



# WESTERN AUSTRALIAN GOVERNMENT Gazette

2165



## PERTH, TUESDAY, 1 JUNE 1999 No. 93

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#### NEW FORMAT FOR GENERAL GOVERNMENT GAZETTES

For ease of access to particular notices the general Gazette will be divided into two parts as detailed below. In each part, the notices will appear in alphabetical order of the authorising Department.

**Part 1** will contain Proclamations, Regulations, Rules, Local Laws and various other Instruments etc. but not Town Planning Schemes.

**Part 2** will contain general notices and information and Town Planning Schemes.

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

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

- Material submitted to the Executive Council prior to gazettal will require a copy of the signed Executive Council Minute Paper and in some cases the Parliamentary Counsel's Certificate.
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## ADVERTISING RATES AND PAYMENTS

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Per Column Centimetre—\$8.15

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

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

## PUBLISHING ALTERATIONS

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

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

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

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

JOHN A. STRIJK, Government Printer.

# — PART 1 —

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## LOCAL GOVERNMENT

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### LG301\*

#### LOCAL GOVERNMENT ACT 1995

##### *Shire of Gnowangerup*

##### Standing Orders Local Law 1999

Under the powers conferred by the Local Government Act 1995, the Council of the Shire of Gnowangerup resolved on the 17th day of March 1999, to adopt the Standing Orders Local Law published in the *Government Gazette* on 3 April, 1998, with such modifications as are here set out:

#### Clause 1.4

insert "Shire of Gnowangerup" after "The Standing Orders of the " and insert "23 July, 1962, as amended by publication in the *Government Gazette* on 27 March, 1981" after "published in the *Government Gazette* on ";

#### Clause 3.2

delete subclause (1) and substitute—

"(1) The order of business at an ordinary meeting of the Council is as determined by the Council from time to time."

#### Clause 8.2

delete "the CEO is to allot by random draw," and substitute "the President is to allot"

#### Clause 10.14

delete the clause and substitute;

"A motion or amendment may be withdrawn by the mover."

#### Clause 12.7

delete sub clause (3) and substitute;

"Upon the public again being admitted to the meeting then any matter discussed behind closed doors is to be decided on by a motion."

#### Clause 17.2

In subclause (1) delete "thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council."

#### Clause 17.2

delete subclause (2)

#### Clauses Renumbered

renumber clauses 17.3 to 17.6 inclusive to 17.4 to 17.7 respectively.

#### Clause Inserted

The following clause is inserted after Clause 17.2;

##### "17.3 Attendance of Members as Observers

- (1) A member of the Council may attend any meeting of a Standing Committee of which he or she is not a member as an observer, and with the approval of the Presiding Member may speak on a matter under consideration, but is not entitled to vote.
- (2) For the purposes of subclause (1) Standing Committee means a Committee of the Council which has a continuing responsibility for functions specified by the Council."

Dated this 24th day of May 1999.

The Common Seal of the Shire of Gnowangerup was affixed in the presence of:

J. P. SAVAGE JP, Shire President.  
F. B. LUDOVICO, Chief Executive Officer.

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# — PART 2 —

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## FISHERIES

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**FI401**

**PEARLING ACT 1990**  
**RESTRICTION OF PEARLING ACTIVITIES**  
**(PEARL OYSTER HOLDING SITES) NOTICE 1996**  
**REPEAL NOTICE 1999**  
Notice No. 4 of 1999

FD 274/94

Made by the Minister under section 19.

**Citation**

1. This notice may be cited as the *Restriction of Pearling Activities (Pearl Oyster Holding Sites) Notice 1996 Repeal Notice 1999*.

**Repeal of notice**

2. The *Restriction of Pearling Activities (Pearl Oyster Holding Sites) Notice 1996\** is repealed.

[\*Published in the Government Gazette on 25 October 1996.]

Dated this 21st day of May 1999.

MONTAGUE G. HOUSE, Minister for Fisheries.

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## FAIR TRADING

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**FT401**

**CHARITABLE COLLECTIONS ACT 1946**

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

- Meals on Wheels Halls Creek Inc
- Pemberton Nurses Auxiliary

Dated this 27th day of May 1999.

DOUG SHAVE, Minister for Fair Trading.

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## HEALTH

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**HE401\***

**HUMAN REPRODUCTIVE TECHNOLOGY ACT 1991**  
**WESTERN AUSTRALIAN REPRODUCTIVE TECHNOLOGY COUNCIL**  
**(APPOINTMENT OF MEMBERS) INSTRUMENT 1999**

Made by the Minister for Health pursuant to clause 2(1) of the Schedule to the Act.

**1. Citation**

This instrument may be cited as the *Western Australian Reproductive Technology Council (Appointment of Members) Instrument 1999*.

**2. Appointment of a Member**

Ms Susan Ruth Hudd is appointed to the Western Australian Reproductive Technology Council as Deputy to Mr Edward Mildern pursuant to clause 2(1) of the Schedule to the *Human Reproductive Technology Act 1991* (WA), for the period ending 31 March 2000.

JOHN DAY, Minister for Health.

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**MINING**

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**MN401\***

Commonwealth of Australia

**PETROLEUM (SUBMERGED LANDS) ACT 1967**

Exploration Permit WA-239-P has been renewed in the name of BHP Petroleum (Australia) Pty Ltd, Cieco Browse Inc., Teikoku Oil (Yampi) Co. Ltd, Southern Diamond Resources (WA-239-P) Pty Ltd and Santos (Bo) Pty Ltd for a period of five(5) years to have effect from the 25 May 1999.

W. L. TINAPPLE, Director Petroleum Operations Division.

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**PLANNING**

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**PD401****TOWN PLANNING AND DEVELOPMENT ACT 1928**

## ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

*SHIRE OF ALBANY*

## TOWN PLANNING SCHEME NO. 3—AMENDMENT NO. 162

Ref: 853/5/4/5, Pt. 162.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the Shire of Albany Town Planning Scheme Amendment on 21 May, 1999 for the purpose of—

- (i) Rezoning Lot 2 of Location 418 Albany Highway, Warrenup from the Rural Zone to the Special Residential Zone and the Parks and Recreation (Non Restricted) Reserve;
- (ii) Rezoning Locations 267 & 4419 Kooyong Avenue, Warrenup from the Rural Zone to the Special Residential Zone, the Public Purposes Reserve and the Parks and Recreation (Non Restricted) Reserve;
- (iii) Amending the Scheme Maps accordingly; and
- (iv) Inserting into Schedule 4 of the Scheme, the following identification and Special Provisions—

## SCHEDULE 4 CONTINUED

## SHIRE OF ALBANY

## TOWN PLANNING SCHEME No. 3

## SPECIAL RESIDENTIAL ZONES

## Provisions Relating to Specified Areas

AREA	LOCALITY	LOTS	LOCATION
12	WARRENUP	2	418
			267
			4419

**1.0 PLAN OF SUBDIVISION**

- 1.1 Subdivision of Special Residential Zone Area No. 12 shall be generally in accordance with the Subdivision Guide Plan endorsed by the Chief Executive Officer.
- 1.2 The Council will not recommend lot sizes less than 4 000m<sup>2</sup>. Council may recommend that the Western Australian Planning Commission approve minor variations to the Subdivision Guide Plan.

**2.0 OBJECTIVES OF THE ZONE**

Within the Special Residential Zone Area No. 12 the objective is to—

- create a spacious residential living environment that provides for other small scale uses where considered appropriate;
- provides for a range of lot sizes so as to maximise purchaser choice; and
- facilitate tree/shrub planting in appropriate locations within open space areas, road reserves and within allotments for site beautification, screening and for general environmental benefit.

**3.0 LAND USE**

- 3.1 Within Special Residential Zone Area No. 12 the following uses are permitted—
  - Residential Dwelling House

- 3.2 The following uses may be permitted subject to the special approval of Council—
- Home Occupation
  - Livestock Grazing
  - Public Utility
  - Cottage Industry
  - Other activities considered appropriate by Council which are consistent with the objective of the zone.

#### **4.0 KEEPING OF LIVESTOCK/ANIMALS**

- 4.1 Intensive agricultural pursuits such as piggeries, horticultural operations are not permitted. The keeping of livestock shall be restricted to fenced pastured areas of the lot. The owner shall be responsible for the construction and maintenance of stock proof fencing to protect remnant vegetation and tree/shrub planting areas. Animal numbers shall not exceed the stocking rates recommended by Agriculture W.A. The keeping of animals shall not result in the removal or damage of vegetation and trees or result in soil degradation and dust nuisance.
- 4.2 Where in the opinion of Council the continued presence of animals on any portion of land is likely to contribute, or is contributing to the dust nuisance or soil degradation, notice may be served on the owner of the land, requiring immediate removal of those animals specified in the notice.
- 4.3 Where notice has been served on a landowner in accordance with this Clause the Council may also require the land to be rehabilitated to its satisfaction within three (3) months of serving the notice.
- 4.4 In the event that such action is not undertaken, Council may carry out such works as are deemed necessary, with all costs being borne by the landowner.

#### **5.0 LOCATION OF BUILDINGS AND STRUCTURES**

- 5.1 Buildings and tanks shall not be constructed within the Building Exclusion Areas designated on the Subdivision Guide Plan.
- 5.2 Buildings shall be setback a minimum of 20 metres from the lot boundary abutting Albany Highway and/or Kooyong Avenue, 10m from all other lot boundaries abutting public roads and 5 metres from all other lot boundaries.
- 5.3 Where possible, buildings shall be sited to allow a “low fuel buffer” not less than 20 metres wide, which does not encroach into remnant vegetation or areas of tree/shrub planting as designated on the Subdivision Guide Plan.
- 5.4 Any dams and/or soaks require the approval of Council, following referral to the Waters and Rivers Commission or other appropriate agencies, prior to construction. Dams/soaks shall be sited to avoid visual impact from Albany Highway to the satisfaction of Council.

#### **6.0 BUILDING DESIGN, MATERIALS & COLOUR**

- 6.1 Dwellings and outbuildings shall be designed and constructed of materials which allow them to blend into the landscape of the site. Council shall refuse to approve walls and roofs constructed of reflective materials such as unpainted zincalume and off-white colours. Council will be supportive of walls and roofs with green, brown or red tonings in keeping with the amenity of the area.
- 6.2 Dwelling houses shall not exceed 7.5 metres in height which is measured vertically from the finished ground level. The maximum height of all outbuildings will be at the discretion of Council in order to minimise the visual impacts of such buildings when viewed from Albany Highway and within the subdivision.
- 6.3 No boundary fencing shall be constructed of fibre cement, metal sheeting or wooden picket. If boundary fencing is utilised, it shall be of rural construction such as post and strand to the satisfaction of Council.
- 6.4 Any water tanks shall be coloured an appropriate natural shade of brown or green or suitably screened with vegetation in keeping with the amenity of the area to the satisfaction of Council.

#### **7.0 VEGETATION AND TREE/SHRUB PLANTING**

- 7.1 No clearing of vegetation shall occur except for—
- (a) clearing to comply with the requirements of the Bush Fires Act 1954 (as amended);
  - (b) clearing as may reasonably be required to construct an approved building and curtilage;
  - (c) trees that are dead, diseased or dangerous;
  - (d) clearing to gain vehicular access to an approved dwelling or any other clearing which may be approved by the Council;
  - (e) clearing required to establish a low fuel zone.
- 7.2 Council may request the Commission to impose a condition at the time of subdivision for tree/shrub planting in public open space, road reserves, Landscape Easement Areas and Foreshore Reserves as shown on the Subdivision Guide Plan. Such tree/shrub planting shall be appropriately maintained for a minimum of 3 years.

- 7.3 Council may request the Commission to impose a condition at the time of subdivision for the fencing of public open space areas.
- 7.4 Council may request the Commission to impose a condition at the time of subdivision for the preparation and implementation of a Landscaping Plan and Foreshore Management Plan to cover tree/shrub planting, access, fencing and invasive weed control in foreshore areas.
- 7.5 Additional tree planting may be required as a condition of development approval. Council may request the Commission impose a condition, at the time of subdivision, for a bond which will be rebated to future purchasers on completion of satisfactory tree/shrub planting.

## **8.0 WATER SUPPLY**

- 8.1 Council may request the Commission to impose a condition at the time of subdivision for the provision of reticulated water to the lots.

## **9.0 EFFLUENT DISPOSAL**

- 9.1 On-site effluent disposal shall be the responsibility of the individual landowner.
- 9.2 All lots shall utilise an amended soil or similar alternative type of effluent disposal system for the retention of nutrients.
- 9.3 Notwithstanding the general intent of Provision 9.2 and subject to detailed onsite testing at the applicants cost, a conventional effluent disposal system can only be considered by Council where environmental and health requirements can be adequately addressed to the satisfaction of Council.
- 9.4 No more than one effluent disposal system will be permitted on each lot.

## **10.0 BUSHFIRE MANAGEMENT CONTROL**

- 10.1 Council may request the Commission to impose a condition at the time of subdivision for the construction of the strategic firebreaks as shown on the Subdivision Guide Plan.
- 10.2 The strategic firebreaks shall be constructed to a standard suitable for all year access by heavy duty fire appliances and two wheel drive vehicles.
- 10.3 Where a lot is traversed by a strategic fire break as shown on the Subdivision Guide Plan, the owner of the lot shall maintain such firebreak to the satisfaction of Council. Fencing and/or unlocked gates across the strategic firebreak shall only be permitted at the discretion of and to the satisfaction of Council and the Bush Fires Board.
- 10.4 Low fuel buffers, at least 20 metres wide shall be established and maintained around all buildings.
- 10.5 It shall be the responsibility of individual landowners to maintain free access at all times around buildings for emergency purposes.
- 10.6 Where strategic fire breaks access roads, suitable measures will be taken to ensure non emergency vehicular traffic is precluded.
- 10.7 In cases where only part of the zone is developed, an interim firebreak system or strategic fire break system shall be prepared and put in place, to the satisfaction of Council and the Bush Fires Board.
- 10.8 Fire hydrants shall be provided at intervals of 200 metres along subdivisional water mains to the satisfaction of Council and the Bush Fires Board.
- 10.9 The subdivider shall make arrangements to the satisfaction of Council to ensure prospective purchasers are aware of the fire management guidelines of the Homeowners Bushfire Survival Manual and the Australian Standard 3959 "Construction of Buildings in Bushfire Prone Areas."

## **11.0 ROAD UPGRADING, ACCESS AND DESIGN**

- 11.1 Council may request the Commission to impose a condition at the time of subdivision for a contribution to the upgrading of Kooyong Avenue.

## **12.0 NOTIFICATION OF PROSPECTIVE OWNERS**

- 12.1 Provision shall be made to Council's satisfaction to ensure prospective purchasers of land within Special Residential Zone Area No. 12 are given a copy of these Special Provisions prior to entering into an agreement to acquire any property.
- 12.2 Application for Planning Scheme Consent shall require the submission of—
  - (i) a completed "*Application for Grant of Planning Scheme Consent*" form;
  - (ii) three copies of a Plan showing the precise location and size of all the buildings proposed and the parkland clearing and fire protection measures to be adopted;
  - (iii) three scaled elevation plans showing the elevation of the buildings proposed and the materials and colour to be used.

K. C. MICHAEL, Chairman of Commissioners.  
E. H. KELLY, Chief Executive Officer.

**PD402****TOWN PLANNING AND DEVELOPMENT ACT 1928****ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT***TOWN OF KWINANA***TOWN PLANNING SCHEME NO. 2—AMENDMENT NO. 57**

Ref: 853/2/26/3, Pt. 57.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the Town of Kwinana Town Planning Scheme Amendment on 19 May, 1999 for the purpose of—

1. Modifying the existing interpretation of the use "Showrooms" contained in Appendix 4 of the Scheme to read as follows—  
 "Showrooms—means any building or part of a building used or intended for use for the purposes of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature."
2. Adding the following provision as a separate category of use permissibility immediately after the AA category as listed at Clause 4.6 of the Scheme as follows—  
 "AA(1)—A use in respect of which the Council exercising discretionary powers available to it may approve under the Scheme only in relation to land use and development in Mixed Business Zone No. 1."
3. Adding the 'Mixed Business 1' zone to the list of zones at Clause 4.4.1 of the Scheme Text following the 'Service Commercial' zone.
4. Adding the 'Mixed Business 1' zone to the list of zones contained within the legend appended to the Scheme Maps as depicted on the amending map adopted by Council.
5. Adding the 'Mixed Business 1' zone to the head of Table No. 1 'Zoning and Use Classes' of the Scheme Text and listing—

USE CLASSES	MIXED BUSINESS 1
Aged/Dep Persons Accommodation	X
Aged/Dep Persons Dwelling	X
Amenity Building	P
Amusement Building	SA
Ancillary Accommodation	X
Aquaculture	X
Boat Sales	P
Boatel	X
Bus Station	AA
Car Park	AA
Caravan Park	X
Caretakers House/Flat	IP
Chicken Farm	X
Civic Building	P
Club	AA
Commercial Hall	AA
Consulting Rooms	X
Dog Kennels	X
Drive In Takeaway Food Shop	X
Drive In Theatre	AA
Dry Cleaning Premises	SA
Eating House	X
Educational Establishment	X
Equestrian Uses	X
Extractive Industry	X
Factory Units	AA
Family Day Care Centre	X
Fish Shop	X
Forestry Selective	X
Fuel Depot	X
Funeral Parlour	AA
General Industry	X
Grouped Dwelling	X
Hazardous Industry	X
Health Centre	X
Health Studio	AA
Holiday Accommodation	SA
Home Occupation	X
Hospital	SA
Hotel	SA
Intensive Agriculture	X
Laundry (Industrial)	SA
Laundry (Laundrette)	AA
Licensed Restaurant	X
Light Industry	X



USE CLASSES	MIXED BUSINESS 1
Liquor Store	SA
Local Shop	SA
Lodging House	X
Marina	X
Medical Clinic	SA
Motel	SA
Motor Racing Track	X
Motor Repair Station	X
Multiple Dwelling	X
Museum	X
Non Residential Health Centre	AA
Noxious Industry	X
Office	AA
Open Air Display	AA
Open Storage Yard	SA
Petrol Filling Station	P
Piggery	X
Private Hotel	SA
Private Recreation	SA
Professional Office	AA
Public Amusement	AA
Public Assembly—Place of	AA
Public Recreation	P
Public Utility	P
Public Worship	AA
Recreational Facilities	P
Residential Building	X
Restricted Premises	AA
Retail Plant Nursery	SA
Rural Industry	X
Rural Produce Store	X
Service Industry	AA(1)
Service Station	SA
Shop	IP
Showrooms	P
Single House	X
Stables	X
Tailing Pond	X
Tavern	SA
Trade Display	AA
Transport Depot	SA
Vehicle Sales	P
Vehicle Wreckers	X
Veterinary Clinic	AA
Veterinary Hospital	SA
Warehouse	AA(1)

6. Adding the following notation at the end of Table 1 of the Scheme—

“(1) The land use class comprises only land use activities reflected in Appendix 5 of the Scheme and activities not listed in Appendix 5 are deemed to be not permitted in the corresponding zone.”

