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PLANNING AND DEVELOPMENT ACT 2005

**ANKETELL STRATEGIC
INDUSTRIAL AREA**

**IMPROVEMENT
SCHEME No. 1**

PLANNING AND DEVELOPMENT ACT 2005

ANKETELL STRATEGIC INDUSTRIAL AREA

IMPROVEMENT SCHEME No. 1

The Western Australian Planning Commission under the powers conferred by the *Planning and Development Act 2005* makes the following Improvement Scheme.

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PLANNING AND DEVELOPMENT ACT 2005

ANKETELL STRATEGIC INDUSTRIAL AREA

IMPROVEMENT SCHEME No. 1**PART 1—PRELIMINARY****1. Citation**

This improvement scheme is referred to as *Anketell Strategic Industrial Area Improvement Scheme No. 1* (this Scheme).

2. Commencement

Under section 122B(5) of the Act, this Scheme comes into operation on the day it is published in the *Gazette*.

3. Notes do not form part of Scheme

Notes, and instructions printed in italics, do not form part of this Scheme.

Note—

1 the Interpretation Act 1984 section 32 makes provision in relation to whether headings form part of the written law.

4. Responsibility for Scheme

The Western Australian Planning Commission (the Commission) is the responsible authority for enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

5. Application

Part of the land included in this Scheme is covered by the Iron Ore (Robe River) Agreement. The planning, development and use of land in accordance with and as contemplated by or under the Iron Ore (Robe River) Agreement does not require application to or the approval of the Commission.

6. Scheme area

This Scheme applies to the area shown on the Scheme Map.

7. Contents of Scheme

(1) In addition to the provisions set out in this document (the Scheme text), this Scheme includes the following—

- (a) the Scheme Map; and
- (b) the Guide Plan as set out at Appendix 1.

8. This Scheme is to be read in conjunction with *Improvement Plan No. 42: Anketell Strategic Industrial Area* and the Anketell Strategic Industrial Area Improvement Scheme No. 1—Scheme Report.

9. Purpose of Scheme

The purposes of this Scheme are to—

- set out the Commission's planning aims and intentions for the Improvement Scheme area; and
- zone land within the Scheme area for the purposes defined in this Scheme; and
- control and guide land use and development; and
- set out procedures for the assessment and determination of development applications; and
- make provision for the administration and enforcement of this Scheme; and
- address other matters referred to in Schedule 7 of the Act.

10. Aims of Scheme

The aims of this Scheme are to—

- (a) establish industrial development areas that enables the establishment of resource processing industries and associated supporting activity.

- (b) provide industrial development areas that—
 - (i) are ready for subdivision and development.
 - (ii) are sufficiently flexible to accommodate the varying needs of future proponents.
 - (iii) achieve beneficial economic, environmental and community outcomes by encouraging synergic interactions between business activities consistent with the principles of industrial ecology.
 - (iv) protected from the encroachment of incompatible uses.
 - (v) incorporate environmental management arrangements that minimise impact on the natural environment.
 - (vi) respect sites of heritage significance.
- (c) provide that the planning, development and use of land the subject of the Iron Ore (Robe River) Agreement as ratified by the *Iron Ore (Robe River) Agreement Act 1964* (as that agreement may be varied from time to time) is in accordance with and as contemplated by or under that agreement.

11. Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

12. Relationship with other local planning schemes

The City of Karratha's Local Planning Scheme ceases to have effect on the Scheme area.

13. Terms used

- (1) In this Scheme if a word is listed in this clause the meaning of the word is set out below—

Act means the *Planning and Development Act 2005*;

advertisement means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, used wholly or partly for the purposes of advertising, announcing or directing, and includes—

- (a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- (b) any airborne device anchored to any land or building used for the display of advertising; and
- (c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising;

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

Anketell Strategic Industrial Area means the area shown on the Scheme Map as 'Anketell Strategic Industrial Area—Improvement Scheme boundary';

Australian Standard means a document published by Standards Australia setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they were intended to;

commencement day means the day this Scheme comes into effect under section 87(4) of the Act;

commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including—

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

Commission means the Western Australian Planning Commission as established under the provisions of the *Planning and Development Act 2005*;

Iron Ore (Robe River) Agreement means the agreement (as varied from time to time) ratified by the *Iron Ore (Robe River) Agreement Act 1964*;

incidental use means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;

local law means a local law made under section 3.5 of the *Local Government Act 1995* or made by a local government under any other Act;

mining operations means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1) is carried out;

net lettable area or **nla** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas—

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tearooms 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 those facilities are not for the exclusive use of occupiers of the floor or building;

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

owner, in relation to land, means—

- (a) if the land is freehold land—
 - (i) a person whose name is registered as a proprietor of the land; and
 - (ii) the State, if registered as a proprietor of the land; and
 - (iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and
 - (iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8; and
- (b) if the land is Crown land—
 - (i) the State; and
 - (ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

port operations means port operations as defined in the *Port Authorities Act 1999*;

predominant use means the primary use of premises to which all other uses carried out on the premises are incidental;

premises means land, buildings or part of land or a building;

scheme area means the area to which this Scheme applies;

substantially commenced means that some substantial part of work in respect of a development approved under this Scheme has been performed;

works, in relation to land, means—

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works;
- (c) in the case of a place to which a Conservation Order made under the *Heritage of Western Australia Act 1990* section 59 applies, any act or thing that—
 - (i) is likely to damage the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration to the fabric of any building;

zone means a portion of the Scheme area identified on the Scheme Map as a zone for the purposes of indicating the controls imposed by this Scheme on the use of, or the carrying out of works on land.

(2) A word or expression that is not defined in this Scheme has the meaning it has in the *Planning and Development Act 2005*.

14. Land use terms used

If this Scheme refers to a category of land use that is listed in this provision the meaning of that land use is as set out below—

civic use means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes;

convenience store means premises—

- (a) used for the retail sale of convenience goods commonly sold in supermarkets delicatessens or newsagents; and
- (b) operated during hours which include, but may extend beyond normal trading hours; and
- (c) the floor area of which does not exceed 300 m² net lettable area;

fuel depot means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include premises used—

- (a) as a service station; or
- (b) or the sale of fuel by retail into a vehicle for use by the vehicle;

harbour and marine facilities means any land or buildings used for and incidental to berths or pens, and fuelling, servicing, storage (including storage on land) areas, sales facilities for boating gear and equipment, providores, other offices, storerooms, jetties, piers, embankments, quays and moorings associated with facilities and/or land or buildings used for the purposes of loading, unloading and maintaining cargo and defense ships, or the mooring/berthing of passenger and/or recreational vessels;

industry means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes—

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees; and
- (e) incidental purposes;

industry—extractive means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes—

- (a) the processing of raw materials including crushing, screening, washing, blending or grading; and
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

industry—light means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;

industry—noxious means an industry which is subject to licensing as a prescribed premise as specified in Schedule 1 of the *Environmental Protection Regulations 1987*, with the exception of intensive piggeries and abattoirs;

industry—resource processing means—

- (a) an industry for the processing of resources, facilities for the storage and export or delivery of such products.
- (b) relevant supporting infrastructure and facilities such as wastewater treatment facilities, water supplies, desalination water production facility, electricity generation plants, concrete batching plants, rock screening and crushing facilities, relevant administration buildings, internal access and haul roads, and visitor centre/facilities.

