premises or part of premises used for the sale of take away food (in a form ready to be consumed without further preparation) within an industrial or commercial areas.

**Market** means premises used for the display and sale of goods from stalls by independent vendors.

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

**Motel** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Licensing Act 1988*.

**Motor Vehicle, Boat or Caravan—Sales** means premises used to sell or hire motor vehicles, boats or caravans.

**Motor Vehicle Repair** means premises used for or in connection with—

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

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

**Motor Vehicle Wash** means premises where the primary use is the washing of motor vehicles.

**Motor Vehicle Wrecking** means premises 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 lot 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 of the holding;
- (b) more than one separate dwelling unit for use by families; or
- (c) unrelated groups of persons occupied in the district as a temporary or seasonal workforce;
- (d) a defined area for separate occupation for residential and ancillary uses.

**Nursing Home** means a hospital in which patients reside.

**Office** means premises used for the administration, clerical, technical, professional or other like business activities.

**Park Home** means a movable dwelling, not being a vehicle as defined under the *Road Traffic Act 1974* (as amended), 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 being so designed and constructed as to permit independent occupancy for dwelling purposes.

**Park Home Park** has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*.

**Piggery** shall have the same meaning given to the term in the *Health Act 1911*.

**Place of Assembly** means premises where people assemble for a public, religious or cultural activity and may include a hall, mosque, church, temple or synagogue.

**Plant Nursery** means any land or buildings used for the propagation, rearing and sale of plants.

**Potable Water** means water in which levels of physical, chemical and microbiological constituents do not exceed the guideline values set out in the *National Health and Medical Research Council publication Australian Drinking Water Guidelines 1996*.

**Poultry Farm** means premises used for hatching, rearing or keeping of poultry for either breeder, egg or meat production and which does not constitute an offensive trade within the meaning of the *Health Act 1911*.

**Public Authority** shall have the same meaning given to it in and for the purpose of the Act.

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

**Reception Centre** means premises used for functions on formal or ceremonial occasions, but not for un-hosted use for general entertainment purposes.

**Recreation—Private** means premises used for indoor and outdoor leisure, recreation and sport which are not usually open to the public without charge.

**Residential Building** has the same meaning as in the *Residential Planning Codes*.

**Resort** means any premises used for the overnight or holiday accommodation of patrons in self contained units or apartments and may include incidental on-site recreational facilities such as golf, swimming, bike riding, tennis, bowls, fishing, and may also include restaurants, shops, and amusement facilities.

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

**Restricted Premises** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—

- (a) publications that are classified as restricted under the *Censorship Act 1996*;

- (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.

**Roadhouse** means premises used for the predominant purpose of a service station but incidentally may include a cafe, restaurant and/or shop.

**Rural Pursuit** means any premises used for—

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

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

**Salvage Yard** means premises used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, fire or flood damage to structures including buildings, machinery, vehicles and boats.

**Service Station** means premises used for—

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

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

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

**Showroom** means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electric light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature.

**Sign** means a notice, message or display by means of a freestanding or fixed sign or hoarding.

**Stable** means any land or buildings used for the stabling, agistment and training of horses, ponies, asses and mules and associated incidental uses.

**Stock Yards** means any premises primarily used for holding, sale, movement or treatment of stock animals.

**Storage** means premises used for the commercial storage of goods, equipment, plant or materials.

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

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

**Trade Display** means the use of land for the display, sale or hire of goods or equipment in the open air.

**Transport Depot** means premises used for the garaging of two (2) or more motor vehicles, used or intended to be used for carrying of goods or persons for hire or reward, or for the transfer of goods or persons, and includes maintenance and repair of the vehicles, used but not for other vehicles.

**Turf Farm** means premises used for the commercial cultivation of grass, lawn or turf for removal and transplanting to another location.

**Veterinary Centre** means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.

**Warehouse** means premises used to store or display goods and may include sale by wholesale.

**Wayside Stall** means a place, stand, vehicle or other thing which offers for sale to the general public, produce or commodity which is grown or produced on the land or in the locality.

**Winery/Brewery** means premises used for the production and/or sale to the public of fermented viticultural or horticultural produce.

