



# WESTERN AUSTRALIAN GOVERNMENT Gazette



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## GOVERNMENT GAZETTE

### PUBLISHING DETAILS FOR CHRISTMAS 1999 AND NEW YEAR HOLIDAY PERIOD 2000

#### Publishing Dates and times

Friday 24 December 1999 at 12 noon

Friday 31 December 1999 at 3.30 pm

Friday 7 January 2000 at 3.30 pm

#### Closing Dates and Times for copy

Wednesday 22 December at 12 noon

Wednesday 29 December at 12 noon

Wednesday 5 January 2000 at 12 noon

From week commencing January 10 normal publishing resumes.

# — PART 1 —

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## RACING, GAMING AND LIQUOR

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**RA301\***

Western Australian Greyhound Racing Authority Act 1981

### **Western Australian Greyhound Racing Authority Instrument of Appointment (No. 2) 1999**

Made by the Governor in Executive Council.

**1. Citation**

This instrument may be cited as the *Western Australian Greyhound Racing Authority Instrument of Appointment (No. 2) 1999*.

**2. Appointment of member**

Under sections 12 and 14 of the *Western Australian Greyhound Racing Authority Act 1981* and on the nomination of the Minister, Lindsay John Archer of 52 Canning Avenue, Mt. Pleasant, is appointed as a member of the Committee of the Western Australian Greyhound Racing Authority (established by that Act) for a term expiring on 1 June 2002.

By Command of the Governor,

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

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**RA302\***

Gaming Commission Act 1987

### **Gaming Commission (Appointment of Member) Notice 1999**

Made by the Minister for Racing and Gaming under section 12(1)(b) of the Act.

**1. Citation**

This notice may be cited as the *Gaming Commission (Appointment of Member) Notice 1999*.

Notice is given that on 30 November 1999, the Governor in Executive Council reappointed Keith Gerard Shimmon of 92 Boulderwood Drive, South Lake as a member of the Gaming Commission of Western Australia for a term expiring 27 October 2001.

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# — PART 2 —

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## CENSORSHIP

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### CS401\*

#### CENSORSHIP ACT 1996

I, CHERYL LYNN EDWARDES, being the Minister administering the Censorship Act 1996, acting in the exercise of the powers conferred by Section 15 of that Act, do hereby determine that the publications specified in the schedule below shall be classified as refused publications for the purposes of that Act.

Dated this 4th day of December 1999.

CHERYL LYNN EDWARDES, Minister for Labour Relations.

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#### Schedule

23 November 1999

#### Refused Classification

Title or Description	Publisher
Australian Penthouse (Black Label Edition) Sep 1999 Vol 20 No 9	Gemkilt Publishing Pty Ltd
Australian Penthouse (Black Label Edition) Oct 1999 Vol 20 No 10	Gemkilt Publishing Pty Ltd
Claws No 67	Swish Publications Ltd
Claws No 70	Swish Publications Ltd
Claws No 71	Swish Publications Ltd
Claws No 73	Swish Publications Ltd
Claws No 74	Swish Publications Ltd
Dinovision Special No 1	ZBF
Downtown Vol 7 No 12	Dino
Hustler (Gold Label Edition) Vol 4 No 11	JT Publishing Pty Ltd
Hustler (Gold Edition) Vol 4 No 12	JT Publishing Pty Ltd
Hustler XXX Vol 1 No1	LFP Inc
Janus No 95	Gatisle Ltd
Madame in a World of Fantasy Vol 26 No 2	Swish Publications Ltd
Maximum Perversum (Silwa Special) No 30	Silwa Film
Pleasure Special	Pleasure-Verlags GMBH
Sweet Teenagers Anal No 1	Not Known
Teen Test Vol 22	Bookpress BV
Wet Set No 24	WSP

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### CS402\*

#### CENSORSHIP ACT 1996

I, CHERYL LYNN EDWARDES, being the Minister administering the Censorship Act 1996, acting in the exercise of the powers conferred by Section 15 of that Act, do hereby determine that the publications specified in the schedule below shall be classified as restricted publications for the purposes of that Act.

Dated this 4th day of December 1999.

CHERYL LYNN EDWARDES, Minister for Labour Relations.