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

- (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or
- (b) repairs to tyres other than recapping or retreading of tyres;

motor vehicle wash means premises primarily used to wash motor vehicles;

office means any land or building used for the administration of clerical, technical, professional or other like business activities;

resource recovery centre means premises other than a waste disposal facility used for the recovery of resources from waste;

service station means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for—

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

telecommunications infrastructure means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

trade supplies means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises—

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government;

transport depot means premises used primarily for the parking or garaging of three or more commercial vehicles including—

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles; and
- (c) the transfer of goods or persons from one vehicle to another;

transport overnight facility means any land or buildings used for overnight accommodation of drivers, which is incidental to a transport depot;

utility—private means any work or undertaking constructed or maintained by a private party as may be required to provide water, sewerage, electricity, gas, vehicle access, drainage, communications or other similar services, to support projects within the Anketell Strategic Industrial Area;

utility—public means any work or undertaking constructed or maintained by a public authority or the Commission, or by a private party with arrangement with a public authority or the Commission as may be required to provide water, sewerage, electricity, gas, vehicle access, drainage, communications or other similar services;

warehouse/storage means premises including indoor or outdoor facilities used for—

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

waste disposal facility means premises used—

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

waste storage facility means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

workforce accommodation means premises, which may include modular or relocatable buildings, used—

- (a) for the accommodation of workers engaged in development associated with the Anketell Strategic Industrial Area;
- (b) for any associated catering, sporting, recreation and other amenities for the occupants and authorised visitors; and
- (c) for infrastructure required to operate the use.

PART 2—PLANNING FRAMEWORK

15. Improvement Scheme policies

(1) The Commission may prepare an improvement scheme policy in respect of any matter related to the planning and development of the Scheme area.

(2) An improvement scheme policy—

- (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and
- (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.

(3) An improvement scheme policy must be based on sound planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.

(4) The Commission may amend or repeal an improvement scheme policy.

(5) In making a determination under this Scheme, the Commission must have regard to each relevant improvement scheme policy to the extent that the policy is consistent with this Scheme.

16. Procedure for making an improvement scheme policy

(1) If the Commission resolves to prepare an improvement scheme policy, the Commission must advertise the proposed policy as follows—

- (a) publish a notice of the proposed policy in a newspaper circulating in the City of Karratha giving details of—
 - (i) the subject and nature of the proposed policy; and
 - (ii) the objectives of the proposed policy; and
 - (iii) where the proposed policy may be inspected; and
 - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
- (b) give notice of the proposed policy in any other way and carry out any other consultation the Commission considers appropriate.

(2) The period for making submissions in relation to an improvement scheme policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).

(3) After the expiry of the period within which submissions may be made, the Commission must—

- (a) review the proposed policy in the light of any submissions made.
- (b) resolve to—
 - (i) proceed with the policy without modifications; or
 - (ii) proceed with the policy with modifications; or
 - (iii) not to proceed with the policy.

(4) If the Commission resolves to adopt the policy, the Commission must publish notice of the policy in a newspaper circulating within the City of Karratha.

(5) A scheme policy has effect on publication of a notice under subclause (4).

(6) The Commission—

- (a) must ensure that an up-to-date copy of each improvement scheme policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the Commission; and
- (b) may publish a copy of each of those improvement scheme policies on the website of the Commission.

17. Procedure for amending an improvement scheme policy

(1) Clause 16, with any necessary changes, applies to the amendment to an improvement scheme policy.

(2) Despite subclause (1), the Commission may make an amendment to an improvement scheme policy without advertising the amendment if, in the opinion of the Commission, the amendment is a minor amendment.

18. Revocation of scheme policy

An improvement scheme policy may be revoked—

- (a) by a subsequent improvement scheme policy that—
 - (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the improvement scheme policy; or
- (b) by a notice of revocation—
 - (i) prepared by the Commission; and
 - (ii) published in a newspaper circulating in the City of Karratha.

PART 3—ZONES AND THE USE OF LAND**19. Zones**

- (1) zones are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) the objectives of each zone are as follows—

20. Strategic Industry zone

The objective of the Strategic Industry zone is to ensure the predominant activities within the zone are those directly associated with the processing of resources, or the supply of essential services associated with resource processing.

Land that is designated on the Scheme map in the Strategic Industry zone is intended for strategic and heavy industrial development, specifically resource processing activities.

21. General Industry zone

The objective for the General Industry zone is to facilitate general industrial development that provides services that support activities within the Strategic Industry zone and that support port operations within the Port of Anketell.

The General Industry zone is located where it does not limit the ability of Strategic Industry zone key processing industries or associated infrastructure to achieve their ultimate capacity and operating efficiency.

22. Industry Protection zone

The objective of the Industry Protection zone is to protect the industrial amenity of the Anketell Strategic Industrial Area from encroachment of uses that are not compatible with resource processing and related activities, and to ensure sensitive uses are not impacted upon by those processing and related activities.

23. Zoning table

The zoning table for this Scheme is as follows—

Table 1—Zoning Table

Use classes	Zones		
	Strategic Industry	General Industry	Industry Protection
civic use	X	D	X
convenience store	X	D	X
fuel depot	P	D	X
harbour and marine facilities	A	X	X
industry	D	D	X
Industry—extractive	X	X	A
Industry—light	D	D	X
Industry—noxious	D	X	X
Industry—resource processing	P	X	X
motor vehicle repair	X	D	X
motor vehicle wash	X	D	X
office	I	I	X
resource recovery centre	P	A	X
service station	X	D	X
telecommunications	I	D	D
trade supplies	X	D	X
transport depot	I	D	X
transport overnight facility	I	D	X
Utility—private	D	D	D
Utility—public	D	D	D
warehouse	X	D	X
waste disposal facility	X	X	X
waste storage facility	X	A	X
workforce accommodation	X	X	X

24. Interpreting the zoning table

(1) The permissibility of uses of land in the various zones in the Scheme area 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.