**Zoological Garden** means premises used for the keeping, breeding or display of animals and the term includes a Zoo, but does not include a dog kennel or a cattery or animal husbandry.

**SCHEDULE TWO  
ZONING TABLE**

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Small Rural Holdings	Rural Retreat
	USE CLASS					See Note 1 at end of Zoning Table	See Note 1 at end of Zoning Table
1	Abattoir	X	X	A	X		
2	Aged Persons Accommodation	P	X	X	X		
3	Agriculture—Extensive	X	X	P	X		
4	Agriculture—Intensive	X	X	P	X		
5	Agro Forestry	X	X	P	X		
6	Amusement Facility	D	X	X	X		
7	Ancillary Accommodation	D	X	D	D		
8	Animal Establishment	X	A	A	X		
9	Animal Husbandry/Intensive	X	X	A	X		
10	Aquaculture	X	A	D	X		
11	Arts & Crafts Centre	P	D	P	D		
12	Bed and Breakfast	D	X	D	D		
13	Builders Storage Yard	X	D	X	X		
14	Camping Area	D	X	D	X		
15	Car Park	P	P	X	X		
16	Caravan Park	D	X	A	X		
17	Caretaker's Dwelling	D	D	D	X		
18	Cemetery	X	X	P	X		
19	Child Care Premises	D	X	A	A		
20	Civic Use	P	P	P	D		
21	Community Purpose	D	D	D	D		
22	Consulting Rooms	P	X	X	X		
23	Convenience Store	D	X	X	A		
24	Educational Establishment	P	X	A	X		
25	Equestrian Centre	X	X	D	X		
26	Exhibition Centre	P	D	D	X		
27	Factory Unit Building	X	P	X	X		
28	Family Daycare	P	X	P	D		
29	Farmstay	X	X	D	X		
30	Farm Supply Centre	D	P	A	X		
31	Fast Food Outlet	A	X	X	X		
32	Fuel Depot	X	D	X	X		
33	Funeral Parlour	A	X	X	X		
34	Garden Centre	D	D	X	X		
35	Grouped Dwelling	P	X	X	X		
36	Home Business	A	X	D	D		
37	Hotel/Motel	A	X	X	X		
38	Industry—Cottage	A	X	D	A		
39	Industry—Extractive	X	X	A	X		
40	Industry—General	X	A	X	X		
41	Industry—Hazardous	X	X	X	X		
42	Industry—Light	X	P	X	X		
43	Industry—Mining	X	X	X	X		
44	Industry—Noxious	X	X	X	X		
45	Industry—Rural	X	P	D	X		
46	Industry—Service	A	P	X	X		
47	Land Refuse Centre	X	A	A	X		
48	Landscape Supplies	A	P	A	X		
49	Lodging House	A	X	A	X		
50	Lunch Bar	P	P	X	X		

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Small Rural Holdings	Rural Retreat
	USE CLASS					See Note 1 at end of Zoning Table	See Note 1 at end of Zoning Table
51	Market	D	X	X	X		
52	Medical Centre	P	X	X	X		
53	Motor Vehicle Repair	D	P	X	X		
54	Motor Vehicle Wrecking	X	D	X	X		
55	Motor Vehicle, Boat and Caravan—Sales	D	P	X	X		
56	Nursing Home	D	X	X	X		
57	Office	P	X	X	X		
58	Open Air Display	D	P	X	X		
59	Park Home Park	A	X	X	X		
60	Piggery	X	X	A	X		
61	Place of Assembly	D	X	D	X		
62	Plant Nursery	D	D	D	D		
63	Poultry Farm	X	X	A	X		
64	Public Utility	D	D	D	D		
65	Reception Centre	D	A	A	X		
66	Recreation—Private	D	D	A	X		
67	Residential Building	A	X	A	A		
68	Resort	A	X	X	X		
69	Restaurant	P	X	A	X		
70	Restricted Premises	A	A	X	X		
71	Roadhouse	A	D	A	X		
72	Rural Pursuit	X	X	X	D		
36	Salvage Yard	X	D	X	X		
73	Service Station	D	D	X	X		
74	Shop	P	D	X	X		
75	Showroom	P	P	X	X		
76	Single House	P	X	P	P		
77	Stable	D	X	P	D		
78	Stock Yards	X	X	A	X		
79	Storage	X	P	X	X		
80	Tavern	A	X	X	X		
81	Telecommunications Infrastructure	A	A	A	A		
82	Transport Depot	X	P	A	X		
83	Turf Farm	X	X	A	X		
84	Veterinary Centre	A	A	A	X		
85	Warehouse	A	P	D	X		
86	Wayside Stall	D	X	D	D		
87	Winery/Brewery	A	X	D	X		
88	Zoological Gardens	X	X	A	X		