7. Adding a new Division 4—Mixed Business Zone 1 to the Scheme Text and renumbering all existing Divisions 4 to 12 (inclusive) to thereafter as follows—

“6.7 Mixed Business 1 Zone

The Council's intention in controlling development within the Mixed Business 1 Zone is to—

- (a) Promote the progressive development of land identified within Council's 'Mixed Business Strategy' for uses considered to be predominantly consistent with the 'Other Retail' and 'Storage/Distribution' land use categories as defined therein.
- (b) Provide for a range of uses which achieve high standards of development with regard to built form and landscaping.

6.7.1 In addition to the requirements of paragraph (a) of subclause 2.1.3, the Council shall require, in the first instance, the preparation of Design Guidelines (to the satisfaction of Council) for individual 'Mixed Business' zones and shall thereafter, consider subsequent applications for its Planning Approval within such zones in conformity with the relevant Design Guidelines.

6.7.2 The Council may permit variations from the relevant Design Guidelines where it is satisfied that the proposed development still meets the objectives of the 'Mixed Business 1' Zone and, in particular, achieves a high standard of development.

6.7.3 The Council may, from time to time, require proponents to update or modify the relevant Design Guidelines to the satisfaction of the Council.

- 6.7.4 Subdivision and Development within the 'Mixed Business 1' Zone should be laid out generally in accordance with the Development Guide Plan as adopted by Council so as to enhance the locality and to secure a high standard of visual amenity for the 'Mixed Business 1' zone.
- 6.7.5 Within the 'Mixed Business 1' Zone, no existing vegetation shall be removed without Council's approval and Council's approval to commence development shall be deemed as Council's consent to remove vegetation in accordance with the approved plans. Council may specify trees or groups of trees to be preserved within the 'Mixed Business 1' Zone in order to preserve the amenity of the locality.
- 6.7.6 Plot Ratio and Site Coverage  
In the 'Mixed Business 1' Zone no building shall have a plot ratio exceeding 1.5 and the site coverage shall not exceed 70 percent and there shall be a maximum of two levels.
- 6.7.7 Minimum Setbacks from Boundaries  
Every building within the 'Mixed Business 1' Zone shall be set back from the street to which the proposed building fronts a minimum distance as specified under Table 2, except that Council may permit a reduction in the minimum set back requirement where it is satisfied that the proposed development complies with the relevant Design Guidelines prepared for, and relevant to, the locality within which the building is proposed to be erected.
- 6.7.8 Landscaping  
Within the 'Mixed Business 1' Zone, Council shall require the provision and development of landscaped areas in compliance with the design guidelines relevant to the locality within which the proposed development is situated but should not be less than 8% of the lot and shall be laid out and maintained in accordance with the approved plan.  
Where in the opinion of Council sufficient landscape features exist in the lot or nearby streets and reserves, the landscaped area may be reduced by up to 50%.  
Existing vegetation in excess of 1.8 metres in height within the specified landscaping areas shall be retained in good order provided it does not interfere with the orderly or proper planning of the development or pose a threat to the safety of the development or to the public.
- 6.7.9. Upper Floors  
Within the 'Mixed Business 1' Zone, where the ground floor of a multi-storey building is used for the purpose of shops the upper floors of such buildings may be used for such purposes as may be permitted or approved of in the 'Mixed Business 1' Zone or for the purpose of offices notwithstanding that such offices may not be a use which is incidental to the use of the building in question for the purpose of shops.  
Within the 'Mixed Business 1' Zone mixed developments consisting of uses permitted or approved of by Council may be approved where such uses are compatible and where in the opinion of Council the development will not detract from the amenity of the area.
- 6.7.10 Car Parking  
Car parking spaces shall be provided, designed, constructed and maintained in accordance with the provisions of Part VII of the Scheme and the approved plan relating thereto.
- 6.7.11 Loading and Unloading  
Areas for the loading and unloading of vehicles carrying goods or commodities to or from premises within the 'Mixed Business 1' Zone shall be provided and maintained in accordance with the approved plan relating thereto."
8. Amending the second paragraph of Clause 6.5.9 'Upper Floors' by deleting the word "Zone" and replacing it with the words "and Mixed Business 1 Zone".
9. Inserting a new Appendix 5 into the Scheme as follows—

"APPENDIX 5

Mixed Business Zone No. 1—Land Use Classes and Subset Land Use Activities

LAND USE CLASS

Service Industry

LAND USE ACTIVITIES

Building Trades Services  
Carpentry and Wood Flooring Services  
Catering and Functions Services  
Ceiling Installations Services  
Cleaning Services  
Dental Laboratories Services  
Electrical Repair Services  
Fencing Services  
Funeral and Crematory Services  
Gardening Services  
Insulation Installation Services  
Laboratory Services  
Laundering, Dry-Cleaning and Dyeing Services  
Lawn Mower Repair Services  
Linen Supply and Industrial Laundry Services

LAND USE ACTIVITIES

Machinery Repair Services  
 Marine Machinery Repair Services  
 Masonry, Stonework, Tile Setting, and Plastering Services  
 Motor Cycle Repair Services  
 Motor Vehicle, Electrical, Clutch, Brake, Radiators, Air  
 Conditioning, Trimming, Windscreen Replacement, Window  
 Tinting, Tyre Repair and Detailing Services  
 Motor Vehicle Towing Services  
 Office Equipment Repair Services  
 Pest Control Services  
 Photographic Film Processing Services  
 Plumbing, Heating and Air Conditioning Services  
 Painting, Paper Hanging and Decorating Services  
 Radio and Television Repair Services  
 Re-Upholstery and Furniture Repair Services  
 Roofing and Sheet Metal Services  
 Special Construction Trades Services  
 Water Well Drilling, Irrigation and Reticulation Services  
 Window and Door Treatments Installation Construction Trades  
 Services  
 Window Cleaning Services

**Warehouse**LAND USE ACTIVITIES

Agricultural/Horticultural Products Wholesale  
 Air Conditioning, Refrigeration Equipment and Supplies  
 Wholesale  
 Aircraft and Accessories Wholesale  
 Alcoholic Beverages Wholesale  
 Building Material Machinery and Equipment Retail/Wholesale  
 Business Machines and Computers Wholesale  
 Clothing—Wholesale  
 Cold Storage and Wholesale  
 Confectionery—Wholesale  
 Construction Materials Wholesale  
 Dairy Products—Wholesale  
 Drugs, Chemical Pharmaceutical Goods and Allied Products  
 Wholesale  
 Wholesale Dry Goods and Apparel Wholesale  
 Electrical Appliances, Electrical Apparatus Wholesale  
 Electrical Goods—Wholesale  
 Electronic Parts and Equipment Wholesale  
 Farm Machinery and Equipment Wholesale  
 Floor Coverings—Wholesale  
 Footwear—Wholesale  
 Fruits and Vegetables (Fresh) Wholesale  
 Groceries and Related Products Wholesale  
 Groceries (General Line) Wholesale  
 Hardware—Wholesale  
 Hardware, Plumbing, Heating Equipment and Supplies  
 Wholesale  
 Home Furnishings Wholesale  
 Machinery, Equipment and Supplies Wholesale  
 Machinery, Industrial Equipment Wholesale  
 Marine Craft and Accessories Wholesale  
 Medical and Dental Equipment Wholesale  
 Milk Vendors Wholesale  
 Motor Vehicle Equipment Wholesale  
 Motor Vehicles and Automotive Equipment Wholesale  
 Other Groceries and Related Products Wholesale  
 Paint and Varnishes Wholesale  
 Paper and Paper Products Wholesale  
 Plumbing and Heating Equipment and Supplies Wholesale  
 Poultry and Poultry products Wholesale  
 Professional and Scientific Equipment Wholesale  
 Red Meat and Red Meat Products Wholesale  
 Seafood—Wholesale  
 Sporting, Recreational Entertainment Equipment Wholesale  
 Storage Services  
 Textile and Yarn Goods Wholesale  
 Timber and Other Building Material Retail and Wholesale  
 Timber Yards Retail and Wholesale  
 Tobacco Products Wholesale  
 Toiletries Wholesale  
 Transportation Equipment, Tyres Wholesale

10. Rezoning a portion of Lot 3 Johnson Road, Kwinana from the 'Rural A' zone to the 'Mixed Business 1' zone as depicted on the amending plan adopted by Council.
11. Rezoning Lot 4 Johnson Road, Kwinana from the 'Rural A' zone to the 'Mixed Business 1' zone as depicted on the amending plan adopted by Council.
12. Rezoning Lot 20 Johnson Road, Kwinana from the 'Rural A' zone to the 'Mixed Business 1' zone as depicted on the amending plan adopted by Council.
13. Rezoning Part Lot 200 Orton Road, Kwinana from the 'Rural A' zone to the 'Mixed Business 1' zone as depicted on the amending plan adopted by Council.
14. Add to the interpretations of Service Industry and Warehouse respectively contained under Appendix 4 of the Scheme—

"In the case of the Mixed Business Zone No. 1 the land use comprises only those land use activities listed in Appendix 5 and the operational characteristics of such land use activities shall comply with the meaning afforded to Service Industry."

"In the case of the Mixed Business Zone No. 1 the land use comprises only those land use activities listed in Appendix 5 and the operational characteristics of such land use activities shall comply with the meaning afforded to Warehouse."

15. Modify the existing Clause 4.7 of the Scheme "Uses Not Specified" to read—

"If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use classes, the Council may, except in the case of Mixed Business Zone No. 1—

- (a) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore permitted, or
- (b) determine by Absolute Majority that the proposed use may be consistent with the objectives and purposes of the zone and thereafter follow the advertising procedures of Clause 2.3 in considering the application for Planning Approval.

In the case of Mixed Business Zone No. 1 such uses shall be deemed to be not permitted.

J. H. D. SLINGER, Mayor.  
F. R. EDWARDS, Chief Executive Officer.

#### PD701\*

**TOWN PLANNING AND DEVELOPMENT ACT 1928**  
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME  
*TOWN OF CLAREMONT*  
TOWN PLANNING SCHEME NO. 3—CONSOLIDATED SCHEME

Ref: 853/2/2/3, Vol. 3.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Acting Hon Minister for Planning approved the Town of Claremont Town Planning Scheme No. 3 on 28 April, 1999 the Scheme Text of which is published as a Schedule annexed hereto.

P. OLSON, Mayor.  
R. J. STEWART, Chief Executive Officer.

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*TOWN OF CLAREMONT***TOWN PLANNING SCHEME NO. 3**

The Town of Claremont under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928 (as amended) and the Metropolitan Region Town Planning Scheme Act 1959 (as amended) hereby makes the following Town Planning Scheme for the purpose of:

- (a) Setting aside land for future public use as reserves;
- (b) Directing and controlling land development by zoning in such a way as to promote and safeguard the health safety convenience and general welfare of the inhabitants of the district of the Town of Claremont and the amenities of that district;
- (c) Other matters authorised by the enabling Act.

**PART 1****PRELIMINARY**

1. This Town Planning Scheme may be cited as the Town of Claremont Town Planning Scheme No. 3 (herein called "the Scheme" or "this Scheme") and shall come into operation on the publication of notice of the Minister's final approval thereof in the *Government Gazette*.
2. The Scheme shall apply to the whole of the Municipal District of the Town of Claremont (herein called "the District").
3. The Scheme is complementary to, and is not a substitute for, the Metropolitan Region Scheme, and the provisions of the Metropolitan Region Scheme, as amended from time to time shall continue to have effect.
4. The Town of Claremont Town Planning Scheme No.1 which was published in the *Government Gazette* on the 7th April 1967, and subsequently from time to time amended, is hereby revoked.
5. The responsible authority for carrying out the Scheme is the Council of the Town of Claremont (herein referred to as "the Council") except that where land is shown on the Scheme Map as "Regional Reservation" the responsible authority shall be deemed to be the Western Australian Planning Commission and the provisions of the Metropolitan Region Scheme shall apply to such reservations.

**6. Relationship of Scheme By-laws:**

The provisions of this Scheme shall have effect, notwithstanding any By-law for the time being in force in the District, and where the provisions of the Scheme are inconsistent with the provisions of any By-law the provisions of the Scheme shall prevail.

7. All buildings hereafter erected and all other development hereafter carried out in the Scheme Area shall conform to the provisions and standards contained in the Scheme and, where appropriate, with the requirements of the Uniform Building By-laws to the extent to which those By-laws make provision for matters not dealt with by this Scheme.

**8. Arrangement of Scheme:**

The Scheme Text is divided into the following parts:

- Part 1. Preliminary
- Part 2. Land Use Control



- Part 3. Development Requirements
- Part 4. Special Amenity Design and Development Control
- Part 5. Planning Approval
- Part 6. Administration

The remaining documents of the Scheme are:

- (1) The Land Use Map, and
- (2) The Scheme Map

both of which form part of the Scheme.

**9. Interpretation:**

- (1) Words and expressions used in the Scheme shall have the respective meanings given to them in the Scheme and the Residential Planning Codes.
- (2) Where a word or term is defined in the Residential Planning Codes then notwithstanding anything else in this Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Planning Codes.
- (3) Words and expressions used in the Scheme but not defined in Part 1 of the Scheme, elsewhere in the Scheme or in the Residential Planning Codes shall have their normal and common meanings.

**10. In the Scheme, unless the context requires otherwise:**

“Alfresco Dining Area” means an area of footpath or street or other public place in which tables, chairs or other structures are provided, with prior approval in writing of the Council, for the purpose of the consumption of food or drink by the public.

“Bulk Retail Sales” means premises set aside and limited to use for the sale of the following:

floor and wall coverings;  
large recreational equipment;  
camping equipment;  
furniture, furnishings and window treatments;  
each of sanitary, general hardware and plumbing supplies;  
motor vehicle sales, spares and accessories;  
machinery and large electrical, mechanical and heating appliances;  
swimming pool supplies and fittings;  
sunblinds and awnings;  
kitchen and bathroom cupboards/fittings;  
picture framing/gallery;  
motor cycles;  
boat sales and marine supplies;  
roofing insulation;  
air conditioning and vacuum cleaning systems;  
equipment, tools or supplies necessary for the efficient merchandising of the abovementioned goods;  
any other use relating to the sale and display of items of goods which are not readily portable and which in the opinion of Council is not likely to attract considerable vehicular traffic to those premises.

“Car Park” means a site or building used primarily for parking private cars or taxis whether as a public or private car park, but does not include any part of a public road used for parking or for a taxi stand, or any land or buildings on or in which cars are displayed for sale;

“Civic Building” means a building used by any:

- (a) government department; or
- (b) statutory body representing the Crown for office or for administrative or other like purpose;

“Consulting Room” means a building or part of a building (other than a hospital) used in the practice of his or her profession by:

- (a) A registered medical practitioner
- (b) A registered dentist or dental therapist
- (c) A registered occupational therapist or physiotherapist
- (d) A registered psychologist
- (e) A registered chiropractor
- (f) A registered psychiatrist
- (g) A registered chiropodist
- (h) A qualified welfare counsellor including a marriage guidance counsellor
- (i) A qualified masseur; or
- (j) A person ordinarily associated with a registered medical practitioner in the investigation or treatment for physical or mental injuries or ailments.