(2) The symbols used in the zoning table have the following meanings—

P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the Commission has exercised its discretion by granting development approval;

A means that the use is not permitted unless the Commission has exercised its discretion by granting development approval after giving notice in accordance with clause 35 of this Scheme;

X means that the use is not permitted by this scheme.

Notes—

1. *the development approval of the Commission may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land.*

2. *for works on land that do not require development approval see clause 32.*

3. *in considering a D or A use, the Commission will have regard to the matters set out in clause 38.*

(3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.

(4) The Commission may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table—

(a) determine that the use is consistent with the objectives of the particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the Commission; or

(b) determine that the use may be consistent with the objectives of the particular zone and give notice under clause 35 of this Scheme before considering an application for development approval for the use of the land; or

(c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted in the zone.

(5) If a use of land is identified in a zone as being a class P or class I use, the Commission may not refuse an application for development approval for that use in a zone but may require works that are to be undertaken in connection with that use to have development approval.

(6) If the use of land is identified in a zone as being a class X use, the Commission must refuse an application for development approval for that use in that zone unless—

(a) the development approval application relates to land that is being used for a non-conforming use; and

(b) the Commission considers that the proposed use of the land would be less detrimental than the non-conforming use.

(7) If a use is not listed in the zoning table the Commission may, in considering an application for development approval for land within the zone, have due regard for the Guide Plan as it applies to the land.

(8) The use of land in accordance with and as contemplated by or under the Iron Ore (Robe River) Agreement is permitted.

25. Non-conforming uses

(1) Unless specifically provided, this Scheme does not prevent—

(a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or

(b) the carrying out of development on land if—

(i) before the commencement of this Scheme, the development was lawfully approved; and

(ii) the approval has not expired or been cancelled.

(2) Subclause (1) does not apply if—

(a) the non-conforming use of the land is discontinued; and

(b) a period of six months, or a longer period approved by the Commission, has elapsed since the discontinuance of the non-conforming use.

(3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the Commission—

(a) purchases the land; or

(b) pays compensation to the owner of the land in relation to the non-conforming use.

26. Changes to non-conforming use

(1) A person must not, without development approval—

(a) alter or extend a non-conforming use of land; or

- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
 - (d) change the use of land from a non-conforming use to another use that is not permitted by this Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 35 of this Scheme.
- (3) The Commission may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the Commission, the proposed use—
- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
 - (b) is closer to the intended purpose of the zone in which the land is situated.

27. Register of non-conforming uses

- (1) The Commission may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the Commission must set out the following—
- (a) a description of each area of land that is being used for a non-conforming use;
 - (b) a description of any building on the land;
 - (c) a description of the non-conforming use; and
 - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the Commission prepares a register under subclause (1) the Commission—
- (a) must ensure that the register is kept up-to-date; and
 - (b) must make a copy of the register available for public inspection during business hours at the offices of the Commission; and
 - (c) may publish a copy of the register on the website of the Commission.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

28. Variations to site and development requirements

- (1) In this clause site and development requirements means requirements relating to works that are set out in this Part.
- (2) The Commission may approve an application for a development approval that does not comply with any additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the Commission considers appropriate.
- (4) If the Commission is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the Commission must—
- (a) consult the affected owners or occupiers by following one or more of the provisions for advertising uses under clause 35.
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The Commission may only approve an application for planning approval under this clause if the Commission is satisfied that—
- (a) approval of the proposed development would be appropriate having regard to the matters that the Commission is to have regard to in considering and application for development approval as set out in clause 38; and
 - (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

29. Car parking

Car parking must be designed to meet the operational needs with bays being constructed in accordance with the appropriate Australian Standard.

PART 5—GUIDE PLAN

30. Purpose and requirements

- (1) The purpose of the Guide Plan is to—
- (a) provide further delineation of planned activities within the Scheme area;
 - (b) identify criteria and considerations to be addressed by proponents in preparing applications for development approval; and
 - (c) provide guidance for the assessment and determination of applications for development approval.

- (2) Development should generally be in accordance with the Guide Plan set out at Appendix 1.
- (3) Departure from, or alteration to, the Guide Plan may be permitted if the Commission considers the proposed departure of alteration to be minor in nature and it will not prejudice the future development of the Scheme area having regard for the objectives of the applicable zone.
- (4) Amendments to the Guide Plan will occur in accordance with Part 5—Amending local planning scheme of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

PART 6—REQUIREMENT FOR DEVELOPMENT APPROVAL

31. Requirement for development approval

- (1) A person must not commence or carry out any works on, or use, land in the Scheme area unless—
- (a) the person has obtained the development approval of the Commission under Part 7; or
 - (b) the development is a type referred to in clause 32.

Note—

1 development includes the erection, placement and display of advertisements.

32. Development for which development approval not required

- (1) Development approval of the Commission is not required for the following works—
- (a) the carrying out of internal building work which does not materially affect the external appearance of the building unless the development is located in a place that is—
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iii) included on a heritage list prepared in accordance with this Scheme and identified on that list as having an interior with cultural heritage significance; or
 - (iv) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
 - (b) temporary works which are in existence for less than 48 hours, or a longer period agreed by the Commission, in any 12-month period;
 - (c) the temporary erection or installation of an advertisement if—
 - (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
 - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and
 - (iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;
 - (d) the erection or installation of an advertisement of a class approved in writing by the Commission;
 - (e) development that is in accordance with and as contemplated by or under the Iron Ore (Robe River) Agreement;
 - (f) any other development specified in writing by the Commission;
 - (g) the carrying out of any other works specified in an improvement scheme policy that applies to the development as works that do not require development approval;
 - (h) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval.

Notes—

- 1. the Planning and Development Act 2005 section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.*
- 2. the Planning and Development Act 2005 Part 6 applies in respect of the carrying out of public works by the Crown, the Governor, the Government of the State or a local government.*

- (2) Development approval of the Commission is not required for the following uses—
- (a) development that is a use identified in this Scheme as a use that is a permitted P in the zone in which the development is located and—
 - (i) the development has no works component; or
 - (ii) development approval is not required of the works component of the development;
 - (b) temporary use which is in existence for less than 48 hours, or a longer period as agreed by the Commission, in any 12-month period;
 - (c) any other use specified in an improvement scheme policy that applies to the development as a use that does not require development approval;
 - (d) use of a type identified elsewhere in this Scheme as use that does not require development approval.