Note 1—"permissibility of uses to be included in the scheme by amendment when land is zoned for this purpose"

'P' means the use is permitted in the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

'D' means the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval.

'A' means that the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval after giving special notice in accordance with clause 9.4.

'X' means that a use is not permitted by the Scheme.

**SCHEDULE THREE  
ADDITIONAL USES**

No.	Description of Land	Additional Use	Conditions
A1	Lot 8 of Swan Loc 323 Gray Rd, Bindoon	Tea Rooms Caretakers Residence	
A2	Lot 101 Kay Rd, Bindoon	Tea Rooms Sale of Paintings	
A3	Lot 8 Great Northern Highway, Muchea	Light and Service Industry (Farm and Trade Fabrication) may be permitted subject to the following—	(a) Buildings shall not exceed an overall area of 400m <sup>2</sup> and the overall site area for the special use shall not exceed 2,000m <sup>2</sup> . (b) Activities which discharge liquid or any form of contaminated waste are not permitted. (c) The development envelope shall be landscaped to the satisfaction of the Council to preserve rural amenity. (d) Signage shall not exceed 1.5m <sup>2</sup> .
A4	Lot 48 Ridgetop Ramble, Bindoon	Restaurant Exhibition Gallery & Ancillary Uses Function Centre Private Recreation	
A5	Lot 5, Gt Northern Hwy Bindoon	Hotel	
A6	Lot 3, Cnr Gt Northern Hwy & Wandena Road, Lower Chittering	Service Station	
A7	Lot 2 Gt Northern Hwy & Muchea East Road, Muchea	Service Station	
A8	Lot 1 of Lot M1957, Great Northern Highway, Chittering.	Service Station	
A9	Lot M1261 Brand Highway, Muchea	Mineral Sands Processing Plant	
A10	Location 325 Cook Road, Mooliabeenie	Short Term Entertainment Events	Subject to Planning Approval for each separate event.
A11	Lot M1986 Reserve Road, Muchea	The following uses shall be permitted with the Planning Consent of Council. Residential Building— Respite Centre	
A12	Lot 102 Gray Road, Bindoon	Intensive Agriculture	Subject to a Development Plan being adopted by Council prior to consideration of Planning Approval.
A13	Lot 1 Clune Road, Bindoon	Intensive Agriculture—Orchard	Subject to a Development Plan being adopted by Council prior to consideration of Planning Approval.

**SCHEDULE FOUR  
RESTRICTED USES**

No.	Description of Land	Restricted Use	Conditions



**SCHEDULE FIVE  
SPECIAL USE**

No.	Description of Land	Special Use	Conditions
1	Lot 9002 (Cnr of Santa Gertrudis Drive and Muchea East Road)	a. Shop and tearooms b. Bed and Breakfast c. Community facilities d. Tourist facilities e. Additional Accommodation	Subject to Planning Approval being granted by Council to any use (a-e)
2	Lot 88 Chittering Rd, Lower Chittering	a. Winery b. Restaurant c. Farmstay d. Shop—limited to products associated with the Winery e. Agriculture—Intensive f. Function Centre g. Cellar Door Sales	Subject to the adoption of a Development Plan prior to the issuing of Planning Approval being granted by Council for any Special Use listed