Schedule  
23 November 1999

Restricted Classification

Title or Description	Publisher
Australasian Sex Paper Dec 1999 Vol 11 No 98	ASP Productions Pty Ltd
Australian Rosie, The Nov 1999 No 123	Clean Culture Int Pty Ltd
Australian Seventeen, The No 6	Clean Culture Int Pty Ltd
Blow Up No 28	Silwa Film
Cherry Poppers International No 2	MVW Medien Vertriebs
Cruella (Special Edition)	R-H Fashions
Fiesta (Naughty 40's Special) No 4	Galaxy Publications Ltd
Fiesta (Readers' Wives Special) No 26	Galaxy Publications Ltd
Fiesta Vol 33 Iss 9	Galaxy Publications Ltd
Fiesta Vol 33 Iss 10	Galaxy Publications Ltd
Fiesta Vol 33 Iss 11	Galaxy Publications Ltd
Fox (Holiday) 1999 Vol 18 No 7	Montcalm Publishing Corporation
Freeway Iss 184	Not Known
Gallery (Holiday) 1999 Vol 27 No 13	Galaxy Publications Ltd
Gallery Special (Lollypops) Vol 14 No 6	Galaxy Publications Ltd
Girls Wide Open (Silwa Special) No 14	Silwa Film
Great Pretenders Vol 3 No 1	Executive Imports International
Heavy Metal Jan 2000	Metal Mammoth Inc
Hustler (Platinum Edition) Vol 4 No 11	JT Publishing Pty Ltd
Hustler (Australian—Cat 1) Vol 4 No 12	JT Publishing Pty Ltd
Hustler (Platinum Edition) Vol 4 No 13	JT Publishing Pty Ltd
Knave (DD Plus) No 2	Galaxy Publications Ltd
Knave Vol 31 Iss 9	Galaxy Publications Ltd
Knave Vol 31 Iss 10	Galaxy Publications Ltd
Link Iss 17	In Touch Publications
Oftly No 42	Not Known
Oftly No 45	Not Known
Panty Clad Guys Vol 2 No 3	Executive Imports International
Pirate No 58	Milcap Media Group
Playing Cards (Max World Disgustingly Dirty Playing Cards)	Erostar Erotic Novelties & Filmwest
Quickie-Sex No 4	Oderfer-Verlags GMBH
Ravers (Just Legal Special) No 2	Galaxy Publications Ltd
Ravers (Readers' Wives Special) No 3	Galaxy Publications Ltd
Ravers Vol 5 Iss 8	Galaxy Publications Ltd
Ravers Vol 5 Iss 9	Galaxy Publications Ltd
Ravers Vol 5 Iss 10	Galaxy Publications Ltd
Rodox Special Selection No 79	Color-Climax Corporation
Schulmadchen (School Girls) No 84	Silwa Film
Sex O'm International No 66	Silwa Film
Sex O'm International No 68	Silwa Film
Sex O'm International No 69	Silwa Film
Sex O'm International No 70	Silwa Film
Sex O'm International No 72	Silwa Film
Sex O'm International No 73	Silwa Film
Sex O'm International No 75	Silwa Film
Sex O'm International No 78	Silwa Film
Sex O'm International No 79	Silwa Film
Sex O'm International No 80	Silwa Film
Sex O'm International No 84	Silwa Film
Sexplosiv Busty No 15	Staviss GMBH
Smooth No 110	Swish Publications Ltd
Teazer (Just 18 Shavers Special)	Galaxy Publications Ltd
Teazer (Just 18) Vol 1 Iss 5	Galaxy Publications Ltd
Teazer (Just 18) Vol 1 Iss 6	Galaxy Publications Ltd
Teazer (Just 18) Vol 1 Iss 7	Galaxy Publications Ltd
Topsy Intim No 1	Topsy Trading APS
Triple X No 32	Private Media
TV TS Fetish Night Vol 2 No 5	Toronto CDC
Two Blue Couples Vol 3 Iss 5	Galaxy Publications Ltd
Ultimate of Sarah Young, The No 7	MGM
Vulcan Iss 25	Not Known
Zipper Iss 24	Not Known

**CS403\*****CENSORSHIP ACT 1996**

I, CHERYL LYNN EDWARDES, being the Minister administering the Censorship Act 1996, acting in the exercise of the powers conferred by Section 15 of that Act, do hereby determine that the publications specified in the schedule below shall be classified as unrestricted publications for the purposes of that Act.