PART 7—APPLICATIONS FOR DEVELOPMENT APPROVAL**33. Form of application**

- (1) An application for development approval must be—
- (a) made in the form of the “Application for development approval” set out in clause 57(1); and
 - (b) signed by the owner of the land on which the proposed development is to be located; and
 - (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
 - (d) accompanied by the plans and information specified in clause 34.
- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following—
- (a) a person who is referred to in the definition of owner in respect of freehold land in clause 13;
 - (b) a strata company that is authorised by a management statement registered under the *Strata Titles Act 1985* section 5C to make an application for development approval in respect of the land;
 - (c) a person who is authorised under another written law to make an application for development approval in respect of the land;
 - (d) an agent of a person referred to in paragraph (a).

Note—

1 *the Planning and Development Act 2005 section 267A makes provision for the signing of documents by the owner of Crown land.*

- (3) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the “Additional information for development approval for advertisements” set out in clause 57(2).

Note—

1 *the Interpretation Act 1984 section 74 provides for circumstances in which deviations from a prescribed form do not invalidate the form used.*

34. Accompanying material

- (1) An application for development approval must be accompanied by—
- (a) a plan or plans in a form approved by the Commission showing the following—
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
 - (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
 - (iv) the structures and environmental features that are proposed to be removed;
 - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (vi) the existing and proposed means of access for pedestrian and vehicles to and from the site;
 - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (viii) 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;
 - (ix) 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 open storage or trade display area; and
 - (x) the nature and extent of any open space and landscaping proposed for the site.
 - and
 - (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
 - (c) a report on any specialist studies in respect of the development that the Commission requires the applicant to undertake such as site surveys, traffic, environmental or engineering studies; and
 - (d) demonstration of due regard having been given to the Guide Plan; and
 - (e) any other plan or information that the Commission reasonably requires.
- (2) The Commission may waive or vary a requirement set out in subclause (1).

35. Advertising applications

- (1) An application for development approval must be advertised under this clause if the proposed development—
- (a) relates to the extension of a non-conforming use; or

- (b) relates to a use if—
- (i) the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and
 - (ii) the Commission determines that the use may be consistent with the objective of that zone and that notice of the application should be given; or
- (c) does not comply with a requirement of this Scheme; or
- (d) is of a type that this Scheme requires to be advertised.
- (2) The Commission may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the Commission is satisfied that the departure from the requirements of this Scheme is of a minor nature.
- (3) The Commission may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways—
- (a) by giving notice of the proposed use or development to nearby owners and occupiers who, in the opinion of the Commission, are likely to be affected by the granting of development approval, including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day the notice is given to the person;
 - (b) by publishing a notice of the proposed use or development in a newspaper circulating in the City of Karratha including a statement that submission may be made to the Commission by a specified day being a day not less than 14 days from the day the notice is published;
 - (c) by publishing a notice of the proposed use or development by electronic means in a form approved by the Commission including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day the notice is published;
 - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day the sign is erected including on each sign a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (4) Notice referred to in subclause (3) must be in the form of the “Notice of public advertisement of an application for development approval” set out in clause 57(3) unless the Commission specifies otherwise.
- (5) If an application for development approval is advertised under this clause, the Commission—
- (a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the Commission; and
 - (b) may publish the application and the material accompanying it on the website of the Commission.

36. Subsequent approval of development

(1) The procedures relating to applications for development approval set out in Part 6, Part 8 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note—

1 the Planning and Development Act 2005 section 164 sets out the effect of approval for development already commenced or carried out.

PART 8—PROCEDURE FOR DEALING WITH APPLICATIONS FOR DEVELOPMENT APPROVAL

37. Consultation with other authorities

- (1) When, in the opinion of the Commission, an application for development approval may affect any other statutory, public or planning authority, the Commission is to provide a copy of the application to the authority for objections and recommendations.
- (2) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the Commission allows, provide to the Commission a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.
- (3) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (2), the Commission may determine that the authority is to be taken to have no objections or recommendations to make.

38. Matters to be considered by the Commission

In considering an application for development approval the Commission is to have due regard to the following matters to the extent that, in the opinion of the Commission, those matters are relevant to the development that is subject of the application—

- (a) the aims and provisions of this Scheme, including the provisions of the Guide Plan;
- (b) the requirements of orderly and proper planning including any proposed amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the Commission is seriously considering adopting or approving;

- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any improvement scheme policy for the Scheme area;
- (h) any report of the review of the Scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- (i) the built heritage conservation of any place that is of cultural significance;
- (j) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (k) the compatibility of the development with its setting including the relationship of the development 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 development;
- (l) the amenity of the locality including the following—
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (m) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or water resource;
- (n) 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;
- (o) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (p) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (q) the adequacy of—
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, maneuvering and parking of vehicles;
- (r) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) the availability and adequacy for the development of the following—
 - (i) public utility services;
 - (ii) storage, management and collection of waste;
- (t) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (u) the terms of the Iron Ore (Robe River) Agreement and any activities in accordance with and as contemplated by that agreement;
- (v) the history of the site where the development is to be located;
- (w) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (x) any relevant submissions received on the application;
- (y) any comments or submission received from any authority under clause 37; and
- (z) any other planning consideration the Commission considers appropriate.

39. Determination of applications

- (1) The Commission must not determine an application for development approval until the later of—
 - (a) if the application is advertised under clause 35—the end of each period for making submissions to the Commission specified in a notice referred to in clause 35(3); and
 - (b) if a copy of the application has been provided to a statutory, public or planning authority under clause 37—the end of each period for providing a memorandum to the Commission referred to in clause 37(2).
- (2) The Commission may determine an application for development approval by—
 - (a) granting development approval without conditions; or
 - (b) granting development approval with conditions; or
 - (c) refusing to grant development approval.

40. Form and date of determination

(1) As soon as practicable after determining an application for development approval, the Commission must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 57(4).

(2) The determination has effect on the day on which the notice of determination is given to the applicant.

41. Commencement of development under development approval

If development approval is granted under clause 39—

- (a) the development must be substantially commenced—
 - (i) if no period is specified in the approval—within the period of 2 years commencing on the date on which the determination is made; or
 - (ii) if a period is specified in the approval—within that period; or
 - (iii) in either case—within a longer period approved by the Commission on an application made under clause 47(1)(a).

and

- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

42. Temporary development approval

The Commission may impose conditions limiting the period of time for which a development approval is granted.

Note—

1 a temporary development approval is where the Commission grants approval for a limited period. It does not have any effect on the period within which the development must commence.