- “Craft Industry” means any part of any land or building used for the production of works of art or handcrafted works and included the workshop or studio of a sculptor, artist, potter or hand carver but the term does not include any use which is a light industry as defined in Appendix D of the Town Planning Regulations 1967 as amended or re-enacted from time to time;
- “Day Care Centre” has the same meaning as is given to that term in the Child Welfare (Care Centres) Regulations 1968 as amended or re-enacted from time to time and includes a facility providing similar services for adults;
- “Depot” means any part of any land or building used for the maintenance or storage (in the course of transfer from place to place or otherwise) of vehicles, goods or materials of any kind including, without limiting the generality of the foregoing, a builder’s yard. The word does not include a warehouse;
- “Dry Cleaning Premises” means any part of any land or building used for the cleaning of garments and other fabrics by chemical processes;
- “Dwelling (Self-contained)” means a Single House, an Attached House, a Grouped Dwelling, a Multiple Dwelling and an Aged or Dependent Persons’ Dwelling;
- “Educational Establishment” means a school, college, university, technical institute, kindergarten, academy or other educational centre;
- “Fast Food Outlet” means a building used for the purpose of preparing and serving meals for gain or reward to the public for consumption otherwise than on the premises;
- “Fish Shop” means a shop where the goods sold include wet fish or fish cooked on the premises for consumption off the premises;
- “Funeral Parlour” means any part of any land or building occupied by an undertaker in connection with the business of the disposal of the dead and includes any chapel erected on that land;
- “Gross Leaseable Area”
- (a) means the area of all floors capable of being occupied by a tenant for his exclusive use, which area is measured from the centre lines of joint partitions or walls and from outside faces of external walls or the building alignment, including shop fronts, and
  - (b) includes basements, mezzanines and storage areas.
- “Hospital” means any building or part thereof, whether permanent or otherwise, in which persons are received and lodged for medical or surgical treatment or care, and includes a maternity hospital or nursing home as defined in the Hospitals Act 1927 as amended or re-enacted from time to time;
- “Hotel” means any land or building the subject of a hotel licence, granted under the provisions of the Liquor Licensing Act 1988, but does not include a Motel or any land or building the subject of a cabaret licence granted under the provisions of the Liquor Licensing Act 1988;
- “Landscaped Open Space” means any area developed with or by the planting of lawns, garden beds, shrubs or trees and includes any rockery, ornamental pond or paving, but does not include any area used or designed for use for parking of vehicles or vehicular access;
- “Light Industry” means any industry in which the processes carried on, the machinery used and the goods and commodities carried to and from the premises will not cause any injury to or prejudicially affect the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- “Metropolitan Region Scheme” means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 as amended or re-enacted from time to time and published in the *Government Gazette* on the 9th August 1963 as amended or re-enacted from time to time;
- “Motel” means a building, group of buildings, or place used to accommodate patrons in a manner similar to a hotel, but in which special provision is made for the accommodation of patrons with motor vehicles;
- “Motor Repair Station” means any land or building or part thereof used for or in connection with the mechanical repair and overhaul of motor vehicles, including tyre recapping, retreading, panel beating, spray painting, chassis reshaping and motor vehicle trimming;
- “Non-conforming use” means a use of land which, though lawful immediately prior to the coming into operation of the Scheme, is not in conformity with the Scheme;
- “Office” means a building or part thereof used for the conduct of the administration requirements or the secretarial or accounting services of a business or industry, the practice of a profession or the provision of services which do not require continuing public attendance at the premises;
- “Open Air Display” means the use of land for the display or the sale of goods or equipment other than vehicles in the open air;
- “Open space” in relation to a building other than a Dwelling (Self-contained) means that area of a lot on which the building stands which is not built upon in any way, but the term includes:
- (a) the area of access driveways where those driveways are adjacent to open space and to the extent that those driveways do not exceed 3m in width; and
  - (b) the structural decks or roofs of car parking areas where so designed and located as to be suitable for use as open space;
- “Public Utility” means any works or undertakings constructed or maintained by a public authority or municipality to provide water, sewerage, electricity, gas, drainage, communications or other similar services;

“Recreation-Indoor” (Active) means a building or part thereof used for the purposes of a dance hall, skating rink, swimming pool, gymnasium, sports hall or squash court.

“Recreation-Indoor” (Passive) means a building or part thereof used for the purposes of a theatre or cinema or bridge club.

“Recreation-Outdoor” means land used for passive or active recreation and the term includes children’s play-grounds, public gardens and public sports grounds where no special provision is made for spectators;

“Religious purposes” means places of public worship and buildings used primarily for the religious and social activities of a church, but does not include an institution for primary, secondary or higher education, or a residential training institution;

“Residential Building” means a building, other than a Dwelling (Self-contained) used for human habitation and includes such outbuildings as are ordinarily used therewith. The term includes a hostel and a hotel used primarily for residential purposes, a residential club and a residential institution for the intellectually handicapped;

“Restaurant” means any part of any land or buildings used for the purpose of serving meals for gain or reward to the public for consumption on the premises, but does not include a Fast Food Outlet;

“Restricted Premises” means a building or place or part thereof and includes any public place:

- (a) at or on which a restricted publication within the meaning of the Indecent Publications and Articles Act 1902 (as amended) is kept, exposed, published, displayed, distributed, exhibited, sold, offered for sale, hired, offered for hire, exchanged, viewed, screened or otherwise dealt with for gain or profit or rendered accessible or available to the public;
- (b) in or on which a business registered under Section 11A of the Indecent Publications and Articles Act 1902 (as amended) is conducted; or
- (c) in or on which any article including any article within the meaning of the Indecent Publications and Articles Act 1902 (as amended) which is primarily concerned with or is used or intended to be used in conjunction with sexual behaviour, is kept, exposed, displayed, distributed, exhibited, sold, hire, offered for hire, exchanged, viewed, screened or otherwise dealt with for gain or profit or rendered accessible or available to the public, but which is not printed matter;
- (d) but does not include a newsagency or pharmacy.

“Retail Store” means a shop the gross leaseable area of which exceeds 400m<sup>2</sup>;

“Service Industry” means a light industry in which goods are manufactured, assembled or serviced principally:

- (a) for, or for sale to, inhabitants of the District; or
- (b) for installation within the District.

The term does not include premises in which goods (other than goods manufactured or assembled on those premises) are kept exposed for sale;

“Service Station” means land and buildings used for the supply of petroleum products and automotive accessories and includes greasing, tyre repairs and minor mechanical repairs;

“Service Trade” means any part of any land or building used for the repair, servicing or maintenance of goods, generally of a readily portable nature, and without limiting the generality of the foregoing, includes the premises of a bootmaker and a bicycle repair shop;

“Shop” means a building or part of a building in which goods are kept exposed for sale by retail, and includes a lunch bar, newsagency, a branch of a building society or bank in which the services provided involve continuing contact with the public, or a building or part of a building in which counter services involving continuing contact with the public are provided.

The word does not include:

- (a) premises used for the sale of petrol, boats, motor or other vehicles;
- (b) a Showroom.

“Shop (Intermediate)” means a shop the gross leaseable area of which exceeds 80m<sup>2</sup> but not more than 400m<sup>2</sup>;

“Shop (Small)” means a Shop the gross leaseable area of which does not exceed 80m<sup>2</sup>;

“Showroom” means a building or any part thereof in which only goods which are not readily portable are kept exposed for sale by retail or wholesale;

“Storey” means that portion of a building which is situated between the top of any floor and the top of the floor next above it; and if there is not floor above it, that portion between the top of the floor and the ceiling above it;

“Tavern” means land or building the subject of a tavern licence granted under the Liquor Act (1980) as amended or re-enacted from time to time;

“The Act” means the Town Planning and Development Act 1928 as amended or re-enacted from time to time;

“Transport Depot” means any land or building used:

- (a) for the garaging of vehicles used or intended for use for the carriage of goods for hire or reward; or
- (b) for the transfer of goods from one such vehicle to another such vehicle; whether or not the land or building is also for the maintenance and repairs of the vehicles;

“Uniform Building By-laws” means the Uniform Building By-laws published in the *Government Gazette* on the 19th December 1974, as amended or re-enacted from time to time;

“Vehicle Sales” means any part of any land where motor vehicles are displayed for sale in a brick building with a metal or tiled roof;

“Veterinary Clinic” and “Veterinary Hospital” have the respective meanings given to those terms in the Veterinary Surgeons Act 1960 as amended or re-enacted from time to time.

**PART 2**  
**LAND USE CONTROL**  
**RESERVED LAND**

*DIVISION I*

**RESERVATION OF LAND AND DEVELOPMENT THEREOF**

**11.** (1) Certain land within the Scheme area is set aside as reserves under this Scheme and those reserves respectively comprise the areas which are delineated, distinctively coloured and identified as such on the Scheme Map.

(2) The land shown as “Metropolitan Region Scheme Reserves” or “Regional Reserves” on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map in order to comply with the Metropolitan Region Town Planning Scheme Act, 1959, as amended. Those lands are not reserved by this Scheme. The provisions of the Metropolitan Region Scheme continue to apply to such reserves.

(3) Except as otherwise provided in this Part a person shall not carry out any development on land reserved under this Scheme, other than the erection of a boundary fence, without first applying for and obtaining the written approval of the Council.

(4) In giving its approval the Council shall have regard to the ultimate purpose intended for the reserve and shall in the case of land reserved for the purposes of a public authority confer with that authority before giving its approval.

(5) No provision of this Part shall prevent the continued use of land for the use for which it was being lawfully used immediately prior to the Scheme having the force of law, or the repair and maintenance, for which the prior consent in writing of the Council has been obtained of buildings or works lawfully existing on the land.

**12.** (1) Where the Council refuses approval for the development of land reserved under the Scheme on the ground that the land is reserved for public purposes, or grants approval subject to conditions that are unacceptable to the applicant the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection in accordance with the Town Planning and Development Act 1928 (as amended).

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

(3) In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price not exceeding the value of the land at the time of refusal or of the grant of approval subject to conditions that are unacceptable to the applicant.

*DIVISION II*

**13. Zones:**

(1) There are hereby created the zones set out hereunder:

Residential  
Local Centre  
Town Centre  
Light Industrial  
Highway  
Educational  
Special Development Zone A  
Special Development (Restricted Use)

(2) Those zones respectively comprise the areas which are delineated, distinctively coloured hatched or lettered and identified as such by the legend on the Scheme Map.

TABLE 1—LAND USE TABLE

CLASSIFICATION	ZONES						
	Special Zone Restricted Use	Resid- ential	Local Centre	Town Centre	Light Indus- trial	High- way	Educa- tional
Aged or Dependent Persons Dwelling		SA	X	X	X	P	X
Bulk Retail Sales		X	X	X&AA*	X	AA	X
Car Park		IP	P	X&P*	IP	P	IP
Civic Building		X	X	AA	X	AA	AA

CLASSIFICATION	ZONES						
	Special Zone Restricted Use	Resid- ential	Local Centre	Town Centre	Light Indus- trial	High- way	Educa- tional
Consulting Room		X	AA	AA	X	AA	IP
Craft Industry	A	SA	AA	AA	AA	AA	IP
Day Care Centre	s	SA	SA	AA	X	AA	AA
Depot		X	X	X	P	X	X
Dry Cleaning Premises	p	X	AA	P	AA	X	
Dwelling (Self- contained)	e r	P	AA*	AA*	IP	P	IP
Educational Establishment		SA	X	AA	X	AA	P
Fast Food Outlet	A	X	X	SA&X*	X	X	X
Fish Shop	p	X	SA	SA	X	X	X
Funeral Parlour	p	X	X	SA	X	X	X
Home Occupation	e	AA	AA	AA	AA	AA	AA
Hospital	n	SA	X	X	X	SA	X
Hotel/Tavern	d	X	SA	SA	X	X	X
Light Industry	i	X	X	X	P	X	X
Motel	x	X	X	SA	X	X	X
Motor Repair Station	V	X	X	X&AA*	P	X	X
Office	I	X	AA*	P*	IP	P	IP
Open Air Display	I	X	X	AA	P	AA	X
Public Utility		AA	AA	AA	AA	AA	AA
Recreation-Indoor							
-Active-Passive		X	X	SA	X	X	IP
Recreation-Outdoor		SA	SA	SA	AA	SA	P
Religious Purposes		SA	P	P	X	P	IP
Residential Building		SA	SA	SA	X	SA	IP
Restaurant		SA	AA	AA	X	SA	IP
Restricted Premises		X	X	X	SA	X	X
Retail Store		X	X	AA&X*	X	X	X
Service Industry		X	X	X&P*	P	AA	X
Service Station		X	SA	AA	IP	AA	X
Service Trade		X	P	X&AA*	AA	P	IP
Shop (Intermediate)		X	P	P&X*	X	X	X
Shop (Small)		SA	P	P&X*	SA	AA	IP
Showroom		X	X	P&X*	IP	P	X
Transport Depot		X	X	X	P	X	X
Vehicle Sales		X	X	SA	X	AA	X
Veterinary Clinic/Hospital		X	AA	X&AA*	X	AA	X
Warehouse		X	AA	X&P*	P	AA	X

\*See Clause 61

\*\*See Clause 23

**14. Land Use Table:**

- (1) Subject to this Division, Division III of this Part and Clauses 94 and 95 of the Scheme, the various purposes for which land may be used are set out in the first column of Table No. 1. Those purposes are herein referred to as "Use Classes".
- (2) Whether the land in a particular Zone may be used for a particular purpose shall be determined by reference to the symbol indicated alongside that Use Class under the appropriate Zone heading.
- (3) The symbol:
  - (a) "P" means that the use of the land for the purpose indicated is permitted;
  - (b) "IP" means that the land shall not be used for the purpose indicated unless Council decides that such use is incidental to the predominant use made of the land;
  - (c) "AA" means that the land shall not be used for the purpose indicated but the Council may approve of the use of land for that purpose if that use:
    - (i) will provide a local service to other land in the locality; or
    - (ii) is consistent with the general use of land in that locality and the Council is satisfied that the use, and the activities to be carried on which are connected with, or incidental to that use; and any building to be erected on the land will not have any adverse or detrimental effect on the residents or amenity of or the properties in the locality;
  - (d) "SA" means that the land shall not be used for the purpose indicated but that in exceptional cases the Council may specially approve of such use where:
    - (i) the applicant has given notice of the development proposed to be carried out by:
      - (1) Advertising particulars thereof in a newspaper circulating in the area in which the land is located at least once after the land use application has been lodged with the Council;

- (2) Placing a notice or notices specifying particulars of the proposed development and the purpose for which the land is to be used in a prominent position or positions on the land so that the same are visible and readable from every street to which the land has frontage;
- (ii) the advertisement is in the form prescribed in Appendix IX to the Scheme;
- (iii) the notice is in the form of Appendix X to the Scheme and its content, type and size of print have been first submitted to and approved by the Chief Executive Officer;
- (iv) the notice or notices referred to in paragraphs (i)(2) of this Clause have been exhibited on the land in accordance with the provisions of that paragraph for a period of not less than seven days during the period during which particulars of the application are being advertised in a newspaper as required by paragraph (i)(1) of this Clause;
- (v) copies of the advertisement referred to in paragraph (i)(1) of this Clause have been served by registered post on such owners and occupiers of land in the vicinity of the land the subject of the land use application as the Chief Executive Officer shall nominate;
- (vi) the applicant satisfies the Council that the requirements of this Clause have been complied with.
- (vii) the Council has considered all submissions made with respect to the proposed use and is satisfied that use, the activities to be carried on which are connected with or incidental to that use and any building to be erected on the land will not have any adverse or detrimental effect on the residents or of the amenity of or the properties in the locality.
- (e) "X" means that the land shall not be used for the purpose indicated.
- (4) Where in Table No. 1 a particular Use Class is mentioned, that class is deemed to be excluded from any other use Class which by its more general terms would otherwise include that particular use.
- (5) If a particular use is not mentioned in the list of Use Classes in Table No. 1 or is not included in the general terms of any of the Use Classes that use shall be deemed to be prohibited.

**14A.** No person shall use, or suffer to be used, any land or any building or structure thereon, in a Special Zone (Restricted Use) except for the purpose specified against such land in Appendix VII to this Scheme and subject to compliance with any condition specified in the appendix with respect to that land.

**15. Home Occupation:**

- (1) If a Home Occupation is being carried on and the Council is of the opinion that use is causing a nuisance or annoyance to neighbours or owners or occupiers on the land in the neighbourhood or is otherwise having an adverse effect on the residents or amenities of or property in the neighbourhood, the Council may rescind the permission granted by it for that use and thereafter a person shall not use the land for a Home Occupation unless further permission to do so is subsequently granted by the Council.
- (2) Where the Council grants permission for the use of land for a Home Occupation, the Council may limit the time for which that permission remains valid. When that time has expired a person shall not use that land for a Home Occupation unless further permission to do so is subsequently granted by the Council.
- (3) A person to whom permission to use land for a Home Occupation has been granted shall not carry on that Home Occupation at any premises other than those specified in that approval.
- (4) Council shall only grant approval for a Home Occupation where:
  - (i) the Home Occupation does not occupy a greater area than 20m<sup>2</sup>;
  - (ii) the Home Occupation does not entail the employment of any person not a member of the occupier family except where the Home Occupation is carried on by a professional person;
  - (iii) Council is satisfied that adequate on site parking is available; and
  - (iv) it is agreed with the occupier that no advertisement exceeding 0.185m<sup>2</sup> in superficial area will be erected.

**16. Shops (Small) Various Zones:**

In the Residential, Light Industrial and Highway Zones and Local Centre the Council may not approve of the use of land for the purpose of a Small Shop if the area in which the land is situated is already adequately served for that purpose.

**17. Recreation-Indoor—Residential Zone:**

In the Residential Zone, the Council shall not approve of the use of land for the purpose of Recreation-Indoor unless that use is ancillary to the use of that land for religious purposes or for an Educational Establishment.

**18. Education Establishments:**

- (1) In any Zone other than the Educational Zone the Council shall not approve the use of land for the purpose of an Education Establishment unless:
  - (a) the number of students attending at any one time is not to exceed thirty (30);
  - (b) the Council is satisfied that adequate open space for active and passive recreation for students and all other facilities necessary for the conduct of an Educational Establishment will be provided within the area of the proposed site for that establishment or are available in close proximity to that site.



- (2) Subject to Division III of the Part, a person shall not use land for the purpose of an Educational Establishment in a Zone other than the Educational Zone if the number of students attending at any one time exceeds thirty (30).

**19. Hospitals:**

- (1) Subject to sub-clause (3) of this Clause the Council shall not approve of the use of land for the purpose of a hospital unless:
  - (a) the number of beds to be provided does not exceed twenty (20); and
  - (b) the hospital is to cater for patients who require medium or long term treatment care or convalescence
- (2) Subject to sub-clause (3) of this Clause and to Division III of this Part a person shall not use land for the purpose of a hospital if at any time the number of beds provided exceeds twenty (20).
- (3) Where a non-conforming use as a hospital exists Council may after complying with the procedures detailed in sub-clause 14(d) approve of an increase in the number of beds or for the development of land adjoining for the purpose connected with the use of land as a hospital for patients who require short term treatment care or convalescence or as a hospital for the dying.

**20. Local Centre Zone—Objectives:**

In considering an application for planning approval for development in the Local Centre Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (1) that the Zone is primarily to be used for local shopping and other uses of a local service nature;
- (2) the desirability of providing a wide variety of shops and other services of a local nature;
- (3) that the scale and operation of uses shall be compatible with residential uses in adjoining areas.

**21. Hotels and Service Stations—Local Centre Zones:**

- (1) The Local Centre Zone is comprised of the separate areas shown on the Scheme Map as the Local Centre Zone.
- (2) in the Local Centre Zone the Council shall not approve of the use of land in any of those separate areas for the purpose of:
  - (a) an Hotel if there is already an Hotel in that area of that Zone;
  - (b) a Service Station if there is already a Service Station in that area of that Zone.