**SCHEDULE SIX  
EXEMPTED ADVERTISEMENTS**

Land Use and/or Development	Exempted Sign	Maximum Size
Dwellings	One Professional Name Plate	0.2m <sup>2</sup>
Home Business	One advertisement describing the nature of the home occupation.	1.0m <sup>2</sup>
Places of Worships, meeting halls and places of public assembly	One advertisement detailing the function and/or the activities of the institution concerned.	2.0m <sup>2</sup>
Shops, Showrooms and other uses appropriate to the Townsite 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.	4.0m <sup>2</sup>
Industrial	A maximum of 4 advertisements applied to or affixed to the wall of the building.	4.0m <sup>2</sup>

**SCHEDULE SEVEN  
FORM OF APPLICATION FOR PLANNING APPROVAL**

Application for Planning Approval

<b>Owner details:</b>		
Name:		
Address:		Postcode:
<b>Phone:</b>		FAX:
Home:	Work:	Email:
Mobile:		
Contact Person:		
Signature:		Date:
Signature:		Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature.		

<b>Applicant details:</b>		
Name:		
Address:		Postcode:
<b>Phone:</b>		<b>FAX:</b>
Home:	Work:	Email:
Mobile:		
Contact Person for Correspondence:		
Signature:		Date:

**Part 2**

<b>Property details:</b>		
Lot No.	House/Street No:	Location No:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Diagram or Plan No.:	Certificate of Title Vol. No.:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest Street Intersection:		

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

Office Use Only	
Acceptance Officer's initials:	Date Received:
Local Government Reference No.:	

SCHEDULE EIGHT  
**ADDITIONAL INFORMATION FOR SIGNS (ADVERTISEMENTS)**

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

1. Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:  
 .....  
 .....
2. Details of proposed sign—
  - (a) Type of structure on which advertisement is to be erected  
 (i.e. free standing, wall mounted, other): .....

- (b) Height: ..... Width: ..... Depth: .....
  - (c) Colours to be used: .....
  - (d) Height above ground level—
    - (to top of advertisement): .....
    - (to underside): .....
  - (e) Materials to be used: .....  
 .....  
 Illuminated: Yes / No  
 If yes, state whether steady, moving flashing, alternating, digital, animated or scintillating  
 and state intensity of light source: .....
3. Period of time for which advertisement is required: .....
4. Details of signs (if any) to be removed if this application is approved:  
 .....  
 .....  
 .....
- Note: This application should be supported by a photograph or photographs of the premises showing  
 superimposed thereon the proposed position for the advertisement and those advertisements to be removed  
 detailed in 4 above.*
- Signature of advertiser(s): .....  
 (if different from landowners) .....
- Date: .....

SCHEDULE NINE  
**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**  
**Town Planning Act**  
*Shire of Chittering*

NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

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

Lot No.: ..... Street: .....

Locality: .....

Proposal: .....

.....  
 .....

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

Signed: ..... Dated: .....

.....  
 .....

for and on behalf of the Shire of Chittering.

SCHEDULE TEN  
**NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**  
**Town Planning Act**  
*Shire of Chittering*

DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

Location:  
 Lot: ..... Plan/Diagram:  
 Vol. No.: ..... Folio No.:  
 Application Date: ..... Received on:  
 Description of proposed development: .....

.....  
 .....

The application for planning approval is—

Granted subject to the following conditions

Refused for the following reason(s)

Conditions/reasons for refusal:

.....

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under Part V of the *Town Planning Act 1928*. An appeal must be lodged within 60 days of the determination.

Signed:

Dated:

.....  
for and on behalf of the Shire of Chittering.

SCHEDULE ELEVEN  
ENVIRONMENTAL CONDITIONS

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

**ADOPTION**

Adopted by resolution of the Council of the SHIRE OF CHITTERING at the meeting of the Council held on the 20 December 2001 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of—

J. STAGBOUER, President.  
K. DONOHOE, Chief Executive Officer.

**FINAL APPROVAL**

Adopted by resolution of the Council of the SHIRE OF CHITTERING at the meeting of the Council held on the 5 September 2002 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of—

J. STAGBOUER, President.

Date: 11 November 2004.

K. DONOHOE, Chief Executive Officer.

Date: 11 November 2004.