43. Scope of development approval

Development approval may be granted—

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

44. Approval subject to later approval of details

(1) The Commission may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the Commission before the developer commences the development.

(2) The Commission may only impose a condition referred to in subclause (1) if the Commission is satisfied that the further matters that are to be agreed would not substantially change the development approved.

45. Time for deciding application for development approval

(1) The Commission must determine an application for development approval—

- (i) if the application is advertised under clause 35 or a copy of the application is provided to a statutory, public or planning authority under clause 37—within 90 days of receipt of the application; or
- (ii) otherwise—within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 34; or
- (iii) in either case—within a longer time agreed in writing between the applicant and the Commission.

(2) If the Commission has not made a determination in the time referred to in subclause (1) the Commission is to be taken to have refused to grant the development approval.

(3) Despite subclause (2), the Commission may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.

(4) The Commission must give the applicant and the land owner written notice of its decision to grant or refuse to grant development approval.

46. Review of decisions

(1) In this clause—

affected person, in relation to a reviewable determination, means—

- (a) the applicant for development approval; or
- (b) the owner of the land in respect of which an application for development approval is made;

reviewable determination means a determination by the Commission to—

- (a) refuse an application for development approval; or
- (b) to grant development approval subject to conditions; or
- (c) to refuse to amend or cancel a development approval on an application made under clause 47.

(2) an affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

47. Amending or cancelling development approval

(1) An owner of land in respect of which development approval has been granted by the Commission may make an application to the Commission requesting the Commission to do any or all of the following—

- (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
- (b) to amend or delete any condition to which the approval is subject;
- (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
- (d) to cancel the approval.

(2) An application under subclause (1)—

- (a) is to be made in accordance with the requirements of Part 7 and dealt with under this Part as if it were an application for development approval.
- (b) may be made during or after the period within which the development approved must be substantially commenced.

(3) Despite subclause (2), the Commission may waive or vary a requirement in Part 7 or this Part in respect of an application if the Commission is satisfied that the application relates to a minor amendment to the development approval.

(4) The Commission may determine an application made under subclause (1) by—

- (a) approving the application without conditions; or
- (b) approving the application with conditions; or
- (c) refusing the application.

PART 9—BUSHFIRE RISK MANAGEMENT

48. Terms used

In this Part, unless the contrary intention appears—

AS 3959 means Australian Standard AS 3959—Construction of buildings in bushfire-prone areas, as adopted from time to time as a referenced document for the purposes of the Building Code;

BAL contour map in relation to a development site, means a scale map of an area that includes the development site—

- (a) prepared in accordance with State Planning Policy 3.7: Planning in Bushfire Prone Areas as part of a plan of subdivision that has been approved under Part 10 of the Act for the area; and
- (b) that shows the indicative bushfire attack levels (BAL) for the area;

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

bushfire attack level assessment means an assessment prepared in a manner and form set out in AS 3959 to determine a bushfire attack level (BAL) as set out in AS 3959;

construction of a building includes the erection, assembly or placement of a building but does not include the renovation, alteration, extension, improvement or repair of a building;

development approval means development approval of the Commission obtained under Part 7;

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

habitable building means a permanent or temporary structure on that land that—

- (a) is fully or partially enclosed; and
- (b) has at least one wall of solid material and a roof of solid material; and
- (c) is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained;

specified building means a structure of a kind specified in this Scheme as a kind of structure to which this Part applies in addition to its application to habitable buildings.

49. Application of Part to development

(1) This Part does not apply to development unless the development is—

- (a) the construction or use, or construction and use, of a single house or ancillary dwelling on a lot or lots with a total area of 1,100m² or more; or
- (b) the construction or use, or construction and use, of—
 - (i) a habitable building other than a single house or ancillary dwelling; or
 - (ii) a specified building.

(2) The requirements in this Part are in addition to any provisions relating to development in a bushfire prone area that apply in a special control area.

50. Determining whether development site is in a bushfire prone area

For the purposes of this Part, a development site is subject, or likely to be subject, to bushfires and is referred to as being in a bushfire prone area if the development site is on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

51. Proposed development in a bushfire prone area

(1) Unless subclause (2) applies, before commencing any development on a development site a person (the developer) must cause to be prepared a bushfire attack level assessment for the development site if the development site—

- (a) is in a bushfire prone area; and
- (b) has been in a bushfire prone area for a period of at least 4 months.

(2) A developer is not required under subclause (1) to cause to be prepared bushfire attack level assessment for a development site if—

- (a) a BAL contour map has been prepared in relation to the development site; or
- (b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.

(3) The developer must have development approval to commence any development on the development site if—

- (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL—40

(4) The developer must have development approval to commence any development on the development site if—

- (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL—40 or BAL—Flame Zone; or
- (b) a bushfire attack level assessment has not been prepared under subclause (1) but a BAL contour map prepared in relation to the development site indicates that the bushfire attack level of the development site is BAL—40 or BAL—Flame Zone; or
- (c) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.

(5) Subclause (3) applies—

- (a) in addition to any requirement in this Scheme for development approval to be obtained; and
- (b) despite any exemption in this Scheme from the requirement to obtain development approval.

52. Matters to be considered for development approval

(1) In considering an application for development approval for development to which this Part applies, the Commission is to have regard to the bushfire resistant construction requirements of the Building Code.

- (a) The matters referred to in subclause (1) are in addition to any other matters that the Commission is to have regard to in considering the application in accordance with this Scheme.

53. Transitional provisions for sites in new bushfire prone areas

(1) In this clause, each of these terms has the meaning given in the *Building Act 2011* section 3—

building permit building work

(2) In this clause—

application means an application under the *Building Act 2011* for a building permit;

transitional permit means a building permit granted in respect of an application to do building work on a development site if—

- (a) the site was not in a bushfire prone area when the application was made; or
- (b) the site had been in a bushfire prone area for a period of less than 4 months when the application was made.

(3) Clause 51 does not apply to the commencement of development to which a transitional permit applies.

PART 10—ENFORCEMENT AND ADMINISTRATION**54. Powers of the Commission**

For the purposes of implementing this Scheme the Commission may—

- (a) enter into an agreement in respect of a matter relating to this Scheme with any owner, occupier or other person having an interest in land affected by this Scheme; and
- (b) deal with or dispose of any land in the Scheme area that it has acquired in accordance with the *Planning and Development Act 2005* Part 11 Division 4.

55. Entry and inspection powers

(1) The Commission may, by instrument in writing, designate an officer of a public authority as an authorised officer for the purposes of this clause.