**22. Other Licensed Premises—Local Centre Zone:**

If, at the time the Scheme comes into force:

- (1) there is no Hotel in a separate area of the Local Centre Zone the Council shall not approve of the use of land in that area for the purpose of a Tavern or a Club the subject of a licence under the Liquor Act 1970 as amended or re-enacted from time to time unless the capacity of the premises is not to exceed thirty (30) persons;
- (2) there is an Hotel in a separate area of the Local Centre Zone, the Council shall not approve of the use of land in that area for the purpose, the Council may approve of the use of land in that area for the purpose of a Tavern or Club the subject of the licence under the Liquor Act 1970 as amended or re-enacted from time to time;
- (3) there is an Hotel in a separate area of the Local Centre Zone and subsequent thereto the land on which that Hotel is located ceases to be used for that purpose, the Council may approve of the use of land in that area for the purpose of a Tavern or Club the subject of the licence under the Liquor Act 1970 as amended or re-enacted from time to time, notwithstanding that the capacity of the premises is to exceed thirty (30) persons.

**23. Office and Dwelling (Self-contained)—Local and Town Centre Zones:**

In the Local and Town Centre Zones (Shopping Policy area) the Council shall not approve of the use of land for an Office or Dwelling (Self-contained) unless:

- (1) that use is confined to a floor or floors of a building above ground floor level; or
- (2) it is not practical to use the land or building in respect of which the application for planning approval is made for retail shopping purposes at ground level.

*DIVISION III*

**NON-CONFORMING USES**

- 24.** (1) (a) Notwithstanding any other provision of the Scheme, if on the date when the Scheme comes into operation, any land or building or part of a building is being lawfully used for a purpose other than is permitted under this Scheme, it shall be lawful, subject to this Clause, and to any statute or By-law, to continue to use that land or building or that part of a building and any land directly ancillary thereto for that identical purpose, but no other.
- (b) If any premises entitled to a non-conforming use under this Clause are not used for a period of six (6) months continuously for the purpose authorised by this Clause those premises shall not thereafter be used otherwise than in conformity with this Scheme.
  - (c) If a building which is, or of which any part is, being used for a non-conforming use under this Clause is demolished to an extent of more than three quarters of its value or is damaged to more than three-quarters of its value neither that building nor any building erected in place thereof shall thereafter be used otherwise than in conformity with the Scheme, unless by permission of the Council.

- (d) If land, in respect of which a non-conforming use exists or is authorised pursuant to this Clause, is subdivided into two or more lots no part of that land shall be used otherwise than in conformity with the Scheme after that sub-division takes place. The provisions of this paragraph shall not apply if the Council is satisfied that:
- the subdivision was effected to enable part of the land to be used for public work within the meaning of the Public Works Act 1902 (as amended); or
  - that the effect of the subdivision will be to reduce the extent of the non-conforming use being made of the land.
- (e) If the extent or intensity of a non-conforming use of land authorised by this Clause is reduced for a period of six months continuously the extent or intensity of that non-conforming use of that land shall not thereafter be increased.
- (2) Nothing in the Scheme shall prevent the carrying out or continuance of any development for which, immediately prior to the coming into force of the Scheme, all necessary permits or licences required under the Act, the Metropolitan Region Town Planning Scheme Act or an other Act or law including the Metropolitan Region Scheme and the Town of Claremont Town Planning Scheme No. 1 have been obtained and are current.
- (3) Where, in respect of land reserved or zoned under this Part of the Scheme, a non-conforming use exists or is authorised as mentioned in sub-clause (1) of this Clause on that land, nothing in the Scheme shall be deemed to prohibit or to have the effect of prohibiting the erection, alteration or extension on the land of any building in connection with or in furtherance of such non-conforming use of the land which would not be an unlawful erection, alteration or extension under the laws of the State or the By-laws of the Council.
- (4) The Council may permit the use of any land to be changed from one non-conforming use to another non-conforming use, if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the neighbourhood than the existing use, or is in the opinion of the Council closer to the uses permitted in the Zone in which the land is located under the provisions of this Scheme.
- (5) The Council may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that property, and may enter into an agreement with the owner and the occupier for that purpose.

### PART 3

#### DEVELOPMENT REQUIREMENTS

##### *DIVISION 1*

#### GENERAL REQUIREMENTS

#### 25. Development Generally:

- A person shall not commence development of any land in the District without first having applied for and obtained the planning approval of the Council under this Scheme.
- Application for planning approval shall be made in accordance with the provisions of Part 5—Planning Approval of the Scheme.
- No person shall, unless the consent of the Council is obtained, demolish any building, structure or part thereof that is listed in the Schedule referred to under Clause 78 of Council's Town Planning Scheme or is listed on Council's Heritage Survey undertaken in November 1991 and as amended from time to time. Council may refuse to grant planning approval to any application to demolish any building listed in the Schedule referred to under Clause 78 of Council's Town Planning Scheme or Council's Heritage Survey as amended from time to time which has been identified in that survey as a place which has high intrinsic architectural merit, to be an outstanding example of its kind, to be of historical significance or to substantially contribute to the streetscape.

TABLE 2—DEVELOPMENT TABLE

USE	BUILDING SETBACKS	LANDSCAPED OPEN SPACE	CARPARKING SPACE REQUIREMENT
Aged or Dependent Persons Dwellings	Refer to Requirements Part 3		
Bulk retail Sales	*	5% of Site	One for each 30m <sup>2</sup> of gross leaseable area.
Consulting room	*	In Residential Zone 40% for one storey; 50% if two storey. Elsewhere as determined.	One for each 30m <sup>2</sup> of gross leaseable area plus one for each person employed. In the Town Centre Zone one for each 20m <sup>2</sup> of gross leaseable area.
Craft Industry	*	5% of Site	As for Light Industry.
Dwelling (Self-contained)	Refer to Requirements Part 3		
Educational Establishment	As for the R15 Code	50% of site	One for each full-time employee plus spaces for students, as determined by Council.

USEBUILDING	LANDSCAPED SETBACKS			CARPARKING SPACE OPEN SPACE	REQUIREMENT
Fast Food Outlet	*			5% of site	One for each 7m <sup>2</sup> of gross leaseable area.
Funeral Parlour	*			5% of site	Not less than six spaces
Hospital	As for the R15 Code			30% of site	One per patient bed plus one for each employee.
Hotel/Tavern	*			10% of site	One for each bedroom, plus one for each 2m <sup>2</sup> of bar and lounge floor area.
Light Industry	Street 7.5	Side 3	Rear 7.5	10% of site	One for each 30m <sup>2</sup> of gross leaseable area.
Motel	*			30% of site	One for each bedroom, plus one for each 25m <sup>2</sup> of gross leaseable area of service building.
Office	*			5% Town Centre	One for each 30m <sup>2</sup> of gross leaseable area. In the Town Centre Zone, one for each 20m <sup>2</sup> of gross leaseable area.
Recreation-Indoor-Active	*			5% of the site	One for 12.5m <sup>2</sup> of gross leaseable area.
Recreation-Indoor-Passive	*			5% of the site	One for every six seats provided.
Residential Building	In Residential Zone—as for applicable R-Code. Elsewhere as determined by Council.			As for Predominant Use.	One for every two persons the building is designed to accommodate.
Restaurant	In Residential Zone—as for applicable R-Code. Elsewhere as determined by Council.			As for Predominant Use.	One for: (a) each 12.5m <sup>2</sup> of gross leaseable area; or (b) every four seats provided (other than in an alfresco dining area), whichever is greater.
Retail Store	*			5% of site	One for each 12.5m <sup>2</sup> of gross leaseable area.
Service Industry	Street 1.5	Side Nil	Rear Nil	10% of site	One for each 20m <sup>2</sup> of gross leaseable area.
Service Station	*			5% of site	One for each working bay, plus one for each person employed on site.
Shop (Intermediate)	*			5% of site	One for each 12.5m <sup>2</sup> of gross leaseable area.
Shop (Small)	Street Nil	Side 2.5	Rear 7.5	5% of site	Requirements to be determined by Council.
Residential Zone & Light Industrial					One for each 12.5m <sup>2</sup> of gross leaseable area.
Town Centre (Shopping Policy Area)					
Local Centre Zone	Nil	Nil	7.5		
Showroom more than 400m <sup>2</sup>	*			5% of site	One for each 50m <sup>2</sup> of gross leaseable area or one for every two persons employed on site, whichever is greater.
Showroom less than 400m <sup>2</sup>					One for each 40m <sup>2</sup> of gross leaseable area. In the Town Centre Zone where the floor area is less than 200m <sup>2</sup> —one for each 20m <sup>2</sup> of gross leaseable area.
Vehicle Sales	*			As for Predominant Use	One for each 100m <sup>2</sup> of sales area plus one for each person employed on site.
Warehouse	*			As for Predominant Use	As for Showroom.

## 26. Residential Development: Residential Planning Codes:

- (1) For the purpose of this Scheme "Residential Planning Codes" means the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No.1, together with any amendments thereto.
- (2) A copy of the Residential Planning Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.
- (3) Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Planning Codes shall conform to the provisions of those codes.
- (4) 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 shown on the Scheme maps as being contained within the solid black line borders or where such an area abuts another area having a Residential Planning Codes density, as being contained in the centre-line of those borders.



**27. Special Application of Residential Planning Codes:**

- (1) Notwithstanding the provisions of the Residential Planning Codes, Council may vary the setback requirements in certain circumstances as specified in Clause 43.
- (2) Notwithstanding the provisions of Table 1 of the Residential Planning Codes, or the densities shown on the Scheme Map, the minimum density permitted on land zoned Residential shall be R2.5.

**28. Table 2—Listed Use Classes:**

- (1) Unless otherwise provided in the Scheme, where land may be used for the purpose set out in the first column of Table No. 2 the land shall not be used for that purpose unless the requirements specified in that Table or (where so provided in that Table) determined by the Council are complied with in accordance with the provisions of this Part.
- (2) Where in Table No. 2 provision is made for the Council to determine a particular requirement, the Council shall make that determination on each application for planning approval for the development with respect to which that provision is made having regard to:
  - (a) the nature of the use proposed to be made of the land;
  - (b) the purposes for which land in the locality may be used in accordance with the Scheme;
  - (c) the use being made of land in the locality;
  - (d) the preservation of the amenity of the locality and the prevention of any adverse or detrimental affect which the use might have on the residents of, or the properties in the locality.

**29. Table 2—Unlisted Use Classes:**

- (1) Where a particular Use Class is not mentioned in the first column of Table No. 2, land shall not be used for that purpose unless the requirements laid down with respect to the Use Class which predominates in the Zone in which the development is proposed to be carried out are complied with but, if the Council considers that those requirements are inappropriate to the proposed development, the Council shall determine the requirements to be complied with having regard to the matters mentioned in Clause 28(2).
- (2) For the purposes of sub-clause (1) of this Clause, the Use Class which predominates in a particular Zone shall be deemed to be:
  - (a) in the Residential Zone—Dwelling (Self-contained);
  - (b) in the Local Centre Zone—Shop (Indeterminate);
  - (c) in the Town Centre Zone—Office or Shop (Indeterminate) as the Council determines in each particular case;
  - (d) in the Light Industrial Zone—Light Industry;
  - (e) in the Highway Zone—Showroom with a floor area of less than 400m<sup>2</sup>;
  - (f) in the Education Zone—Educational Establishment;

**30. Substantial Alterations—Car Parking:**

Where:

- (1) land is developed by any substantial reconstruction, alteration or any addition to a building on that land or
- (2) the nature of use made of land is changed

car parking spaces of the number required by the Scheme shall be provided, constructed and maintained in accordance with the Scheme.

**31. Car Parking Spaces:**

- (1) Car parking spaces of the number required to be provided by the Scheme and any trees or vegetation required to be provided pursuant thereto shall be constructed and maintained in accordance with the provisions of this Clause.
- (2) Those car parking spaces and the access ways to those spaces shall not be of lesser dimensions than those specified in Appendix III of the Scheme and shall be laid out in accordance with the appropriate diagram contained in that Appendix.
- (3) Those car parking spaces and access ways shall be constructed of hard standing, dust free surfaces graded and drained to specifications approved of by the Council.
- (4) Every car parking space provided pursuant to the Scheme (other than car parking spaces for a Single House or Attached House) shall be clearly identified by painted outline, kerbed divisions or other method approved by the Council.
- (5) Where the total number of car parking spaces in any row exceeds six (6), the Council may require that a suitable species of shade tree be planted at intervals of not more than 10m.
- (6) The Council may require that a suitable species of and number of shade trees or other suitable vegetation be planted at the end of a row of car parking spaces or at the street alignment.
- (7) Where car parking spaces are located on land adjacent to the Residential Zone, the Council may require that those spaces shall be suitably screened from view from that Zone.

**32. Car Parking Spaces—Location:**

The Council may approve of some or all of the car parking spaces prescribed for a development to be provided elsewhere than on the land to be used for that development if the Council is satisfied that the car parking spaces to be provided elsewhere are:

- (1) sufficiently close to the development and

- (2) those spaces are available for the sole use of occupiers of or visitors to the development

**33. Cash Payment in Lieu of Providing Car Parking Spaces:**

- (1) Where car parking spaces are required to be provided pursuant to this Scheme, the Council may accept a cash payment in lieu of the provision of some or all of those car parking spaces, if:
- (a) the payment is not less than the amount the Council estimates to be the cost to the owner of providing and constructing those spaces together with the amount the Council estimates to be the value of the land which would have been occupied by those spaces;
  - (b) payment is made prior to commencement of the development in respect of which those spaces are required to be provided or in accordance with the terms of an agreement made between the Council and the applicant for planning approval for that development.
- (2) Any amount paid to the Council under this Clause shall be held by the Council in a Cash in Lieu Reserve Fund and shall be applied by the Council:
- (a) in providing car parking spaces or car parking facilities capable of serving the needs of the development in respect of which the payment was made and in the locality of that development;
  - (b) to the acquisition of land and the construction of buildings for the purpose referred to in paragraph (a) of this sub-clause.

**34. Landscaped Open Space:**

The Council shall determine the location of the open space in connection with every development. The area provided shall not be less than the area (if any) required to be provided for that purpose by the Scheme.

**35. Grouped Dwelling—Store-Room:**

Every Grouped Dwelling shall be provided with a store-room having an area of not less than 3m<sup>2</sup>. Every such store-room shall be under the same roof as the Grouped Dwelling which it serves.

**36. Outbuildings, Garages & Pergolas:**

- (1) Council may permit the construction of a garage or other outbuilding that is detached from the main dwelling subject to:
- (a) Where a garage or outbuilding is visible from a street and is located less than 5m from the predominant building on the site, the garage or outbuilding shall be constructed in similar style and materials to the predominant building.
  - (b) Where a garage or outbuilding is not visible from a street, or is located more than 5m from the predominant building on the site, more than 6m from the primary street and more than 1.5m from a secondary street other than a street less than 7.5m in width, the garage or outbuilding being constructed in material and style as approved by Council.
  - (c) The garage or outbuilding not in the opinion of Council by reasons of its height or bulk adversely affecting the amenity of the residential area.
- (2) Council may permit a pergola or similar structure to be constructed closer to a boundary of a lot than the prescribed setback distance and the area of the land beneath that pergola or structure shall be deemed to be part of the open space on that land.

**37. Combined Uses:**

Where land or a building is used for multiple purposes:

- (1) the number of car parking spaces to be provided pursuant to this Part shall be calculated separately for each part of the building used for a purpose which differs from the purpose for which another part is used and the number of car parking spaces with which the building shall be provided shall be the total of the numbers calculated for each of those parts;
- (2) the Council shall determine which of the other requirements prescribed for those uses in Table No.2 shall be complied with having regard to the matters mentioned in Clause 28(2).

**38. Amalgamation of Lots:**

Where it is proposed that a building, the subject of an application for planning approval, will extend over the boundaries of a lot the Council may only approve of that application:

- (1) if the building comprises two (2) or more Attached Houses; or
- (2) the approval is conditional upon the amalgamation of the lots into one lot and the issue of a new Certificate of Title with respect to that lot prior to the issue of a building licence.

**39. Access—Disabled Persons:**

Where any part of a proposed building will be open to the public generally, provision shall be made for disabled persons to have access to that building in accordance with the relevant requirements of Australian Standard 1428-1977 relating to access to buildings.

**40. Height of Buildings:**

- (1) Subject to sub-clauses (6) and (12) of this Clause, a building shall not be erected or added to so as to exceed the height prescribed or determined in accordance with this Clause.
- (2) For the purpose of this Clause the height of a building shall be the vertical distance between the top of the eaves, parapet or flat roof, whichever is the highest and the natural ground level. Natural ground level shall be determined by connecting a point on the front boundary to a corresponding point on the rear boundary. Points are deemed to correspond when a line connecting such points is parallel to the nearest side boundary. Where a lot is affected by By-law No.123 Council may accept the line dividing the unhatched area from the hatched area as the rear boundary of the site.

On Lots 13 and 20 Cliff Way and Lot 2 Brae Road only, the height of a building shall be the vertical distance between the top of the eaves, parapet or flat roof whichever is the higher, and natural ground level immediately below that part.

- (3) Subject to sub-clauses (4) and (5) and (6) of this Clause, in the Residential Zone a building shall not exceed 6.6m in height.
- (4) On the south side of Victoria Avenue west of Chester Road, a building shall not at any point exceed 9m in height above natural ground level.