Recommended for Approval

PHIL WOODWARD, Delegated under s.20 of the WAPC Act 1985.

Signed:

Date: 26/11/04.

**FINAL APPROVAL**

ALANNAH MacTIERNAN, Minister for Planning and Infrastructure.

Date: 30/11/04.

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## POLICE

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**PO501\***

**POLICE ACT 1892**

POLICE AUCTION

Under the provisions of the Police Act 1892-1992, unclaimed and forfeited property and bicycles will be sold by public auction Ross's Sales & Auctions, 241 Railway Parade, Maylands on Wednesday 15th December 2004 at 10.00am.

The auction is to be conducted by Mr Brad Buckle, Mr. Craig Edwards, Mr. Kevin Grickage.

K. O'CALLAGHAN, Commissioner of Police,  
Western Australia Police Service.

## RACING, GAMING AND LIQUOR

RG401\*

### LIQUOR LICENSING ACT 1988

#### SUMMARY OF LIQUOR LICENSING APPLICATIONS

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

App. No.	Applicant	Nature of Application	Last Date for Objections
<b>APPLICATIONS FOR THE GRANT OF A LICENCE</b>			
10549	Wills Domain Pty Ltd	Application for the grant of a Producer's licence in respect of premises situated in Yallingup and known as Wills Domain	17/12/2004
10551	Sinada Pty Ltd	Application for the grant of a Producer's licence in respect of premises situated in Cowaramup and known as Montgomery Brothers Wines (Bros)	19/12/2004
10547	Gage Roads Brewing Co Pty Ltd	Application for the grant of a Producer's licence in respect of premises situated in Palmyra and known as Gage Roads Brewing Co	19/12/2004
10545	The Western Australian Turf Club	Application for the grant of a Club licence in respect of premises situated in Ascot and known as The Western Australian Turf Club	22/12/2004
<b>APPLICATIONS TO ADD, VARY OR CANCEL A CONDITION OF LICENCE</b>			
210023	Camellia Holdings Pty Ltd	Application to add, vary or cancel a condition of the Special Facility licence in respect of premises situated in Fremantle and known as Esplanade Hotel Fremantle	26/12/2004

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

Dated: 8 December 2004.

H. R. HIGHMAN, Director of Liquor Licensing.

## PUBLIC NOTICES

ZZ201

### TRUSTEES ACT 1962

#### DECEASED ESTATES

##### 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 Perpetual Trustees WA Ltd C\ - Ground floor, 39 Hunter Street, Sydney NSW, to send particulars of such claims to the Company by the undermentioned date, after which date the said company may convey or distribute the assets, having regard only to the claims of which the Company then has notice.

Claims for the following estates expire one month after the date of publication hereof.

#### **Estate late Phyllis Kathleen Bosser**

Late of Windsor Park Aged Care, 110 Star Street, Carlisle, Home Duties

DIED: 28/09/2004

#### **Estate late Albert Clifford Green**

Late of 81 Lansdowne Road, South Perth, Retired Postworker

DIED: 02/09/2004

#### **Estate late Ronald Henley**

Late of 89 Sasse Avenue, Mount Hawthorn, Retired Clerk

DIED: 23/09/2004

**Estate late Arthur Terence Munday**

Late of 32 Ailsa Street, Wembley Downs, Retired  
DIED: 02/10/2004

STEPHEN JOHN MAXWELL, Senior Estate Manager.

Direct Phone (02) 9229 3419

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**ZZ202****TRUSTEES ACT 1962****DECEASED ESTATES**

## Notice to Creditors and Claimants

Estate of the late May Woodall of Wongan Hills in the State of Western Married Woman.

Creditors and other persons having claims (to which Section 63 of the Trustees Act 1962 relates) in respect of the estate of the abovenamed deceased who died on 8th October are required to send particulars of their claims to the Executor of care of C/- RSM Bird Cameron 8 St George's Terrace Perth WA within one (1) month of the date of publication of this notice after which date the Executor may convey or distribute the assets regard only to claims of which notice has been given.