(2) An authorised officer may, for the purpose of monitoring whether this Scheme is being complied with, at any reasonable time and with any assistance reasonably required—

- (a) enter any building or land in the Scheme area.
- (b) inspect the building or land and anything in or on the building or land.

56. Repair of existing advertisements

(1) The Commission may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the Commission, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.

(2) A requirement referred to in subclause (1) must—

- (a) be in the form of a written notice given to the person; and
- (b) specify the advertisement the subject of the requirement; and
- (c) set out clear reasons for the requirement; and
- (d) set out full details of the action or alternative courses of action to be taken by the person; and
- (e) specify the period, not being of less than 60 days from the day the notice is given to the person, within which the requirement must be complied with.

(3) If the Commission does not know who the owner of an advertisement is, the Commission may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the Commission.

(4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.

(5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

PART 11—FORMS REFERRED TO IN THIS SCHEME

57. Forms referred to in this Scheme

(1) The form of an application for development approval referred to in clause 33(1) is as follows—

Application for development approval

Owner details		
Name:		
ABN (if applicable):		
Address:		
.....		Postcode:
Phone—	Fax—	Email—
Work:
Home:		
Mobile:		
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to clause 13 of this Scheme.		

Applicant details (if different from owner)		
Name:		
Address:		
.....		Postcode:
Phone—	Fax—	Email—
Work:
Home:		
Mobile:		
Contact person for correspondence:		
The information and plans provided with this application may be made available by the Commission for public viewing in connection with the application.		
Signature:		Date:

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants)—		
Street name:		Suburb:
Nearest street intersection:		
Proposed development:		
Nature of development:	Works Use Works and use	
Is an exemption from development claimed for part of the development? Yes No		
If yes, is the exemption for:	Works Use	
Description of exemption claimed (if relevant):		
Description of proposed works and/or land use:		
Nature of any existing buildings and/or land use:		
Approximate cost of proposed development:		
Estimated time of completion:		
OFFICE USE ONLY		
Acceptance Officer's initials:		Date received:
Commission reference no:		

(2) The form for providing additional information for development approval for advertisements referred to in clause 33(3) is as follows—

Additional information for development approval of advertisements

Note: to be completed in addition to the application for development approval form

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

(3) The form of a “Notice of public advertisement of an application for development approval” referred to in clause 35(4) is as follows—

Notice of public advertisement of an application for development approval

Planning and Development Act 2005

Western Australian Planning Commission

Public advertisement of an application for development approval

The Western Australian Planning Commission has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No:	Street:	Suburb:
Proposal:.....		
.....		
Details of the proposal are available for inspection at the Commission office. Comments on the proposal may be submitted to the Commission in writing on or before the day of		
Signed:.....		Dated:.....
.....		
For and on behalf the Western Australian Planning Commission:		
.....		

(4) The form of a “Notice of determination on application for development approval” referred to in clause 40(1) is as follows—

Notice of determination on application for development approval

Planning and Development Act 2005

Western Australian Planning Commission

Determination on application for development approval

Location:	
Lot:	Plan/diagram:
Vol. No:	Folio No:
Application date:	Received on:
Description of proposed development:	
.....	
The application for development is:	
Approved 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 another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development must be carried out without the further approval of the Commission having first been sought and obtained.
Note 3:	If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the <i>Planning and Development Act 2005</i> Part 14. An application must be made within 28 days of the determination.
Signed:.....	
Dated:.....	
.....	
for and on behalf of the Western Australian Planning Commission	

APPENDIX 1—GUIDE PLAN

- 1.1 Introduction
- 1.2 Guide plan purpose
- 1.3 Guide plan area
- 1.4 Operation
- 1.5 Site conditions
- 1.6 Land use zones
- 1.7 Compliance with zone specific requirements
- 1.8 Subdivision and development applications

Figures

Figure 1: Anketell Strategic Industrial Area Guide Plan

1.1 Introduction

The strategic land use planning objectives for the Anketell SIA will be implemented through the Improvement Scheme. The Anketell Strategic Industrial Area Guide Plan (the Guide Plan) is the spatial component of the Improvement Scheme which, having regard to the opportunities and constraints within the SIA, will guide the nature and form of development.

1.2 Guide Plan purpose

The purpose of the Guide Plan is to—

- provide delineation of planned activities within the Anketell SIA;
- identify criteria and considerations to be addressed by proponents in preparing applications for development approval; and
- provide guidance for the assessment and determination of applications for development approval.

1.3 Guide Plan area

Improvement Plan No. 42: Anketell Strategic Industrial Area and the Improvement Scheme Map define the boundaries of the Anketell SIA. This Guide Plan area matches the Improvement Scheme boundary.

1.4 Operation

In accordance with clause 2, the Improvement Scheme (including the Guide Plan) comes into effect on the date on which it is published in the *Gazette*.

1.5 Site conditions

1.5.1 Industrial ecology

To achieve the strategic objectives of the Anketell SIA, the State Government commissioned the preparation of an Industrial Ecology Strategy (GHD, 2013). This strategy identifies the opportunities (and constraints) for industry clusters in the Anketell SIA. The report can be made accessible to future land users to inform planning and design processes.

The principle that underpins the concept of industrial ecology involves co-locating activities that benefit each other. The identification of the two Strategic Industry zones and the General Industry zone within this Guide Plan aims to harness the benefits of industry clustering and optimise access to infrastructure.

Additional and more detailed examples of potential synergy opportunities are set out within the Scheme Report along with comment on overall benefits, achievability and priority in relation to the strategic objectives of the SIA.

1.5.2 Constraints and opportunities

The Scheme area is affected by a number of factors, primarily topographical, environmental and hydrological. Detailed technical reports have been prepared to examine these site conditions and determine potential impacts for the development of the Anketell SIA.

The extent to which these conditions might impact on or constrain development depends upon which constraints affect particular land uses. As such, detailed mapping has been prepared in relation to each of these constraints. Prospective proponents will be able to assess impacts to determine suitable development sites for specific development proposals.

The technical reports, listed below, are appended to the Improvement Scheme Report and are available to proponents—

- Environmental Assessment Report (EAR): the EAR addresses environmental land, hydrological, geotechnical and heritage considerations.
- District Water Management Strategy (DWMS): the DWMS provides key design parameters for more detailed water management planning.
- Engineering Services & Infrastructure Plan Report: the report identifies opportunities and constraints to servicing and construction.
- Transport and Traffic Planning Report: the report identifies traffic and transport considerations and addresses primary movement networks and requirements.
- Bushfire Management Plan (BMP): the BMP identifies bushfire risk and strategies to manage this issue.