Dated this 4th day of December 1999.

CHERYL LYNN EDWARDES, Minister for Labour Relations.

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**Schedule**

23 November 1999

**Unrestricted Classification**

Title or Description	Publisher
Hustler (Australian Edition) Vol 4 No 13	JT Publishing Pty Ltd

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**HEALTH**

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**HE401****HEALTH ACT 1911**

Health Department of WA,  
Perth, 30 November 1999.

In accordance with the provisions of section 28 of the *Health Act 1911*, the appointment of the following persons as Environmental Health Officers is approved.

Environmental Health Officer	Date Effective	Local Government
Naomi Jane Richardson	28 October 1999	Shire of Mundaring
Andrew James Hawthorne	8 November to 23 December 1999	Shire of Ashburton
Duc Phuoc Tran	15 November 1999	City of Geraldton
Russell Hodgkinson	3 May 1999	Shire of Donnybrook-Balingup
Barry Alfred Cooper	4 November 1999	Shire of Donnybrook-Balingup
Les Egerton	8 November 1999	Shire of Mukinbudin
Clifford John Casey	18 November 1999	Town of Victoria Park
Nigel Patrick Hume	4 January 2000-30 June 2000	City of Armadale
Raymond Joseph Green	15 November 1999	Shire of Busselton

PAUL PSAILA-SAVONA, Executive Director, Public Health.

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**JUSTICE**

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**JM401****DECLARATIONS AND ATTESTATIONS ACT 1913**

It is hereby notified for public information that the Hon Attorney General has approved the appointment of the following persons as Commissioners for Declarations under the Declarations and Attestations Act 1913—

Mr Peter John Richard Bowman of 18 Fisher Street, Ashfield  
Mr Richard Alfred Crespin of 14 Valencia Avenue, Churchlands  
Mr Victor Paul Etherington of 40 Dandenong Way, Alexander Heights  
Mr Antonino Fontibonese of 65 Irwin Street, East Fremantle  
Ms Pamela Alison Gabriels of 21 Angwin Street, East Fremantle  
Mrs Dianne Barbara Horner of 223 Gibbs Street, East Cannington  
Ms Lynette Jean Intveld of 52 Lyrebird Way, Thornlie  
Mr Adam John Jasper of 59 Spyglass Grove, Connolly  
Mr Roger Geddes Jewell of 39B MacLeod Road, Applecross  
Mr Jason Keirle of 5/155 French Street, Tuart Hill

Miss Jennifer Ann Labruyere of 25 Kennedy Street, Northam  
Mrs Debra Gail Miller of 68 Swanstone Street, Collie  
Mr Andrew Steven Molnar of 53 Tifera Circle, Kallaroo  
Mr William Robert Munro of 42A Lenori Road, Gooseberry Hill  
Mr Leslie John Pettitt of 317 Smith Road, Clackline  
Mr Huy Phuong Pham of 239 Coode Street, Bedford  
Miss Lara Giuseppina Potalivo of 279 Cape Street, Yokine  
Mrs Susan Pearl Robertson of 29 Derek Street, Busselton  
Mr Anthony George Selmes of 17B Malisbury Street, Bicton  
Mr Mark Tidmarsh of 13A Croft Avenue, Dianella  
Mr Phillip Tsamados of 154 Burniston Street, Scarborough  
Mrs Frances Martha Twyman of 6 Ridley Court, Medina  
Mr Peter Geoffrey Tucker of 20 Cliff Street, Marmion  
Dr Judyth Watson of 1/10-12 Maw Close, Palmyra

RICHARD FOSTER, Executive Director,  
Court Services.

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**JM402****JUSTICES ACT 1902**

It is hereby notified for public information that His Excellency the Governor in Executive Council has approved of the appointments of—

Mr Lestic Edgar Anderson of 50 Morgan Way, Girrawheen  
Mrs Deanne Tracey Jones of 32 Government Road, Dowerin  
Mr Rex James Noble of 1030 Alice Road, Mt Helena  
Mr Kenneth Maxwell Norton of 300 KM Peg Great Northern Highway, Port Hedland  
Mrs Rosina Mary Sinclair of Holtrock South Road, Newdegate

to the office of Justice of the Peace for the State of Western Australia.