For the purpose of this sub-clause the natural ground level shall be determined by a line connecting a point on the ground at the street alignment to a corresponding point of the Foreshore Building Line prescribed by By-law No. 132 published in the *Government Gazette* on the 25th January 1962. Points are deemed to be corresponding when the line connecting such points is parallel to the nearest side boundary of the lot.
- (5) Notwithstanding any provisions of this part to the contrary, the Council may in special circumstances only approve of a building of a greater height than prescribed under sub-clause (3) of this Clause on any lot within the Municipality:
  - (a) that is located within the area contained within the black border on the map in Appendix V, or
  - (b) Where an application is received to construct additions to a dwelling constructed during or before the year 1920, which Council considers to have high intrinsic architectural merit, or be an outstanding example of its kind, or of historical significance and Council considers it desirable to exceed the height limit to a maximum of 1.5 metres above that prescribed in sub-clause (3) of this Clause, to maintain the intrinsic architectural merit of the building.
- (6) In the Local Centre Zone a building shall not exceed 6m in height.
- (7) In the Town Centre Zone a building of more than two storeys shall not exceed a height which, in the opinion of the Council, would be contrary to the orderly and proper planning of the locality or would have an adverse effect on the amenity of the locality.
- (8) In the Light Industrial Zone a building shall not exceed 6m in height provided that the Council may permit a building to be erected or added to a height of not more than 9m if the Council is satisfied that the use proposed to be made of that building could not be effectively carried out in a building of a maximum height of 6m and if the Council is satisfied that there will be no adverse affect on the amenity of the locality.
- (9) In the Highway Zone a building shall not exceed 12m in height provided that, if the Council is of the opinion that it is necessary to do so in a particular case to avoid any adverse affect on the amenity of any part of the Residential Zone, the Council may require a building to be constructed to a lower height in than 12m.
- (10) In the Educational Zone a building shall not exceed 9m in height provided that, if the Council is of the opinion that it is necessary to do so in a particular case to avoid any adverse affect on the amenity of any part of the Educational Zone, the Council may permit a building to be constructed to a height not exceeding 12m.
- (11) Notwithstanding the provisions of this Clause, a church may have a tower, spire or arch feature which exceeds the maximum prescribed building height.

**41. Plot Ratio—Consulting Rooms:**

The Plot Ratio of Consulting Rooms:

- (1) in the Residential Zone shall not exceed 0.4;
- (2) in any other Zone shall not exceed 0.5

**42. Plot Ratio—Residential Buildings:**

The Plot Ratio of a Residential Building:

- (1) in the Residential Zone shall not exceed 0.4;
- (2) in the Town Centre Zone shall not exceed 0.8;
- (3) in the Highway Zone shall not exceed 0.4 unless the land on which the building is erected has no direct vehicular access to or from Stirling Highway in which case the Plot Ratio of that building shall not exceed 0.8;
- (4) in any other Zone shall not exceed 0.5.

**43. Relaxation of Set-Backs:**

- (1) Notwithstanding the requirements of Table No. 2 or the Residential Planning Codes relating to building set-backs from boundaries and subject to sub-clause (2) of this Clause, the Council may approve of the development of land for the purpose of Aged or Dependent Persons' Dwellings or a Dwelling (Self-contained) where the proposed development does not comply with those requirements if the Council is satisfied that:
  - (a) it would otherwise be difficult to construct the building or to extend an existing building of a reasonable standard; or
  - (b) a lesser set-back would be consistent with the character of the street or locality; or
  - (c) to do so would enable an existing building of architectural or townscape value on the land to be retained; or
  - (d) the approval would enable additions to an existing building to be built to the same set-back; and
  - (e) to do so would not be detrimental to the privacy or amenity generally of adjacent residential uses.

- (2) The Council shall not grant planning approval of a development pursuant to this Clause unless the Council has first sought and considered the views of the owners and occupiers of land adjoining the land proposed to be developed.

**44. Stirling Highway Vehicular Access:**

Where land having a frontage to Stirling Highway has an alternative means of vehicular access to another street or road, a person shall not create and direct vehicular access to or from that land to Stirling Highway.

*DIVISION II*  
**RESIDENTIAL ZONE**

**45. Application:**

This Division applies to development in the Residential Zone.

**46. Objectives:**

In considering an application for planning approval for development in the Residential Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (1) the retention of the Zone as an area of largely residential character with only limited non-residential exceptions;
- (2) the confinement of non-residential uses to those providing:
  - (a) amenities to the residential area in which the use is to be established; or
  - (b) services to that area which uses are compatible in scale, appearance and operation with residential uses;
- (3) the continuation of the domestic scale and architectural character of the area of the proposed development;
- (4) the preservation of the traditional housing character of the Zone;
- (5) the preservation of all buildings referred to in Clause 78.

**47. Single House:**

Nothing in the Scheme shall prevent the erection of a Single House on a site which has a smaller area than that prescribed in the Residential Codes if that site is a lot prior to the coming into operation of the Scheme or if that site is created as a lot thereafter.

**48. Car Parking:**

- (1) Notwithstanding the provisions of Table No. 2 the Council may increase the total number of car parking spaces required for a development for the purpose of a Dwelling (Self-contained) if the Council is satisfied that number is insufficient to adequately cater for the proposed development and that the amenity of the locality may be adversely affected if that number is not increased.
- (2) Where it is proposed that a grouped dwelling which is the subject of an application for development, is to be constructed on a lot which has a frontage to a street which is deemed to carry a high volume of traffic by its inclusion in Appendix XI to the Scheme and that street provides the principal vehicular access to the lot or the design of the development is such that a vehicle is required to reverse for a distance exceeding 15 metres to exit the site, provision shall be made to permit vehicles to enter and exit the site in forward gear.

**49. Additions to Dwellings (Self-contained):**

- (1) Where an application is submitted to construct additions to a dwelling and that addition when completed will be visible from a street, Council may only approve of the application if the materials used in and the nature of the construction will be consistent with those of the dwelling.
- (2) In exceptional cases, where the applicant can show that:
  - (a) it is not possible to obtain the materials, or
  - (b) it is impractical to follow the existing style of the dwelling,

the addition may be constructed in materials and a style as approved by Council.

**50. Lots Affected by By-law No. 123:**

Where part of a lot is in the hatched area shown on the Plan in the Schedule to By-law No. 123 of the Town of Claremont (published in the *Government Gazette* on the 18th April 1975):

- (1) for the purpose of calculating the number of dwelling units which may be erected on that lot, the area of that lot shall be deemed to be the area of the lot which is not so hatched but for the purposes of calculating plot ratio the hatched and unhatched areas may be taken into account; and
- (2) the distance from the underside of any part of the footings of a building in the hatched area to the top of the building immediately above that point shall not exceed 2.4m and no part of such a building shall be more than 1m above the natural surface of the land immediately beneath that part.

**51. Lots affected by By-law 132:**

- (1) Subject to sub-clause (2) of this Clause, where the building line prescribed by By-law 132 of the Town of Claremont (published in the *Government Gazette* of the 25th day of January 1962) applies to a lot, the relevant set-back distance prescribed by the Scheme for buildings on that lot shall be calculated from that building line.



- (2) The Council may permit the relevant set-back distance for a building on a lot referred to in sub-clause (1) of this Clause, to be calculated from the boundary of that lot with the foreshore reserve if the Council is satisfied that the development is so designed and sited that:
- (3) Notwithstanding the provisions of subclauses (1) and (2) above, Council shall not approve of a building to be located within 3m of the Metropolitan Region Scheme Parks and Recreation Reservation boundary, other than a swimming pool or a fence.
  - (a) public access to the foreshore reserve will not be inhibited; and
  - (b) that part of the foreshore reserve abutting on the land to be developed will not have the appearance of being part of that land.

**52. Buildings and Objects—Replacement:**

- (1) If any part of a Grouped or Multiple Dwelling development existing at the time the Scheme comes into operation, is damaged or destroyed, otherwise than by or on behalf of the owner thereof, the Council may permit that development to be restored (in the event of damage) or replaced (in the event of destruction), notwithstanding that the density of the Development exceeds that permitted on land having the R Code Density accorded to it by the Scheme.
- (2) If any part of a building (other than a single dwelling) that is entered in the Schedule referred to in Clause 78 is damaged or destroyed, otherwise than by or on behalf of the owner thereof, the Council may permit that development to be restored (in the event of damage) or replaced (in the event of destruction) without the provision of additional carparking as required by sub-clause 30(a) of this Scheme if:
  - (a) the building is a true copy with no significant or substantial variation from the original building,
  - (b) the gross floor area is no greater than the original building,
  - (c) the use of the building remains unchanged.

**53. Bonus Densities:**

- (1) Where land:
  - (a) has an R Code Density of R12.5—R15, R15—R20 or R20—R25 accorded to that land by the Scheme and
  - (b) there is a building, object or place on that land which is referred to in the Schedule maintained by the Council pursuant to Clause 78 of the Scheme the Council may:
    - (i) approve of the development of that land to the density permitted by and in accordance with the development requirements of the higher R Code Density accorded to that land if:
      - (A) where necessary, that building, object or place is repaired or restored to the satisfaction of the Council;
      - and
      - (B) in any event, the owner of that land enters into an agreement with the Council undertaking to maintain and preserve that building, object or place to the Council's satisfaction and authorising the Council to enter on that land to carry out the work necessary for that purpose should the owner fail to do so;
    - (ii) reduce the building set-back distances prescribed by the Scheme with respect to development to that higher R Code Density and reduce the number of car parking spaces required to be provided, if the Council is satisfied in either case that to do so is necessary to protect the character of appearance of that building, object or place and to enable the development to be carried out.
- (2) If, for any reason, the provisions of sub-clause (1) of this Clause do not apply to land to which an R Code Density of R12.5—R15, R15—R20 or R20—R25 is accorded by the Scheme, development of that land shall conform to the requirements of the lower R Code Density accorded to that land.

**54. R Code Density R30—R40:**

Where land has an R Code Density of R30—R40 accorded to that land by the Scheme, development of that land shall conform to the requirements applicable to land having an R Code Density of R30, unless the development is for Aged or Dependent Persons Dwellings when the development of that land shall conform to the requirements of R Code Density R40.

**55. Access to Grouped Dwellings:**

- (1) Where land is developed for the purpose of Grouped Dwellings each dwelling unit in the group shall be provided at all times with either shared or exclusive pedestrian access of a width not less than 1.5m to a street.
- (2) Vehicle access to a grouped dwelling development shall be from a dedicated road only, and where the driveway into the site provides access to more than one grouped dwelling, Council may require it to be a minimum of 6 metres wide.
- (3) Where land having frontage to Alfred Road has an alternative means of access to another street or road, Council may require that no new vehicular access be provided from Alfred Road.

**56. Small Shop:**

- (1) Where part of a building is used for the purpose of a Small Shop that part may abut upon the street alignment.
- (2) All areas used for servicing a Small Shop shall be completely screened from public view.
- (3) A street awning or verandah attached to a Small Shop may project over the footpath adjoining that Shop but shall not project closer than 150mm to any part of the vehicle carriageway.
- (4) An advertising sign shall not be placed, painted or displayed on a building containing a Small Shop other than on a street awning or verandah attached to that Shop or on the facade of the building below the level of such an awning or verandah.

**57. Restaurant:**

- (1) Where part of a building is used for the purpose of a Restaurant that part may abut upon the street alignment.
- (2) All areas used for servicing the Restaurant shall be completely screened from public view.
- (3) In granting approval of an application for planning approval for the use of land for the purpose of a Restaurant the Council may (in addition to any other conditions the Council is required or permitted to impose):
  - (a) specify the days and hours on and during which the Restaurant may be open to the public;
  - (b) specify the location of the car parking spaces to be provided on the land.
- (4) A person shall not use land for the purpose of a Restaurant in such a way as to cause any nuisance or offence to the occupiers of property in the vicinity of the Restaurant.

**58. Specific Development Zone A (Sundowner Site):**

Land known as lot 412 of Swan Location 699 and shown as Special Development Zone A on the Scheme Map may be used for the following purposes:

- (1) Accommodation of semi-frail and aged persons
- (2) Elderly persons day centre
- (3) Base for domiciliary care services in the surrounding areas
- (4) Sheltered workshop for the aged and handicapped people as approved by the Council
- (5) Such restricted areas as approved by the Licensing Court under the Liquor Act
- (6) Offices for the purposes of administration of elderly and handicapped persons' home
- (7) Hostel accommodation for aged and handicapped persons
- (8) Self-care accommodation for aged and handicapped persons
  - (a) Any other similar uses or activities generally coming within the category of an elderly and handicapped home.

The aforesaid uses shall be restricted to the confines of existing premises and those additional buildings approved by Council on 27 March 1984 by the issue of building licence No. 6533. Maximum plot ratio for this site shall be 0.5.

*DIVISION III*  
**TOWN CENTRE ZONE**

**59. Application:**

This division applies to the Town Centre Zone.

**60. Objectives:**

In considering an application for planning approval for development in the Town Centre Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (1) that Bay View Terrace be maintained as the centre of the specialised shopping area of the District;
- (2) the need for the Zone to provide a varied and integrated centre incorporating a wide range of retail outlets, Offices, Entertainment, Social and Community Facilities;
- (3) that buildings and the access and circulation for pedestrians and vehicles and parking facilities be so laid out as to ensure safety and convenience for shoppers and other users of the Zone;
- (4) the need for architectural and civic design of a high standard in order to compliment the design of older buildings and provide diversity consistent with overall harmony;
- (5) the provision of landscaping to provide shade and visual relief;
- (6) to enable appropriate residential development within the Zone;
- (7) the preservation of all buildings referred to in Clause 78.

**61. Disposition of Uses:**

- (1) Where land is in the Shopping Policy Area depicted on the plan in Appendix VI to the Scheme the following symbols in Table No. 1 apply to the following uses:
  - Bulk Retail Sales—X
  - Car Park—X
  - Fast Food Outlet—SA
  - Motor Repair Station—X

- Retail Store—A-A
  - Service Industry—X
  - Service Trade—X
  - Shop (Intermediate)—P
  - Shop (Small)—P
  - Showroom—X
  - Warehouse—X
  - Veterinary Clinic/Hospital—X
- (2) Where land is not in the Shopping Policy Area depicted on the plan in Appendix VI to the Scheme the following symbols in Table No. 1 apply to the following uses:
- Bulk Retail Sales—A-A
  - Car park—P
  - Fast Food Outlet—X
  - Motor Repair Station—A-A
  - Retail Store—X
  - Service Industry—P
  - Service Trade—A-A
  - Shop (Intermediate)—X
  - Shop (Small)—X
  - Showroom—P
  - Warehouse—P
  - Veterinary Clinic/Hospital—A-A
- (3) Notwithstanding sub-clause (2) of this Clause, any lot having a frontage to Stirling Road the following shall apply:
- Car Park—X
  - Service Industry—X
  - Service Trade—X
  - Veterinary Clinic/Hospital—A-A

**62. Residential Development Requirements:**

- (1) Where approval is given for the use of land for residential purposes, development for those purposes shall, subject to sub-clause (2) of this Clause, conform with the requirements prescribed for land having an R Code Density of R80 accorded to it by the Scheme.
- (2) In the case of Multiple Dwellings the Council may:
- (a) reduce the number of car parking spaces required to be provided to 0.5 spaces per dwelling unit if the Council is satisfied that the reduced number of spaces will be adequate to cater for the development;
  - (b) if the Council considers that the prescribed set-back distances are inappropriate having regard to the nature of the proposed development and its relationship to adjoining streets, land or buildings, increase or reduce those distances;
  - (c) reduce the prescribed open space requirements to the provision of an open balcony for each Multiple Dwelling.

**63. Plot Ratio:**

Subject to Clause 64 and any provision of the Scheme imposing a lower plot ratio with respect to a particular building, a building shall not have a plot ratio of more than 2.0.

**64. Bonus Plot Ratio:**

The Council may approve of:

- (1) a building having a plot ratio of not more than one fifth in excess of the plot ratio prescribed for that building; or
- (2) an increase of not more than one fifth of the permitted number of dwelling units otherwise permitted on land, as the case may be, if the proposed development:
  - (a) incorporates an area that is freely accessible to the public at street level and is arcaded or open to the sky;
  - (b) incorporates an area of the kind described in paragraph (i) of this Clause at a level other than street level, which area is, in the opinion of the Council, a substantial amenity to the public;
  - (c) preserves a building, object or place of historic, architectural or townscape value and any other building on the site is located so as to enhance or maintain the setting of that building, object or place;
  - (d) incorporates a courtyard between two streets freely accessible to the public with pedestrian access to the courtyard from one or both streets through arcades; or
  - (e) incorporates a community or other facility or amenity that the Council considers justifies an increase in the permissible plot ratio.

- 64A.** (a) This Clause shall apply to the land known as Lots 78 and 79 Stirling Highway and being portion of Swan Location 701.
- (b) Notwithstanding any other provision of this Division to the contrary, the land shall not be used for the purpose of a "Retail Store".
- (c) Development of the land for the purpose of Shops (Small) or Shops (Intermediate) or both shall be in accordance with:
- (i) the requirements set out in Appendix VIII; and
  - (ii) the plans (8 sheets) numbered 1-8, dated 28.2.89 and signed by the Chief Executive Officer, which plans form part of this Scheme.

#### *DIVISION IV*

#### **LIGHT INDUSTRIAL ZONE**

**65. Application:**

This division applies to the Light Industrial Zone.

**66. Objectives:**

In considering an application for planning approval for development in the Light Industrial Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (1) that the Zone provide a location for diverse light industry servicing the District;
- (2) the preservation of all buildings referred to in Clause 78.

**67. Front Setback—Graylands Road:**

The area of land in Graylands Road between the street alignment and the prescribed setback distance for buildings may only be used for any one or more of the following purposes:

- (1) landscaping;
- (2) visitor car parking;
- (3) access;
- (4) advertising.

**68. Other Front Boundary Setbacks:**

Subject to Clause 67, a minimum of one third of the area of land between the street alignment and the prescribed setback distance for buildings shall be comprised of landscaped open space. That space shall include strips of not less than 1m in width immediately adjacent to each side boundary, unless there is an access way on that boundary which is shared by adjacent lots. The remainder of the area of land between the street alignment and the prescribed setback distance for buildings shall be developed with landscaped open space or shall be completely screened from view.

#### *DIVISION V*

#### **HIGHWAY ZONE**

**69. Application:**

This division applies to the Highway Zone.

**70. Objectives:**

In considering an application for planning approval for development in the Highway Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (1) a mixture of residential and commercial developments;
- (2) the restriction, to a minimum, of direct vehicular access to and from Stirling Highway;
- (3) the volume of traffic likely to be generated;
- (4) a landscape and townscape within the Zone compatible with the scale of Stirling Highway;
- (5) the preservation of all buildings referred to in Clause 78.