The constraints affecting the SIA, as identified in the above reports, are summarised as follows—

1.5.3 Environmental—land factors

The EAR was submitted to the Office of the Environmental Protection Authority (OEPA), which has acknowledged that, as the nature, size and environmental impacts of future industrial developments is unknown, any future industrial proposals within the Anketell SIA that are likely, if implemented, to have a significant effect on the environment need to be referred to the Environmental Protection Authority (EPA) under section 38 of the EP Act.

It is a requirement of this Guide Plan that proponents demonstrate compliance with specific development requirements, including zone-specific environmental (and other) management plans addressing factors which may affect the proponent's particular development proposal. These zone-specific environmental management plans are listed in Sections 1.7.1—1.7.3 of this Guide Plan.

1.5.4 Environmental—hydrological

The DWMS notes that a number of surface water drainage lines traverse the Scheme area, with the most dominant feature being Rocky Creek, which effectively bisects the two Strategic Industry zones as it exits to the sea to the north of the Scheme area. Stream flow in the region is typically ephemeral and highly seasonal as it occurs in direct response to rainfall events such as cyclones.

The key management requirement associated with surface water is ensuring appropriate levels of flood immunity for development. Preliminary modelling has been undertaken to assess the impact of a 1 in 100-year average recurrence interval (ARI) for both the Strategic Industry and General Industry zone areas. The results of this modelling reveal the extent of spatial impact on the development areas based on existing land topography, run-off coefficients and infiltration rates. These impacts have been addressed through the incorporation of an indicative drainage/floodway/storm surge buffer on the Guide Plan.

1.5.5 Topography and geology

The Scheme area abuts a coastal plain that is subject to periodic inundation during high tides and storm surge events, from which the Scheme area rises to a dissected plateau ranging between 20m and 40m AHD flanked by rounded hills and rocky outcrops generally 40-60m AHD. The Strategic Industry and General Industry zone areas are planned primarily on plateau land, with only limited areas affected by slope greater than 10 per cent. A detailed slope analysis has been mapped for each of the zones in order that proponents whose proposals may be impacted by excessive slope will be able to consider the potential impact on their proposal.

The regional geology of the area is dominated by Mount Roe Basalt, with lower lying areas consisting of shallow quaternary superficial deposits overlying bedrock. Detailed mapping of the underlying geology in each of the zones will also be available to assist proponents whose proposals may be impacted by ground conditions. Acid sulfate soil risk assessment for the region finds that that occurrence of acid sulfate soils is either nil or moderate to low risk. The recorded risk areas are situated around watercourses. Consequently, appropriate construction management techniques will need to be employed in the event that works are undertaken in risk areas and acid sulfate soils are encountered.

1.5.6 Heritage

The Anketell Indigenous Land Use Agreement (ILUA) prescribes specific practices that ensure that any future use of the northern heavy industrial area (HIA1) (zoned Strategic Industry) and the general industrial area (zoned General Industry) is consistent with the *Aboriginal Heritage Act 1972* and avoids, or minimises, any adverse impacts on Aboriginal heritage.

An Aboriginal Heritage Location and Assessment Survey has been conducted over the northern-most Strategic Industry zone and General Industry zone, and the results of this survey can be made accessible to future land users to inform planning and design processes.

The Anketell SIA contains no State Heritage Places as defined in the *Heritage of Western Australia Act 1990*.

Further investigations will be required through the subdivision and/or development phases to determine the level of significance of the recorded places, and accordingly, the appropriate management response as provided for by the *Aboriginal Heritage Act 1972*.

1.5.7 Transport and traffic planning

Existing road network

The North West Coastal Highway, which is the major arterial route linking Karratha and Port Hedland, forms the southern boundary of the estate. Cleaverville Road runs through the SIA terminating at a boat ramp which is accessed by recreational users and has significant use during holiday periods. Access to Cleaverville beach recreation area will be maintained.

Transport requirements

The Transport and Traffic Planning Report investigates the high-level infrastructure corridor network requirements in relation to transport, services and utility requirements for the port and the SIA. These requirements are planned to be met through corridors as follows—

Western Infrastructure Corridor

The Western Infrastructure Corridor forms part of the Port of Anketell, and is not part of the Scheme or Guide Plan area. This corridor is planned to accommodate a road and up to four rail lines. The rail lines will convey resource materials from the mines sites throughout the region to and from the port. The corridor will also incorporate utility services, including: water; power, and gas as required. This corridor provides the primary point of access to the HIA1.

When constructed the road will intersect with the existing Cleaverville Road, which currently provides access from North West Coastal Highway to the Cleaverville beach recreational area. An alternative access to Cleaverville will be provided through the infrastructure corridor. Until it is constructed existing access arrangements will remain in place and will be managed by the City of Karratha. Assessing application for development that impact on access must include consultation with the City of Karratha.

Proposed Central Infrastructure Corridor

The proposed Central Infrastructure Corridor is anticipated to primarily service potential mining activity within the vicinity of the HIA2 area. Construction of this Central Infrastructure Corridor is reliant on initiatives taken by external mining interests so it is depicted the as being 'proposed'. Once constructed, the Central Infrastructure Corridor will provide secondary access into the Port of Anketell.

Detailed alignment, definition planning and land assembly will need to be undertaken to confirm the zoning and subsequent construction of the Central Infrastructure Corridor. A nominal cross section of 300m has been identified, which consists of a 60m access road and rail alignment, and two service corridors of 40m and 200m respectively. The design, construction and operation of the corridor will be based on providing access and utility service infrastructure for multiple industrial proponents.

1.5.8 Infrastructure

The Anketell Engineering Services and Infrastructure Plan Report addresses the full range of utility services which are required to be provided to the SIA including water supply, wastewater, power, communication and gas. The report identifies a range of opportunities and constraints (and how these can be removed) associated with services. The ultimate form of service provision will be determined through further design work and will be dependent upon—

- demand requirements of foundation proponents;
- synergistic industrial operations; and
- funding strategies agreed between utility service providers (public and or private), government agencies and industrial proponents.

The further design work that will provide the detailed arrangements for infrastructure provision will be undertaken through subdivision and/or development approval phases.

1.6 Zones

The Scheme provisions give effect to the purposes through the delineation of the key zones as follows—

1.6.1 Strategic Industry zone

The objective of the Strategic Industry zone is to ensure the predominant activities within the zone are those directly associated with the processing of resources, or the supply of essential services associated with resource processing.