RICHARD FOSTER, Executive Director,  
Court Services.

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**JM403****JUSTICES ACT 1902****ORDER UNDER SECTION 7**

His Excellency the Governor acting by and with the advice of the Executive Council and under Section 7 of the Justice Act 1902 has approved of the removal of Dr Judyth Watson of 1/10-12 Maw Close, Palmyra, from the Office of Justice of the Peace for the State of Western Australia.

By His Excellency's Command,

RICHARD FOSTER, Executive Director,  
Court Services.

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**LOCAL GOVERNMENT**

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**LG401****CITY OF MANDURAH**

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

Jody-Victoreia Somers  
Kathleen Margaret Williams

have been appointed by the City of Mandurah as a Ranger, to exercise the following Acts, Local Laws and regulations—

1. Ranger—City of Mandurah
2. Local Government Act
3. Bush Fires Act 1954
4. Dog Act 1976
5. Litter Act 1979
6. The Control of Vehicles (Off Road Areas Act 1978)
7. Uniform General Local Laws 1988 (Parking for disabled people)
8. All Council Local Laws

S. GOODE, Chief Executive Officer.



**LG402**

## CITY OF STIRLING

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

Kevin Davis	Barry Dunn
David Suddell	Peter Geoffrey Mullins
Les Murray	Steven Paul Mateljan
Wayne Jansen	Justin Ross
Neil Culbertson	

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

All previous appointments are hereby cancelled.

M. J. (Mike) WADSWORTH, Chief Executive Officer.

**LG403**

## SHIRE OF CAPEL

## Authorised Officers

Notice is hereby given of the appointment of the following persons as a Ranger/Poundkeeper under the provisions of Part XX of the Local Government (Miscellaneous Provisions) Act 1960.

Shane Richard Faber	Timothy Christopher Patrick Wall
Robert William Breeze	Lewis Ronald Winter
Ian David Cocker	John Brian Kowal
Kazimierz Joseph Ostrowski	Clive Thomas Howes
Wade Eric Bloffwitch	John Mattaboni
Trevor Mervyn Brockman	

All previous appointments are hereby revoked.

R. G. BONE, Chief Executive Officer.

**LG404**

## SHIRE OF PINGELLY

## Dual Fire Control Officers

The new Dual Fire Control Officers for the Shire of Wickpin are Ashley Coxon and Claude Simpson.

MARK HOOK, Chief Executive Officer.

**LG405**

## SHIRE OF CHAPMAN VALLEY

## Authorised Officers

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

(1) Authorised Officers—

- Local Government Act 1995
- Litter Act 1979
- Control Off Road Vehicles Act 1978
- Dog Act 1976
- Bush Fires Act 1954
- Caravan Park & Camping Act 1995
- Maurice John Battilana
- Earl O'Donnell
- Andrew David Keys
- Suzanne Joy Ward
- Peter Maxwell Ward

(2) Registration Officers—Dog Act 1976—

- Kelly Leanne Nevill
- Leonie Maria McNaught
- Maurice John Battilana
- Sandra Lee Russell
- Suzanne Joy Ward

All previous appointments, other than those pertaining to the Bush Fires Act 1954, are hereby cancelled.

MAURICE BATTILANA, Chief Executive Officer.

**LG406\***

**TOWN PLANNING AND DEVELOPMENT ACT 1928**  
**ADVERTISEMENT OF RESOLUTION DECIDING TO PREPARE**  
**A TOWN PLANNING SCHEME**

The East Australind/Eaton Precinct Scheme  
Joint Guided Development Scheme

Notice is hereby given that in conjunction with the Shire of Harvey the Shire of Dardanup Council at its Ordinary meeting held on 15 May 1998 passed the following resolution—

483/98 THAT Council resolve to adopt the East Australind/ Eaton Precinct Scheme—Joint Guided Development Scheme.

Dated this 9th day of December 1999.

MARK L. CHESTER, Chief Executive Officer.

**LG501**

**SHIRE OF PINGELLY**

Notice of Amendment to 1999/2000 Fire Break Notice

Please be advised that Council has amended its 1999/2000 Fire Break Notice. The amendment is as follows—

**Fire Fighting Units**

During any period when \*harvesting operations are being conducted there shall be provided in the same paddock or within 50 metres of that paddock, an operational independent mobile fire fighting unit having an engine driven pump and a water capacity of not less than 450 litres; the tank of the unit shall be kept full of water at all times during harvesting, and the responsibility to supply the unit is that of the landholder.