**71. Building Setback Distances:**

Where the Council grants an application for planning approval the minimum setback from Stirling Highway shall be 7 metres except that Council may vary that distance having regard to the following matters:

- (1) the need for shops and other commercial uses to be exposed to the Highway;
- (2) the desirability of variety in setback distances;
- (3) the desirability of reducing noise impact from the Highway;
- (4) the desirability of providing space for landscaped area; and
- (5) the desirability of providing flexibility in residential development.

**72. Control of Access:**

- (1) The Council may in respect of any planning approval require that an easement be granted over the land in favour of any other parcel of land for the purpose of providing access for vehicles from a street or right of way other than Stirling Highway.



- (2) The Council may in respect of any planning approval, require that the development be so designed as to allow future access to be taken from a street or right of way other than Stirling Highway and in such cases may limit the time for which access from Stirling Highway may be permitted to such time as an adequate alternative access to a street or right of way is not available.
- (3) Where access is available solely from Stirling Highway the Council may reduce the extent of the development to be permitted on the site to the extent it determines in the interest of safety and convenience for users of the Highway.

*DIVISION VI*  
EDUCATIONAL ZONE

**73. Application:**

This division applies to the Educational Zone.

**74. Objectives:**

In considering an application for planning approval for development in the Educational Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (a) the maintenance of the park-like appearance of the school grounds visible to the public;
- (b) the preservation of all buildings referred to in Clause 78.

**PART 4**

SPECIAL AMENITY, DESIGN AND DEVELOPMENT CONTROL

**75. Design Advisory Committee:**

- (1) The Council may appoint a Committee to be called the Design Advisory Committee.
- (2) The Committee shall consist of not fewer than three (3) persons chosen from a panel of persons the Council considers qualified, by reason of their respective professions or experience, to advise on matters relating to architectural or landscape design. At any time, not fewer than two (2) members of the Committee shall be architects registered under the Architects Act 1921 as amended or re-enacted from time to time.
- (3) The Council may refer to the Committee for advice any matter relating to the design of any building or landscape and in any other matter relating to any proposed development or the Scheme as the Council thinks fit.
- (4) In giving advice to the Council the Committee shall have regard to the provisions of the Scheme and may, where the Committee considers necessary, make recommendations for amendments to the Scheme.
- (5) The Council shall not be bound to accept any advice given or adopt any recommendation made by the Committee.
- (6) The Council shall make available to any member of the public on request any recommendations made by the Committee following its consideration by Council.

**76. Design and Construction:**

- (1) This Clause applies to every application for planning approval with respect to a building.
- (2) Before the Council may approve an application for planning consent to which this Clause applies the Council shall be satisfied that:
  - (a) the appearance of the building will not adversely affect the character or amenity of the locality and will not clash in harmony with the appearance of adjoining or neighbouring buildings;
  - (b) the proposed building, addition or alteration will not have any adverse effect on the privacy of any residential property;
  - (c) if the proposal includes the use of reflective glass, that use will not give rise to any glare or other discomfort to the occupiers or users of any other property or to the users of any public place;
  - (d) all servicing areas and other parts of the land or building, which are likely to be untidy in appearance, will be completely screened from public view and from view from adjoining properties;
  - (e) additions or alterations to an existing building are so designed as to be sympathetic and compatible with that building.

**77. Protection of Townscape:**

In order to protect the existing townscape from changes of such magnitude or quality as to adversely affect the general character or amenity of the locality of a proposed development, the Council in considering an application for planning approval shall have regard to:

- (1) the scale and architectural form of the proposed development;
- (2) the materials, colours and finishes proposed to be used;
- (3) the scale, architectural form and the materials, colour and general appearance of the buildings in the vicinity;
- (4) the landform and vegetation of the locality as they affect the character of that locality.

**78. Schedule of Historic and Other Buildings and Places:**

- (1) The Council shall maintain a Schedule of buildings, objects and places ("the Schedule") which the Council considers to be of architectural, historical or townscape value.
- (2) The Schedule shall be available for inspection by any member of the public on request.
- (3) The Council shall include in the Schedule:
  - (a) any building constructed prior to the year 1910 and which retains substantially its original form and detail as seen from any public place;
  - (b) any building constructed during or after the year 1910 and which the Council considers to have high intrinsic architectural merit or to be an outstanding example of its kind or of historical significance;
  - (c) buildings, objects or places that the Council considers make a positive contribution to the townscape of the district.
- (4) Every building, object or place which is included by the National Trust of Australia (WA) in either the Recorded or the Classified List or which is included by the Australian Heritage Commission in the Register of the National Estate shall be deemed to be included in the Schedule.
- (5) The Council may from time to time add to or delete from the Schedule any building, object or place.
- (6) The Council shall, before including any building, object or place in the Schedule:
  - (a) give to the owner of that building, object or place written notice that the Council proposes to include that building, object or place in the Schedule and specifying a date being not less than three (3) weeks after the notice is given by which submissions may be made to the Council by the owner;
  - (b) advertise notice of the Council's intention in a newspaper circulating in the district and specifying the date by which submissions may be made to the Council by any person interested.
- (7) The Council shall not include a building, object or place in the Schedule without first considering any submissions made within the time limit specified by the notice referred to in sub-clause (6) of this Clause.

**79. Preservation of Historic and Other Buildings, Objects and Places:**

- (1) Where any development involves an alteration to, or the destruction, total or partial of a building, object or place which is:
  - (a) entered in the Schedule;
  - (b) included by the Australian Heritage Commission in the Register of the National Estate;
  - (c) included in the National Heritage Register;the Council before determining that application may give notice thereof to the National Trust of Australia (WA), the Australian Heritage Commission and such other bodies or persons as the Council thinks fit.
- (2) In determining an application referred to in sub Clause (1) of this Clause the Council shall have regard to any submissions made to the Council with respect to the preservation of the building, object or place involved in that application.
- (3) Where Council refuses approval for the development of land in order to preserve or retain a building, object or place referred to in sub-clause (1) of this Clause, or grant such an approval subject to conditions that are unacceptable to the applicant, the owner of the land may, if the land is injuriously effected thereby, claim compensation for injurious affection in accordance with the Town Planning and Development Act 1928 (as amended).
- (4) Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing approval or granting it subject to the conditions that are unacceptable to the applicant.
- (5) In lieu of paying compensation the Council may purchase the land affected by such decision of the Council at a price not exceeding the value of the land at the time of refusal of approval or the grant of approval subject to conditions that are unacceptable to the applicant.

**80. Protection of Landform:**

The Council may refuse to approve an application for planning approval if the proposed development will so disturb the natural contour of the land as to have an adverse affect on adjoining property, the privacy thereof or the amenity of the locality.

**81. Protection of Vegetation:**

- (1) In granting an application for planning approval the Council, in addition to any other condition which the Council is required or permitted to impose, may require that:
  - (a) the development be carried out in such a way as to minimise disturbance to existing significant vegetation;
  - (b) any tree or group of trees be preserved or protected.
- (2) The Council may refuse an application for planning approval if the Council considers that the proposed development involves the unnecessary removal of vegetation which is worth preservation.

**82. Planning Policies**

- (1) The Council may prepare a planning policy (herein called a Policy) which may make a provision for any other matters related to the planning or development of the Scheme Area and which may be prepared so as to apply:
  - (a) generally or in a particular class of matter or in particular classes of matters
  - (b) throughout the Scheme Area in one or more parts of the Scheme Areaand may amend or add to or rescind a Policy so prepared.
- (2) A Policy shall become operative only after the following procedures have been completed:
  - (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local paper circulating within the Scheme Area giving details of where the draft Policy may be inspected, and in what form and during what period (being not less than 21 days) submissions may be made.
  - (b) Policies which the Council considers may be inconsistent with other provisions of the Scheme or with State and regional planning policies are to be submitted to the Commission for consideration and advice.
  - (c) The Council shall review the draft Policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.
  - (d) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.
- (3) A Policy may be rescinded by:
  - (a) Preparation or final adoption of a new Policy pursuant to this clause specifically worded to supersede an existing Policy; and
  - (b) publication of a formal notice of rescission by the Council twice in a local newspaper circulating in the district.
- (4) A Policy shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making a decision.
- (5) Any Policy prepared under this clause shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

**PART 5****PLANNING APPROVAL****83. Application:**

- (1) Subject to sub-clause (2) of this Clause, every application for planning approval shall be made in the form prescribed in Form 1A to the Scheme and shall be accompanied by such plans and other information as is required by the Scheme.
- (2) Where, under the provisions of the Metropolitan Region Scheme;
  - (a) approval of the responsible authority is required for the development of land zoned under Part III of that Scheme; and
  - (b) the Council has power delegated to it by the Western Australian Planning Commission under the Metropolitan Region Town Planning Scheme Act 1959 as amended and re-enacted, to determine an application for approval to commence and carry out development;an application for that approval in the Form No.1 prescribed by the Metropolitan Region Scheme, if accompanied by such plans and other information as is required by this Scheme, shall be deemed to be an application under this Scheme for planning approval.
- (3) Every application for planning approval shall be accompanied by:
  - (a) Three (3) copies of plan or plans to a scale of 1:200 or larger, showing:
    - (i) Street names, lot numbers, north point and the dimension of the site;
    - (ii) position by dimension of street trees existing and proposed driveways and permanent street furniture such as bus stops, telephone boxes, power poles and manholes;
    - (iii) the position and size of existing sewers, stormwater drains and other major services on the site;
    - (iv) the location and height of any existing building including buildings on adjoining land, the location of proposed buildings on the land and the type and height of existing fences on adjoining land;
    - (v) the existing contours and proposed finished levels of the land relative to the levels of adjoining land, streets, footpaths and streets and other vehicle carriageways;
    - (vi) details of any retaining walls or embankments required to support any proposed cutting or filling of the existing ground surface;
    - (vii) the existing and the proposed means of access for pedestrians and vehicles to and from the land;
    - (viii) the location, number dimensions and layout of all carparking spaces, accessways and circulation areas intended to be provided and particulars of proposed drainage, lighting and landscaping;

- (ix) 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 premises and the means of access to and from such area;
  - (x) accurately, the position of and describing the type and height of all trees above 4m on the land and indicating which (if any) of those trees will be removed;
  - (xi) accurately, the position of and describing the type of all significant vegetation and indicating what part of that vegetation (if any) is to be removed;
  - (xii) the location and dimensions of open space areas;
  - (xiii) Schedule of materials and finishes.
- (b) three copies of drawings showing floor plans, elevations and sections, drawn to a scale of 1:100 of any building proposed to be erected or altered and of any building it is intended to retain, all clearly figured and dimensioned and showing relationships of proposed floor levels to proposed finished ground levels;
- (c) three copies of a schedule outlining the type and colour of materials to be used in the construction of buildings, drive-ways, fences and retaining walls;
- (d) any other plan, model or information required to be provided pursuant to the Scheme or that the Council may require to enable the application to be determined.
- (4) An application for planning approval in respect of land which is wholly within a regional reserve shall be referred by the Council to the Commission for determination in accordance with the Metropolitan Region Scheme. No separate determination of the application shall be made by the Council.
- (5) An application for planning approval in respect of land which is wholly within the management area of the Swan River Trust shall be referred by the Council to the Swan River Trust for determination, in accordance with the Swan River Trust Act 1988. No separate determination of the application shall be made by the Council.
- (6) An application for planning approval in respect of land which is -
- (a) wholly zoned or reserved by the Scheme, or
  - (b) partly within a regional reserve and partly zoned or reserved by the Scheme, or
  - (c) affected by a gazetted notice of resolution made by the Commission under Clause 32 of the Metropolitan Region Scheme, or
  - (d) within or partly within a Planning Control Area duly declared by the Commission
- shall be dealt with by the Council in accordance with the requirements of the Notice of Delegation published in the *Government Gazette* from time to time by the Commission acting pursuant to the provisions of section 20 of the Western Australian Planning Commission Act. Where that notice of Delegation requires the application to be determined by the Commission, the procedure is as follows:
- (i) one copy of the application and supporting papers submitted by the applicant, shall within seven days of receipt of the application, be forwarded by the Council to the Commission for determination pursuant to the provisions of the Scheme and the Metropolitan Region Town Planning Scheme or the Metropolitan Region Town Planning Scheme Act 1959; and
  - (ii) the Council shall retain the other copy of the application and supporting papers and determine the application in accordance with the provision of the Scheme.
  - (iii) the Council may, within forty two days of receipt of that application (or such further period as the Commission may allow) forward to the Commission its recommendation as to the manner in which the application should be determined.

#### **84. Landscaping Requirements:**

- (1) Where planning approval has been granted under the Scheme, and a minimum landscaped area of open space is required to be provided under the Scheme or by that approval, a person shall not occupy or use the land or any building the subject of that approval for the purpose for which that approval was given unless and until:
- (a) the Council has approved a plan showing:
    - (i) the location of every building on the site;
    - (ii) the layout and location of pedestrian spaces, pavements, grassed areas, areas covered with ground cover planting, shrubs and garden beds and the location of existing and proposed trees;
    - (iii) the quantity of shrubs to be planted in each landscaped area and types of existing and proposed trees;
    - (iv) details of any alterations or proposed alterations to the natural contours of the landscaped areas;
  - (b) the landscaped areas have been developed and completed in accordance with the plan approved by the Council.
- (2) Every landscaped area shall be maintained in good order and condition and in accordance with the plans approved by the Council.

**85. Form of Approval/Refusal of Application:**

- (1) Where:
  - (a) an application for planning approval is made in the form prescribed in Form 1A to the Scheme; or
  - (b) an application is made for approval to commence and carry out development in Form No.1 prescribed by the Metropolitan Region Scheme and, pursuant to Clause 82 of this Scheme, that application is deemed to be an application for planning approval under this Scheme;the Council shall issue its decision on the application in the Form No. 2 prescribed by the Metropolitan Region Scheme.
- (2) Where, an application for approval to commence and carry out development under the Metropolitan Region Scheme is not deemed to be an application for planning approval under Clause 82 of this Scheme, the Council shall issue its decision on the application for planning approval in the form prescribed in Form No.2A to this Scheme.

**86. Determination of Application:**

- (1) In determining an application for planning approval the Council may consult with any authority which, or person who, in the circumstance, it thinks appropriate.
- (2) The Council having regard to:
  - (a) any matter which it is required by the Scheme to consider;
  - (b) the purpose for which the land is zoned or reserved for use under the Scheme;
  - (c) the purpose for which the land is zoned under the Metropolitan Region Scheme;
  - (d) the purpose for which land in the locality is used;
  - (e) the orderly and proper planning of the locality and the preservation of the amenities of the locality;
  - (f) any statement of planning policy adopted by the Council relating to specific areas or building types;may refuse to approve any application for planning approval. Where Council grants its approval, it may do so subject to such conditions as it may deem fit.
- (3) Nothing in the Scheme which:
  - (a) requires or enables the Council to take any particular step;
  - (b) requires or enables the Council to consider or take into account any particular matter or thing with respect to development or with respect to an application for planning approval;
  - (c) empowers the Council to refuse an application for planning approval on particular grounds or to approve the application subject to the imposition of conditions relating to any particular matter or thing;shall in any way effect, prejudice or restrict the generality of the provisions of sub-clause (2) of this Clause.
- (4) Where the Council approves an application for planning approval under this Scheme, the Council may limit the time for which that approval remains valid.

**87. Conditional Approvals:**

If the Council approves of an application for planning approval subject to conditions, the development, the subject of that application shall not be carried out and the land shall not be used for any purpose unless those conditions have been and continue to be complied with or otherwise than in accordance with those conditions.

**88. Deemed Refusal:**

- (1) An application for planning approval shall be determined to have been refused where a decision in respect of that application is not conveyed to the applicant by the Council:
  - (a) within 60 days of the receipt of the application by the Council; or
  - (b) within such further period as agreed in writing between the applicant and the Council within the 60 day period.
- (2) Notwithstanding that an application for planning approval may be deemed to have been refused under sub-clause (1) the Council may issue a decision in respect of the application after the expiry of the 60 days and that decision shall be regarded as being valid.

**PART 6****FINANCE, ADMINISTRATION, APPEALS AND OFFENCES****89. Purchase and Disposal of Land:**

The Council may acquire any land within the District by agreement for the purpose of securing any objective of the Scheme. The Council may deal with or dispose of any land which it owns or which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with law and for such purpose may make such agreement with other owners as it deems fit.

**90. Agreement:**

The Council may enter into any agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme for the purpose of securing any of the objectives of the Scheme.



**91. Entry to Premises:**

An officer of the Council, authorised by the Council for the purpose, may, at all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

**92. Compensation:**

- (1) Except as otherwise provided, the time limit for the making of claims for compensation for injurious affection pursuant to Section 11 of the Act resultant from the making of, or the making of an amendment to, the Scheme is six (6) months from the date of publication of the Scheme or the Scheme Amendment in the *Government Gazette*.
- (2) Where, in respect of any application for planning approval to commence and carry out development on land reserved under this Scheme, the Council or any appellate body thereafter, refuses or grants approval subject to conditions that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land, may within six (6) months of the date of the relevant decision claim compensation from the Council for injurious affection.

**93. Notices:**

- (1) Any notice given by the Council under Section 10(1) of the Act shall be a thirty (30) day notice under the hand of the Chief Executive Officer sent by registered post to the owner and occupier (if any) of the land affected by the notice.
- (2) The Council may recover expenses under Section 10(2) of the Act in any manner in which the Council is from time to time entitled to recover rates levied by the Council.

**94. Appeals:**

Subject to the provisions of the Act, an applicant for planning approval has a right of appeal under this Scheme in respect of the exercise by the Council of a discretionary power.

**95. Offences:**

Subject to Division III of Part 2 of the Scheme a person shall not erect, alter or add to a building or use or change the use or suffer or permit the use of or suffer or permit a change of the use of any land, building or part of a building for any purpose:

- (1) other than a purpose permitted or approved of by the Council in the zone in which that land or building is situated;
- (2) unless all approvals, consents or licences required by the Scheme have been granted or issued;
- (3) unless all conditions imposed upon the grant or issue of any approval, consent or licence required by the Scheme have been and continue to be complied with;
- (4) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that land or building or that part have been and continue to be complied with.
- (5) 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.