Land that is designated on the Scheme map in the Strategic Industry zone is intended for strategic and heavy industrial development, specifically resource processing activities. Examples of the types of land uses that may be permitted in the zone include—

- (a) facilities for the receipt, transport and processing of minerals;
- (b) wastewater treatment facilities;
- (c) industry feed water facilities;
- (d) utilities and resource recovery operations;
- (e) to provide for synergistic relationships between resource processing, utility supply and resource recovery activities; and
- (f) other ancillary activities such as administration offices, training rooms, canteen and medical facilities as required to support the predominant operations.

1.6.2 General Industry zone

The objective for the General Industry zone is to facilitate general industrial development that provides services that support activities within the Strategic Industry zone and that support port operations within the Port of Anketell.

The General Industry zone is located where it does not limit the ability of Strategic Industry zone key processing industries or associated infrastructure to achieve their ultimate capacity and operating efficiency.

It is intended that development in the General Industry zone will facilitate activities that provide a support service or have a synergistic relationship with port activity or resource processing activity.

Examples of the types of land uses that may be permitted in the zone include—

- (a) mining and port support services;
- (b) product manufacturing;
- (c) transport services and transport equipment manufacturing or servicing;
- (d) waste collection and treatment;
- (e) construction services;
- (f) telecommunications and electronic information services;
- (g) scientific research; and
- (h) administrative services.

1.6.3 Industry Protection zone

The objective of the Industry Protection zone is to protect the industrial amenity of the Anketell Strategic Industrial Area from encroachment of uses that are not compatible with resource processing and related activities, and to ensure sensitive uses are not impacted upon by those processing and related activities.

1.7 Compliance with zone specific requirements

Proponents may be required to demonstrate compliance with the specific development requirements of any or all of the technical reports that have been prepared in relation to this Improvement Scheme. This will require, depending on the circumstance—

- (a) the inclusion with the application for development approval, the management plans and/or documents set out in sections 1.7.1 to 1.7.3; and/or

- (b) if management plans are already in place, demonstration as to how a development application complies with zone specific requirements.

Where it is justified, to the satisfaction of the Commission, that the requirements are not relevant to the specific proposal the Commission may consider an application to be exempt.

The zone specific requirements set out are discussed below.

1.7.1 Strategic Industry zone

When approving subdivision and/or development in the Strategic Industry zone the Commission shall have regard to the following management plans and studies (as relevant)—

- (a) Bush Fire Management Plan
- (b) Construction Environmental Management Plan
- (c) Terrestrial Flora and Vegetation Management Plan
- (d) Terrestrial Fauna Management Plan
- (e) Terrestrial Weed Management Plan
- (f) Water Management Plan
- (g) Acid Sulfate Soil and Dewatering Management Plan
- (h) Noise and Air Quality Management Plan
- (i) Heritage Management Plan
- (j) Traffic Impact Assessment
- (k) Light Impact Assessment and Management Plan
- (l) Servicing Strategy
- (m) any other strategies and management plans the Commission considers relevant.

1.7.2 General Industry zone

When approving subdivision and/or development in the General Industry zone the Commission shall have regard to the following management plans and studies (as relevant)—

- (a) Bush Fire Management Plan
- (b) Construction Environmental Management Plan
- (c) Terrestrial Flora and Vegetation Management Plan
- (d) Terrestrial Fauna Management Plan (in particular northern quoll)
- (e) Terrestrial Weed Management Plan
- (f) Water Management Plan
- (g) Acid Sulfate Soil and Dewatering Management Plan
- (h) Noise and Air Quality Management Plan
- (i) Heritage Management Plan
- (j) Traffic Impact Assessment
- (k) Light Impact Assessment and Management Plan
- (l) Servicing Strategy
- (m) any other strategies and management plans the Commission considers relevant.

1.7.3 Industry Protection zone

When considering applications for development approval in the Industry Protection Zone the Commission shall have regard to the following including, but not limited to—

- (a) whether the proposal is compatible with any existing, proposed or potential future use or development within Scheme area;
- (b) the potential impacts including any advice provided under the *Environmental Protection Act 1986*;
- (c) the terms of the Iron Ore (Robe River) Agreement and the activities in accordance with and as contemplated by or under that agreement;
- (d) the existing, proposed or likely risks, hazards and nuisance (included but not limited to noise, odour and light) associated with development within the Scheme area; and any other strategies and management plans the Commission considers relevant.

1.8 Subdivision and development applications

1.8.1 Subdivision

It is intended that land within the Strategic Industry and General Industry zones will be made available to meet proponent requirements. Specific requirements are likely to vary depending on the nature of the development and its spatial response to site constraints.

Applications for subdivision or lease are made in accordance with the requirements of the *Planning and Development Act 2005* and associated *Planning and Development Regulations 2009*. Applications are determined by the WAPC. An Improvement Scheme does not alter the subdivision or leasehold approval processes of the Act or Regulations.

Land may be designated for road or other reserve purposes under the provisions of the *Land Administration Act 1997* through the land subdivision processes.

1.8.2 Development

Proponents of heavy industrial proposals within the Strategic Industry zone will be expected to undertake extensive due diligence in consultation with the Government of Western Australia to ascertain the specific requirements that will apply to their development proposal within the Anketell SIA.

This Guide Plan and the related Improvement Scheme documentation—the Scheme Text, Scheme Map and the Scheme Report together with supporting technical reports will need to be considered by proponents intending to formulate a development proposal within the Anketell SIA.

Development, including construction work and/or carrying out of activities, will require development approval of the Commission which is responsible for administering the Improvement Scheme. As such, the Commission, supported by the Department of Planning, Lands and Heritage will receive, assess and determine applications for development in accordance with the provisions of this Improvement Scheme.

WAPC RESOLUTION TO ADVERTISE ANKETELL STRATEGIC INDUSTRIAL AREA IMPROVEMENT SCHEME No. 1

Adopted by resolution of the Western Australian Planning Commission at the Statutory Planning Committee Meeting held on 12 July 2016.

E. LUMSDEN, Chairperson—Western Australian Planning Commission.
K. BLENKINSOP, Secretary—Western Australian Planning Commission.

WESTERN AUSTRALIAN PLANNING COMMISSION RESOLUTION TO SUPPORT SCHEME FOR APPROVAL

The Western Australian Planning Commission resolved to support approval of Anketell Strategic Area Improvement Scheme No. 1 on 27 July 2017.

The Common Seal of the Western Australian Planning Commission was hereunto in the presence of—

E. LUMSDEN, Chairperson—Western Australian Planning Commission.
K. BLENKINSOP, Secretary—Western Australian Planning Commission.

Approval Granted

R. SAFFIOTI, Minister for Planning, Land and Heritage.

Date: 1 November 2017.