\*Harvesting operations include the use of mobile augers and seed cleaning units.

MARK HOOK, Chief Executive Officer.

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## **MINERALS AND ENERGY**

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**MN401\***

**PETROLEUM (SUBMERGED LANDS) ACT 1967**

NOTICE OF CANCELLATION OF EXPLORATION PERMITS

Notice is hereby given that pursuant to Section 105(1) of the said Act, Exploration Permit Nos. WA-265-P and WA-266-P have been cancelled in respect of the whole of the blocks contained therein, effective pursuant to section 95 of the said Act, from and including the day on which this notice of cancellation is published in the *Government Gazette* of Western Australia.

WILLIAM TINAPPLE, Director Petroleum Division.

**MN402\***

COMMONWEALTH OF AUSTRALIA

**PETROLEUM (SUBMERGED LANDS) ACT 1967**

(SECTION 119)

PROHIBITION OF ENTRY INTO A SAFETY ZONE

I, William Lee Tinapple, the Director Petroleum Division of the Department of Minerals and Energy of the State of Western Australia, by instrument of delegation dated 4 June 1998, and pursuant to Section 119 of the above Act, hereby prohibit all vessels other than vessels under control of the registered holders of Production Licence WA-13-L from entering or remaining in the area of the safety zone areas specified in the following schedule without the consent in writing of the Director, Petroleum Division.

SCHEDULE

A distance of five hundred metres, measured from each point of the outer edge of—

East Spar 1 Sub-sea Heat Exchanger situated at latitude 20° 42' 16.76" South, longitude 114° 58' 54.5" East;

East Spar 3 Sub-sea Heat Exchanger situated at latitude 20° 44' 6.37" South, longitude 114° 58' 21'.42" East;

Sub-Sea Manifold situated at latitude 20° 43' 24.61" South, longitude 114° 58' 59.5" East;

NCC Bouy situated at latitude 20° 43' 26.90" South, longitude 114° 59' 3.72" East

Where an unauthorised vessel enters or remains in the safety zone specified in contravention of this instrument, the owner and the person in command or in charge of the vessel are each guilty of an offence against Section 119 of the Act and are punishable, upon conviction, by a fine not exceeding \$100,000 or imprisonment for a term not exceeding 10 years, or both, pursuant to Section 119(3) of the Act.

Dated this 3rd day of December 1999.

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

WILLIAM LEE TINAPPLE, Director Petroleum Division.

**MN403\***

### **PETROLEUM PIPELINES ACT 1969**

#### **NOTICE OF APPLICATION FOR A PIPELINE LICENCE**

I, William Lee Tinapple, Director of the Petroleum Division in the Department of Minerals and Energy for the State of Western Australia being the Officer for the time being holding certain powers and functions of the Minister in respect of the area specified in the State of Western Australia by virtue of an instrument of delegation dated 4 June 1998 and published in the Government Gazette of Western Australia on 16 June 1998, give notice pursuant to Section 8(4) of the Petroleum Pipelines Act, 1969 that application recorded as 4P/99-0 has been received from—

SYNTROLEUM SWEETWATER LLC  
OF 1350 S. BOULDER, TULSA, OKLAHOMA 7411 USA

for a pipeline licence to construct and operate a pipeline for the conveyance of natural gas from the Woodside Energy Limited gas plant lease area 4.8 kilometres to the proposed Syntroleum Gas-to-Liquids (GTL) plant to be constructed on the Burrup Peninsula (immediately to the south east of the intersection of Burrup Road and Hearson Cove Road).

Maps showing the position of the proposed pipeline may be examined during public office hours until 7 January 2000 at the Petroleum Division, Department of Minerals and Energy, 11th Floor, Mineral House, 100 Plain Street, East Perth WA and also the Department of Minerals and Energy, SGIO Building, Hedland Place, Karratha WA.

Dated this 7th day of December 1999.