**96.** Where the Council has granted planning approval for the development of the land on a condition which involves the maintenance or continuance of the state or condition of any place, area, matter or thing a person shall not use that land for any purpose while the state or condition of that place, area, matter or thing is not being maintained or continued in accordance with that condition.

**97.** The owner and occupier of land in the District shall ensure that any building in that land is maintained in good order and repair and that the appearance and state of that building does not adversely affect the amenity of the locality. A building shall not be constructed or finished with reflective surfaces that may adversely affect the amenity of the area.

**98. Delegation:**

- (1) Subject to sub-clause (2) of this Clause, the Council may, by resolution passed by an absolute majority, delegate to an officer of the Town of Claremont the power to determine applications for planning approval for the development of land for the purpose of a Dwelling (Self-contained).
- (2) Notwithstanding any delegation made pursuant to this Clause, any discretion conferred by the Residential Planning Codes shall only be exercised by the Council.
- (3) A delegation under this Clause shall be expressed to be for a period specified in the delegation or for an indefinite period as the case may be.
- (4) Any amendment or revocation of a delegation under this Clause shall be by a resolution passed by an absolute majority of the Council.
- (5) Where a delegation is made to:
  - (a) the holder, or holders for the time being of a specified office or class of office, the delegation shall not cease to have effect by reason only of a change in the person lawfully acting in, or performing the functions of that office, or any office of that class;
  - (b) a specified person or persons of a specified class, the delegation shall cease to have effect in relation to a person if that person ceases to be an officer of the Town of Claremont.
- (6) An application for planning approval determined by an officer pursuant to a delegation made under this Clause shall, for the purposes of this Scheme, be deemed to have been determined by the Council."

**APPENDIX I****FORM 1A***TOWN OF CLAREMONT*

## TOWN PLANNING SCHEME NO. 3

**Application For Planning Approval**

Name of Owner of Land ) Surname:.....  
 on which development ) Christian Names:.....  
 proposed ) Address in Full:.....  
 .....  
 .....

Submitted by:.....

Address for Correspondence:.....

Locality of Development:.....

Titles Office Description of Land:

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

Plan or Diagram:..... Certificate of Title Vol:..... Fol:.....

The type of development proposed and the nature of the proposed buildings are as follows:

.....  
 .....  
 .....  
 .....

The approximate cost of proposed development is.....

The estimated time of completion is.....

The approximate number of persons to be employed when the development is complete is.....

**Three copies of the Site Plan and other necessary plans of the proposals are submitted with this application.**

.....  
 Signed by the Owner of the Land

Dated this.....day of .....19.....

Note: Separate applications are required to be submitted to the Council for:

- (i) Approval to Commence Development under the Metropolitan Region Scheme (Form 1);
- (ii) A building licence (where applicable).

**APPENDIX II****FORM 2A***TOWN OF CLAREMONT*

## TOWN PLANNING SCHEME NO. 3

**Planning Approval****Refusal Of Planning Approval**

Application Date:.....

Applicant:..... Owner of Land:.....

Details of Land:

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

Certificate of Title Volume:..... Folio:.....

Conditions of Approval (where applicable):

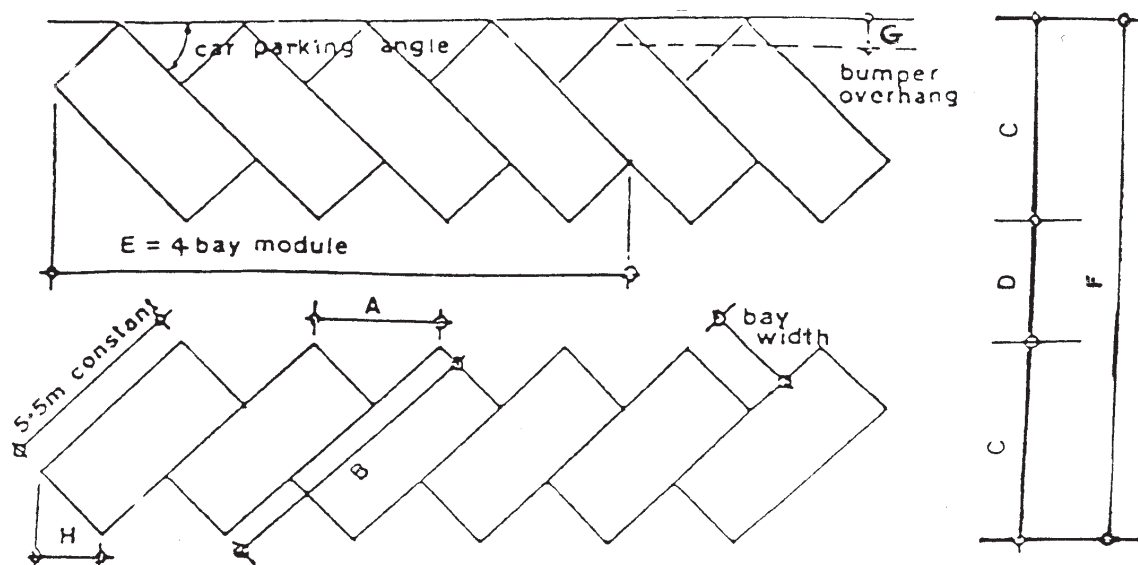
.....  
 .....  
 .....  
 .....

Signed:..... Date:.....

Chief Executive Officer

This application is valid only if the development is commenced within 24 months of the date of approval.

### APPENDIX III Dimensions of Car Parking



Bay Width	Car Parking Angle	Dimensions							
		A	B	C	D	E	F	G	H
2.5	30°	5.0	9.8	5.7	3.3	21.0	14.7	1.8	1.25
2.6		5.2	10.0	5.8	3.2	21.7	14.8	1.8	1.3
2.75		5.5	10.3	5.9	3.1	22.6	15.0	1.8	1.38
2.9		5.8	10.5	6.1	3.0	23.6	15.2	1.8	1.5
2.5	45°	3.5	8.0	5.7	4.0	16.2	15.3	2.0	1.8
2.6		3.7	8.1	5.7	3.7	16.8	15.2	2.0	1.8
2.75		3.9	8.3	5.8	3.5	17.5	15.2	2.0	1.9
2.9		4.1	8.4	5.9	3.3	18.2	15.2	2.0	2.0
2.5	60°	2.9	6.9	6.0	5.0	13.6	17.0	2.3	2.2
2.6		3.0	7.0	6.1	4.9	14.0	17.0	2.3	2.3
2.75		3.2	7.1	6.1	4.7	14.7	17.0	2.3	2.4
2.9		3.3	7.2	6.2	4.5	15.3	17.0	2.3	2.5
2.5	75°	2.6	6.1	5.9	5.3	11.5	17.2	2.5	2.3
2.6		2.7	6.2	6.0	5.2	11.9	17.1	2.5	2.4
2.75		2.8	6.2	6.0	5.1	12.5	17.1	2.5	2.5
2.9		3.0	6.3	6.0	5.0	13.0	17.1	2.5	2.6
2.5	90°	2.5	5.5	5.5	6.0	10.0	17.0	2.5	2.5
2.6		2.6	5.5	5.5	5.75	10.4	16.7	2.5	2.6
2.75		2.75	5.5	5.5	5.5	11.0	16.5	2.5	2.75
2.9		2.9	5.5	5.5	5.2	11.6	16.2	2.5	2.9

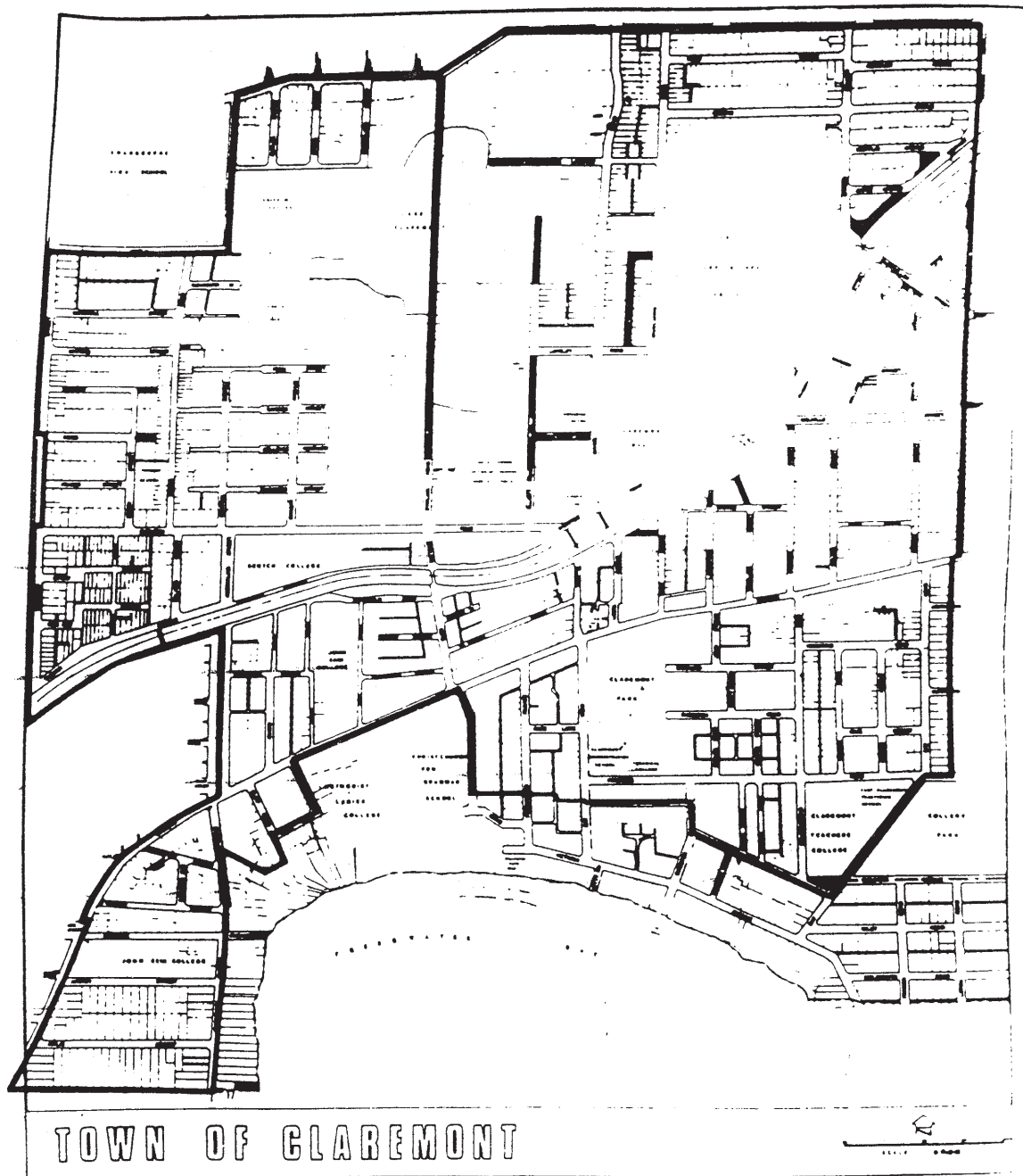
### APPENDIX IV

#### Residential Planning Codes

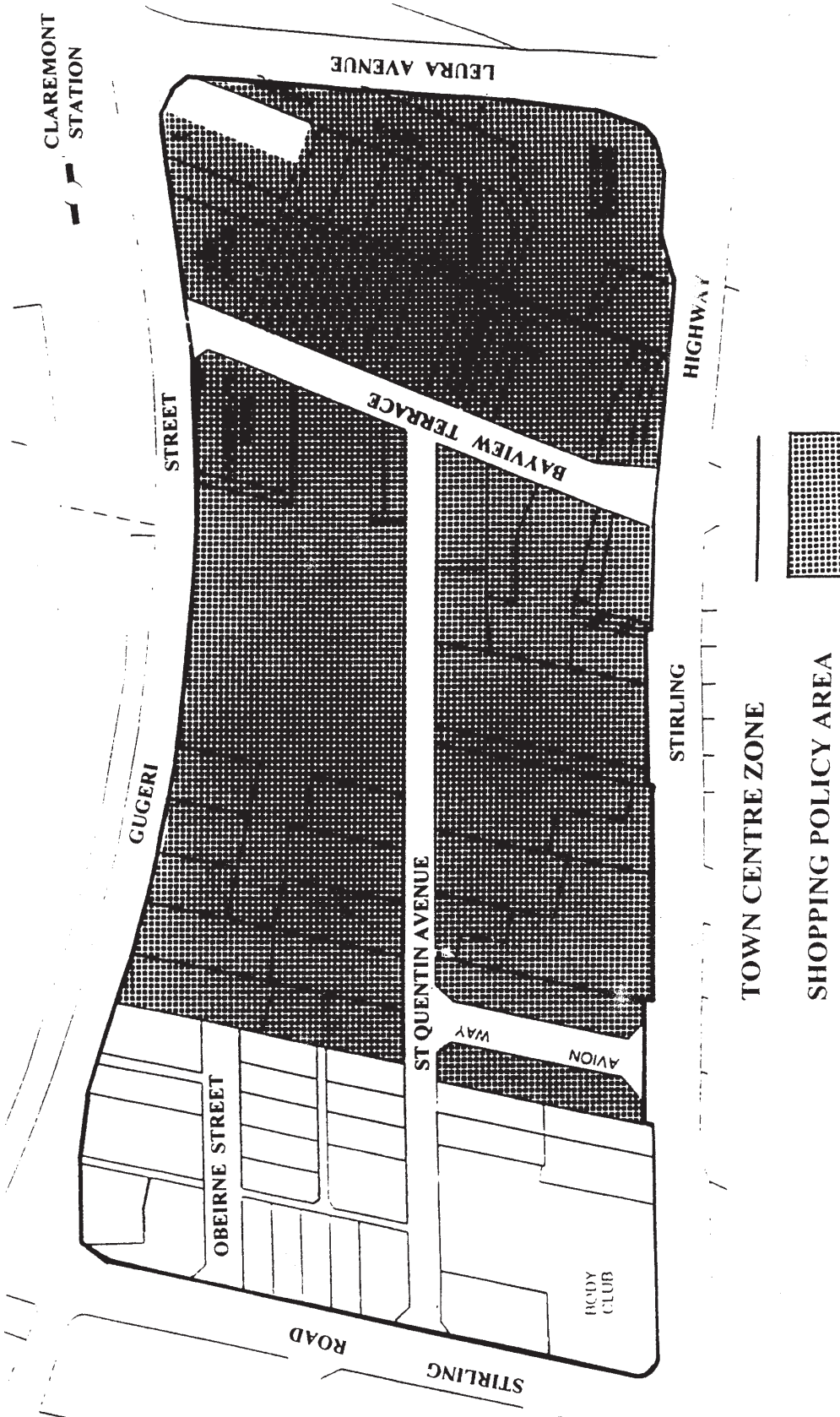
The Residential Planning Codes will be adopted in accordance with the Town Planning Board Policy No. 7A and are available with the Scheme Text for perusal.



APPENDIX V  
Town of Claremont Map



APPENDIX VI  
Town Centre Policy



**APPENDIX VII**  
**Location Particulars**

Location	Particulars of Land	Permitted Use	Standards/Conditions
No.23 Victoria Avenue	Portion of Melville Suburban Lot 77 being the whole of the land comprised in Certificate of Title 1249, Folio 203.	Restaurant	Not providing or suffering to be provided seating for more than eighty persons.
No. 5 Queenslea Drive	Lots 2, 3, 4, Pt 5, 12, 53 and 54 of Swan Location 718 on Certificate of Title 1558, 1050 Folio 232 and 508.	Hospital not exceeding 77 beds, operating theatre, radiology and physiotherapy facilities.	Prior to applying for planning approval the applicant is to undertake a traffic study to determine the effect that the proposed development will have on the nearby school and residents in the locality. Should the traffic study, in Council's opinion, indicate that the development will create a traffic hazard, the applicant is to suitably modify the development to satisfy Council's requirements with respect to traffic.
No. 120 Gugerl Street	Lot 25 Portion of Swan Location 2106 on Diagram 63619 the whole of the land the subject of Certificate of Title Volume 1642, Folio 409.	Parking of motor vehicles belonging to staff of or awaiting repair at the motor repair station at Lot 22 (No. 122) Gugerl Street, Claremont.	<p>1. No motor repairs, maintenance, modification or panel or paint work shall be undertaken on Lot 25 other than the assembly of bolt on motor parts which may be undertaken only during the hours of 7.00am to 6.00pm Monday to Saturday and no such works shall occur outside the hours specified or on a Sunday or public holiday and such work shall be undertaken without the use of compressed air power tools and only within the confines of the existing building located at the northern end of Lot 25.</p> <p>2. No vehicle associated with the use of Lot 25 or the business carried out on Lot 22 (No. 122) Gugerl Street shall be parked, and the owner of Lot 25 shall not suffer or permit such vehicles to be parked, for any length of time at all between the front boundary of Lot 25 and the Gugerl Street road pavement.</p> <p>3. Lot 25 shall not be used for the permitted uses unless the area between the front Boundary of the lot and the Gugerl Street road pavement is reticulated, planted and maintained as a lawn to the satisfaction of the Council so as to give maximum possible protection to the adjoining residential area.</p> <p>4. Lot 25 shall not be used for the permitted uses unless:</p> <p>a) A masonry wall not less than 0.5m and not exceeding 1.0m in height is constructed along the front boundary of the lot.</p> <p>b) A masonry wall not less than 1.8m and not exceeding 2.4m in height is constructed and maintained on a line 1.0m into the lot from the front boundary.</p> <p>c) The area between the two walls is landscaped and maintained to the satisfaction of the Council; and</p> <p>d) The remaining part of Lot 25 is levelled, paved with coarse gravel, drained and maintained to the satisfaction of the Council.</p> <p>e) Adjacent to the residential boundaries on the west side of lot 25 and to the south of lot 25, a buffer zone is to be created by the planting of a belt of trees designed to prevent visual contact, reduce noise, filter dust and purify air. Species of tree and landscaping should be such as to enhance the visual perspective, amenity and value of the commercial development.</p> <p>f) On lot 25, a minimum of twenty trees and garden planting shall be provided, distributed within the car parking area for the purpose of shade and visual relief.</p> <p>g) All required plantings to be completed no later than three months following the date of gazettal of Amendment No 57 and thereafter maintained in a condition to promote healthy growth.</p> <p>h) No spray painting shall be undertaken in the open air or elsewhere in any building on lot 25 other than the main spray painting booth already erected on lot 25 and such spray painting shall not occur during hours of 6.00pm to 7.00am Monday to Saturday or on a Sunday or public holiday.</p>
No. 2 Devon Road	Lot 97 of Swan Location P1062 on Certificate of Title Vol. 1062, 1168 Folio 815, 390.	Veterinary Clinic and Veterinary Hospital only	<p>1. Lot 97 shall be used for Veterinary Clinic/ Veterinary Hospital only and for no other use.</p> <p>2. Lot 97 shall not be used for the use of a Veterinary Clinic or Veterinary Hospital unless a minimum of 6 car parking spaces, of the dimensions and configuration depicted in Appendix III of the Scheme Text, are provided on that lot.</p>