Angela Ann Gaffney and Hans Peter Hansen

C/- RSM Bird Cameron Chartered Accountants, 8 St. George's Terrace, Perth WA 6000

Telephone: (08) 9261 9100

REF: 940985

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**ZZ203****TRUSTEES ACT 1962****DECEASED ESTATES**

## Notice to Creditors and Claimants

Creditors and other persons having claims to which Section 63 of the Trustees Act 1962 as amended relates in respect of the estate of Maisie Roberts late of Wattle Hill Lodge, 2 Waffle Street Bunbury who died on 8th May 2004 are required by the personal representative to send particulars of their claims addressed to the Executor of the Estate of Maisie Roberts deceased care of Young & Young 5 Spencer Street Bunbury by the 9th day of January 2005 after which date the personal representative may convey or distribute the assets having regard only to the claims of which the personal representative then has notice.

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**ZZ204****TRUSTEES ACT 1962****DECEASED ESTATES**

## Notice to Creditors and Claimants

Maude Smith late of 11/99 McCabe Street Mosman Park, retired, deceased.

Creditors & other persons having claims (to which section 63 of the trustees Act 1962 relates) in respect of the estate of the deceased who died on the 2nd November 2004 are required by the administrator Warren William Harrison of 11 Mooltunya Court Kingsley WA 6126 to send particulars of their claims to him by no later than the 01/02/2005 after which date he may convey or distribute the assets having regards only to the claims of which he then has notice.

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**ZZ205****TRUSTEES ACT 1962****DECEASED ESTATES**

## Notice to Creditors and Claimants

Creditors and other persons having claims (to which Section 63 of the Trustees Act relates) in respect of the Estates of the undermentioned deceased persons are required to send particulars of their claims to me on or before the 10th January 2005 after which date I may convey or distribute the assets, having regard only to the claims of which I then have notice.

Chamberlian Corinne Thelma, late of 5 Dalton Way Mandurah, died 13/9/2004, (DE33027240EM26)

Cottingham Franklin Robert, late of 115 Leach Highway Wilson formerly of Shoalwater Nursing Home Fourth Avenue Shoalwater, died 25/5/2004, (PM33023961TM25)

Hartikainen Risto, late of Unit 506A 93 Thomas Street Subiaco, died 13/10/2004, (DE33034993EM16)

McDonald Stewart Alfred, late of 5/146 Corfield Street Gosnells, died 23/11/2004, (DE19925220EM15)

Nicholas Winsome Maud, late of 3 Montrose Way Nollamara, died 15/11/2004, (DE19763184EM32)

Pearce Edward Ronald, late of St Andrew's Hostel 20 Burwood Road Balcatta formerly of 67 Elstree Avenue Coolbinia, died 4/10/2004, (DE19903035EM26)

Wadsworth Florence Elizabeth, late of Carinys of Bicton 220 Preston Point Road Bicton, died 27/10/2004, (DE30298896EM17)

Wheelballar Daisy, late of 9 Numbala Nunga Nursing Home Sutherland Street Derby, died 11/4/2004, (DE33034932EM27)

ANTONINA ROSE McLAREN, Public Trustee,  
Public Trust Office,  
565 Hay Street,  
Perth WA 6000.

Telephone: 9222 6777

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**ZZ206**

**PUBLIC TRUSTEE ACT 1941**

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

Dated at Perth the 8th day of December 2004.

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

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Name of Deceased	Address	Date of Death	Date Election Filed
Charles Neil Vernon (DE19730875 EM37)	Thornlie	Between 5 & 7/06/2004	22/11/2004
Den Biesen Catherine Hannah (DE19883079 EM27)	Leederville	4/10/2004	3/12/2004
Leeds Keith John (DE19732931 EM27)	Bateman	29/10/2004	3/12/2004
Berger Peter Klaus (DE33033371 EM35)	Fremantle	7/08/2004	7/12/2004

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Claims lodged after this date will attract payment in full.

STATE LAW PUBLISHER

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All subscriptions are for the period from 1 January to 31 December 2005. Subject to certain limitations, refunds may be allowed if a subscription is cancelled during the year. The prices quoted include GST where applicable and postage by surface mail unless stated otherwise.

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##### **Sessional Bills**

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