Location	Particulars of Land	Permitted Use	Standards/Conditions
No. 264 Stirling Highway	Lot 1 of Swan Location 621 on Plan 1133 and a portion of Certificate of Title Volume 1738, Folio 887 and 889.	All the uses that the land may be used for in the Highway Zone as determined by Table 1 Land Use Table and in addition may be used for the purpose of conducting civil ceremonies.	A minimum of 22 car bays are to be available for the wedding guests.
No. 26 Vacluse Street	Portion of Swan Location 62 being Lot 36 on Plan 1234 and a portion of the land subject to Certificate of Title Volume III, Folio 465.	Office	Gross Leaseable area of building not to exceed 200m <sup>2</sup> .
No. 141 Claremont Crescent, 145 Claremont, 10, 12 and 14 Rob Roy Street, Swanbourne.	(1) Lot 200 of Swan Location P1069 on Certificate of Title Volume 1815 Folio 500. (2) Lot 62 of Swan Location P1069 on Certificate of Title Volume 360 Folio 131. (3) Lot 61 of Swan Location P1069 on Certificate of Title Volume 333 Folio 158A. (4) Lot 64 of Swan Location P1069 on Certificate of Title Volume 333 Folio 159A. (5) Lots 65 and 68 of Swan Location P1069 on Certificate of Title Volume 1738 Folio 685/6.	A total of 54 aged persons' housing and ancillary uses only generally in accordance with the drawings prepared by John L. Silbert & Associates and dated on February 1995 with the exception that all floor levels are lowered by a minimum of 600mm.	(1) The subject land shall be used for aged persons' housing and ancillary uses only. (2) The subject land shall not be used for aged persons' housing unless: a total of 40 car parking bays are to be provided on site and an additional 26 visitor car parking bays located elsewhere than on the subject land provided Council is satisfied that the car parking bays to be provided elsewhere are sufficiently close to the development.
No. 59 Bay View Terrace	Lot 14 of Swan Location 350 being that land described in Certificate of Title 335 Folio 074	Three dwellings	Construction of one single storey and two, two storey brick and tile dwellings, in accordance with the drawings dated 16 December 1996 and endorsed by the Chief Executive Officer as the drawings referred to in this amendment.

## APPENDIX VIII

### Requirements Applicable To Lots 78 & 79 Stirling Highway

- 25 car parking spaces shall be provided on the land in addition to the number of required pursuant to Table No. 2.
- Within 3 months after the date of the grant of planning approval by the Council of a use referred to in Clause 64A(c), a portion of the land being 8m wide and extending from Stirling Highway to St. Quentin Avenue and have its eastern boundary not less than 19m from the eastern boundary of the land and all that land within 3m of the Stirling Highway frontage shall be transferred to the Council in fee simple free of encumbrances and free of cost for the purpose of providing a new road, which is to be dedicated to public use.
- Within 1 month after a written request by the Council to do so, or after the transfer of the portion of land referred to in Clause 2 of the Appendix to the Council, whichever occurs later:
  - the portion shall be paved and drained to the specifications of the Council;
  - not less than 6 trees of a type approved by the Council and having a height of not less than 4m shall be planted within the portion in positions approved by the Council and the trees shall be fitted with tree guards of a type approved by the Council; and
  - street lights shall be provided in the portion to the Council's specifications.
- The minimum building setbacks from Stirling Highway shall be 3m.
- The minimum building setback from St. Quentin Avenue shall be 1.5m.
- A pedestrian accessway of not less than 1.2m in width shall be constructed and maintained to provide access along not less than 30% of the length of the eastern boundary and of the western boundary of the land.
- 2 bulk rubbish enclosures shall be provided and maintained adjacent to the portion of land referred to in Clause 2 of this Appendix. The enclosures shall have minimum dimensions of 2m in length, 1.2m in width and 2m in height.
- 2 rubbish bin enclosures shall be provided on the eastern and western sides of the portion of land referred to in Clause 2 of this Appendix. The enclosures shall be of dimensions sufficient to accommodate 16 rubbish bins each having a capacity of 240litres.
- Public toilets shall be provided at ground level in addition to any staff toilets. The public toilets shall comply with the Australian Standard 1428—1977 Design Rules for Access by the Disabled.
- Provision shall be made for public pedestrian access from the land to Lot 103 Stirling Highway adjoining the land to the east which access shall be not less than 3m in width.

**APPENDIX IX****Form of Newspaper Notice***TOWN OF CLAREMONT*

## Notice Of Application To Use Or Develop Land

Notice is hereby given that

(1).....

has applied to the Town of Claremont for approval to

(2).....

on land situated at (3).....

being (4).....

Any person wishing to object or otherwise comment on this proposal, should do so in writing to reach the Chief Executive Officer, 308 Stirling Highway, Claremont, 6010, no later than (5).....

(1) Insert name of applicant.

(2) Insert the particulars of the proposed land use or development.

(3) Insert the postal address of the land subject of the application.

(4) Insert the title description of the land subject of the application.

(5) Insert the date which should be not less than 3 weeks after the date when the advertisement first appears in the newspaper.

**APPENDIX X****Form of Site Notice***TOWN OF CLAREMONT*

## Notice Of Application To Use Or Develop Land

Notice is hereby given that

(1).....

has applied to the Town of Claremont for approval to

(2).....

on this land, being (3).....

and being (4).....

Any person wishing to object or otherwise comment on this proposal, should do so in writing to reach the Chief Executive Officer, 308 Stirling Highway, Claremont, 6010, no later than (5).....

(1) Insert name of applicant.

(2) Insert the particulars of the proposed land use or development.

(3) Insert the postal address of the land subject of the application.

(4) Insert the title description of the land subject of the application.

(5) Insert the date which should be not less than 3 weeks after the date when the advertisement of the proposed development first appeared in the newspaper circulating in the locality.

**APPENDIX XI****Streets Deemed To Carry High Volumes Of Traffic**

Alfred Road  
Ashton Avenue  
Barnfield Road  
Bay Road  
Bay View Terrace

Bindaring Parade  
Chancellor Street  
Claremont Crescent  
Davies Road  
Graylands Road  
Gugeri Street  
Judge Avenue  
Leura Avenue  
Loch Street  
Melville Street  
Osborne Parade  
Princess Road  
Queenslea Drive  
Richardson Avenue  
Servetus Street  
Shenton Road  
Stirling Highway  
Stirling Road  
Stubbs Terrace  
Victoria Avenue

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ADOPTION

Adopted by resolution of the Council of the Town of Claremont at the Ordinary Meeting of the Council held on the 28th day of August 1995.

P. OLSON, Mayor.  
R. J. STEWART, Chief Executive Officer.

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FINAL APPROVAL

Adopted for final approval by resolution of the Town of Claremont at the Ordinary Meeting of the Council held on the 25th day of August 1997.

P. OLSON, Mayor.  
R. J. STEWART, Chief Executive Officer.

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Recommended/submitted for final approval—

V. McMULLEN, for Chairperson, Western Australian Planning Commission.

Dated: 21/4/99.

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Final approval granted—

MIKE BOARD, Acting Minister for Planning.

Dated: 28/4/99.

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**PD403**

**TOWN PLANNING AND DEVELOPMENT ACT 1928**

**ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT**

*CITY OF ARMADALE*

**TOWN PLANNING SCHEME No. 2—AMENDMENT No. 155**

Ref: 853/2/22/4, Pt 155.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act 1928, that the Hon Minister for Planning approved the City of Armadale Town Planning Scheme Amendment on 25 May, 1999 for the purpose of—

1. Rezoning Lot 600 Railway Avenue, Kelmscott from 'Residential R12.5' to 'Special Use—Medical Centre';
2. Modifying the Town Planning Scheme Maps accordingly;



3. Amending the Scheme text so that the Special Use zone and associated Development Table Reads as follows—

Prescribed Special Use	Requirements	Particulars of Land
<u>Permitted Use</u> • Medical Centre	1. The overall development of the site should be of a high quality unified architectural design that reflects a level of integration and consistency with the surrounding built environment.	Lot 600 Railway Avenue, Kelmscott
<u>Discretionary Use</u> • Incidental Dispensary	2. Plot ratio limited to 0.3. 3. Site layout, parking provision are to be to Council's satisfaction and are to address the following. • minimisation of impact of the development on adjacent residential properties by measures including the provision of high quality masonry walling; 4. Comprehensive landscape plan of the site to be prepared, submitted and consequently implemented to Council's satisfaction. The issues to be covered to include— • retention of existing trees; • generous screening landscaping on common boundaries; 5. Car parking spaces abutting any residential lot shall be screened by a masonry wall and landscaping strip to the specification of Council.	

R. C. STUBBS, Mayor.  
R. S. TAME, Chief Executive Officer.

#### PD404\*

### TOWN PLANNING AND DEVELOPMENT ACT 1928

#### ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT

#### CITY OF GOSNELLS

#### TOWN PLANNING SCHEME No. 1—AMENDMENT No. 511

Ref: 853/2/25/1, Pt 511.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act 1928, that the Hon Minister for Planning approved the City of Gosnells Town Planning Scheme Amendment on 25 May, 1999 for the purpose of—

1. Rezoning Pt Canning Location 17 Towncentre Drive, Thornlie, from Residential "A" (R17.5) to Residential "B" (R30);
2. Rezoning Pt Lot 11 and Pt Lot 6 Murdoch Road, Thornlie, from Parks and Recreation to Residential "B" (R30); and
3. Rezoning Pt Lot 11 Murdoch Road, Thornlie, from Civic and Cultural to Residential "B" (R30).

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

## PREMIER AND CABINET

#### PR401

#### MINISTERIAL ACTING ARRANGEMENTS

It is hereby notified for public information that the Governor in accordance with Section 52(1)(b) of the Interpretation Act 1984 has approved the following temporary appointment in the place of the Hon. K. D. Hames MLA in the period 12 to 16 July 1999 inclusive—

Minister for Housing; Aboriginal Affairs; Water Resources—Hon. P. D. Omodei MLA.

M. C. WAUCHOPE, Director General,  
Ministry of the Premier and Cabinet.

**PR402****MINISTERIAL ACTING ARRANGEMENTS**

It is hereby notified for public information that the Governor in accordance with Section 52(1)(b) of the Interpretation Act 1984 has approved the following temporary appointment in the place of the Hon. R. K. Parker MLA in the period 11 to 22 June 1999 inclusive—

Minister for Family and Children's Services; Seniors; Women's Interests—Hon. P. D. Omodei MLA.

M. C. WAUCHOPE, Director General,  
Ministry of the Premier and Cabinet.

**PR403****MINISTERIAL ACTING ARRANGEMENTS**

It is hereby notified for public information that the Governor in accordance with Section 52(1)(b) of the Interpretation Act 1984 has approved the following temporary appointment in the place of the Hon. G. D. Kierath MLA in the period 29 May to 5 June 1999 inclusive—

Minister for Planning; Employment and Training; Heritage—Hon. M. F. Board MLA.

M. C. WAUCHOPE, Director General,  
Ministry of the Premier and Cabinet.

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**PUBLIC SECTOR MANAGEMENT**

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**PS401****PUBLIC SECTOR MANAGEMENT ACT 1994****CHIEF EXECUTIVE OFFICER APPOINTMENTS**

The Government of Western Australia is keen to ensure that chief executive officers of all public service departments and agencies, are the most suitable for the position. I have therefore decided that it is generally preferable to advertise chief executive officer positions at the expiry of existing appointments, to ensure that competitive and merit-based appointments are made. This approach should not, however, be seen as a reflection upon the capacity of current chief executive officers whose terms of appointment have expired. I expect that present occupants will, in most cases, wish to apply for appointment to advertised positions.

Having received and considered relevant advice in respect of the chief executive officer listed below, I, RICHARD FAIRFAX COURT, Minister for Public Sector Management, notify that I have not recommended the reappointment of—

Agency	Title	Name of Current Occupant
State Revenue Department	Commissioner	Mr Alastair Bryant

I shall soon be requesting the Commissioner for Public Sector Standards to act to enable the filling of this vacancy.

RICHARD COURT, Premier and Minister for Public Sector Management.

**PS402****PUBLIC SECTOR MANAGEMENT ACT 1994****CHIEF EXECUTIVE OFFICER APPOINTMENTS**

The Government of Western Australia is keen to ensure that chief executive officers of all public service departments and agencies, are the most suitable for the position. I have therefore decided that it is generally preferable to advertise chief executive officer positions at the expiry of existing appointments, to ensure that competitive and merit-based appointments are made. This approach should not, however, be seen as a reflection upon the capacity of current chief executive officers whose terms of appointment have expired. I expect that present occupants will, in most cases, wish to apply for appointment to advertised positions.

Having received and considered relevant advice in respect of the chief executive officer listed below, I, RICHARD FAIRFAX COURT, Minister for Public Sector Management, notify that I have not recommended the reappointment of—

Agency	Title	Name of Current Occupant
Department of Family and Children's Services	Director General	Mr Robert Fisher

I shall soon be requesting the Commissioner for Public Sector Standards to act to enable the filling of this vacancy.

RICHARD COURT, Premier and Minister for Public Sector Management.

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## PUBLIC NOTICES

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### ZZ201

#### TRUSTEES ACT 1962

Creditors and other persons having claim (to which section 63 of the Trustees Act 1962 relates) in respect of Steven Bruce Rogers, Businessman, who was late of 25 Carlisle Road, Kalamunda, and who died on 4 April 1999, are required to send particulars of their claims to the executor of the estate of care of Kott Gunning, 15 William Street, Perth, within 1 month of the date of this advertisement after which date the Trustee may convey or distribute the assets having regard only to the claims of which notice has been given.

### ZZ202

#### TRUSTEES ACT 1962

In the estate of the late Michael Edward Officer of 61 The Strand, Applecross in the State of Western Australia, Boat Skipper, deceased 31 December 1997, intestate.

Creditors and other persons having claim (to which section 63 of the Trustees Act 1962 relates) are required by the Solicitor for the Administrator Michael Rennie of PO Box 522 Victoria Park WA 6979 to send particulars of their claims to them by the 30 June 1999 after which date the Solicitor for the Administrator may convey or distribute the assets having regard only to the claims of which he then has notice.

### ZZ401

#### ADVERTISEMENT OF APPLICATION FOR WINDING-UP IN THE SUPREME COURT OF WESTERN AUSTRALIA AT PERTH

NO. COR 114 of 1999

IN THE MATTER OF DEEP MINING PTY LTD

ACN 056 572 386

Notice is hereby given that an application for the winding up of the abovenamed company by the Supreme court of Western Australia was on 6 May 1999 filed by Cosmelia Holdings Pty Ltd ACN 009 065 696. The application is to be heard before a Master in Chambers at the Supreme Court at Barrack Street, Perth at 10:30am on 23 June 1999.

The liquidator whose appointment is sought is Charles Philippe Louis Nilant of the firm Louis Nilant, Liquidator of 4th Floor, 19 Pier Street, Perth.

Any creditor or contributory of the company desiring to support or oppose the making of an order on the application may appear at the time of hearing by himself or his counsel for that purpose.

The applicant's solicitor is Paiker & Overmeire, 3rd Floor, 40 St George's Terrace, Perth.

Note:

- (1) Any person who intends to appear on the hearing of the application must serve on or send by post to the abovenamed solicitor notice in writing of that intention. The notice must state the name and address of the person or, if a firm, the name and address of the firm and must be signed by the person or firm or their solicitor (if any) and must be served or, if posted, must be sent by post in sufficient time to be received not later than 4:00pm. on 22 June 1999.
- (2) A person may not, without leave of the court, oppose the application unless, at least 7 days before the hearing date, the person has filed and served on the application—
  - (a) notice of the grounds of opposition; and
  - (b) an affidavit verifying the matters stated in the notice.



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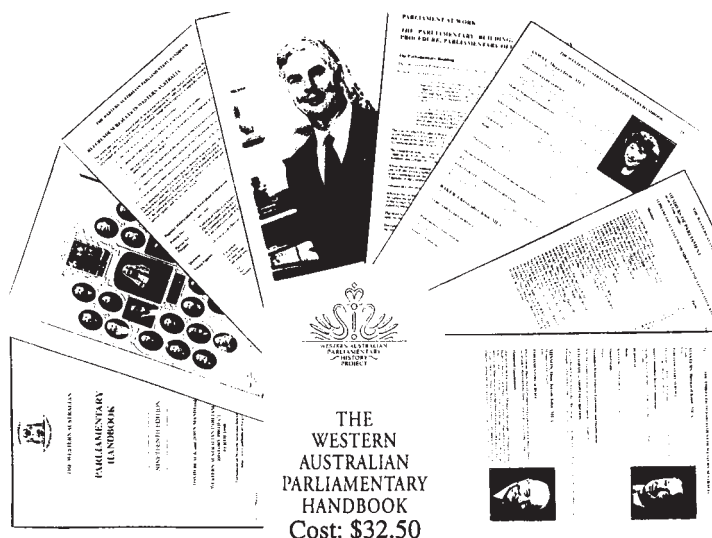
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This volume is recommended as an invaluable reference tool for schools, researchers, private business organisations, government departments and authorities and local community libraries.



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