W. L. TINAPPLE, Director Petroleum Division.

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## **PLANNING**

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**PD101\***

### *CORRECTION*

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

#### **ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT**

#### **SHIRE OF SERPENTINE-JARRAHDALE**

#### **TOWN PLANNING SCHEME No. 2—AMENDMENT No. 77**

Ref: 853/2/29/3 Pt 77 Vol 2

It is hereby notified for public information that the notice under the above Amendment No 77 published at pages 5806-5808 of the *Government Gazette* No 219 dated 19 November, 1999, contained errors which are now corrected as follows—

- |                    |                               |
|--------------------|-------------------------------|
| (1) For the word:  | Clause 5.16                   |
| Read:              | Clause 5.17                   |
| (2) For the words: | 5.16 Environmental Conditions |
| Read:              | 5.17 Environmental Conditions |

and re-number sub-clauses accordingly.

- (3) For the words: Schedule 17  
Read: Appendix 17

I. BODILL, Chief Executive Officer.

**PD401\***

**TOWN PLANNING AND DEVELOPMENT ACT, 1928**

**ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME AMENDMENT**

**SHIRE OF DENMARK**

**TOWN PLANNING SCHEME No. 3—AMENDMENT No. 36**

Ref: 853/5/7/3 Pt 36

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 Denmark Town Planning Scheme Amendment on 29 November, 1999 for the purpose of—

1. Rezoning portion of Lot 1 Pt Location 2015 Harington Break from “Special Rural” and “Parks and Recreation” to “Special Residential” and “Parks and Recreation” and amending the Scheme Maps accordingly.
2. Amending Appendix 14 - Special Residential Zone: “1. Harington Break Special Residential Zone” by—
  - (i) Replacing existing Clause (c)(i) with—

“Subdivision of Special Residential Zone No 1 is to be in accordance with the Subdivision Guide Plan dated October 1999 as signed by the Chief Executive Officer.”
  - (ii) Amending Clause (vi)(d) with the deletion of the second paragraph and replacing it with the following—

“All buildings and structures shall be located inside the low fuel areas and set back approximately 20 metres from where the low fuel areas border uncleared areas or an appropriate distance as determined by Council.”
  - (iii) The addition of Clause xvii—

“Within the Tree Preservation Areas defined on the Subdivision Guide Plan, no indigenous trees or vegetation shall be felled or removed except where—

    - trees are dead, diseased or dangerous;
    - the establishment of a fire access track is required under regulation or by-law.”
  - (iv) The addition of Clause xviii—

“All development shall be in accordance with the approved Fire Management Plan.”
3. Deleting “14. Harington Break Special Rural Zone” and associated provisions from Appendix 6—Special Rural Zone.

C. DONNELLY, President.  
P. DURTANOVICH, Chief Executive Officer.

**PD402\***

**TOWN PLANNING AND DEVELOPMENT ACT 1928**

Office of the Minister for Planning,  
Perth.

it is hereby notified for general information that the Governor in Executive Council has, in accordance with section 42 of the Town Planning and Development Act 1928 approved the appointment of—

Leslie STEIN of 10 Grange Street, Claremont as Chairperson;  
John CHANEY of 98 Gloster Street, Subiaco as Deputy Chairperson  
Lloyd GRAHAM of 10 Phillips-Fox Terrace, Woodvale as Member  
Colin PORTER of 3 Villiers Street, Bassendean as Member  
Donald BROWN of 41 Hampden Street, South Perth as Deputy Member and  
Edward McKINNON of 34 Joiner Street, Melville as Deputy Member

of the Town Planning Appeal Tribunal for terms commencing on 1 January 2000 and expiring on 31 December 2000.

GRAHAM KIERATH, MLA, Minister for Planning.

**PD702\***

**TOWN PLANNING AND DEVELOPMENT ACT, 1928**  
**ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME**  
*CITY OF BELMONT*  
**TOWN PLANNING SCHEME No. 14**

Ref: 853/2/15/12

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Hon Minister for Planning approved the City of Belmont Town Planning Scheme No 14 on 1 December, 1999—the Scheme Text of which is published as a Schedule annexed hereto.

P. R. PASSERI, Mayor.  
B. GENONI, Chief Executive Officer.

SCHEDULE  
THE CITY OF BELMONT TOWN PLANNING SCHEME NO.14  
DISTRICT ZONING SCHEME

The Belmont City Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended), hereinafter referred to as “The Act”, hereby makes the following Town Planning Scheme for the purposes laid down in the Act.

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

This Town Planning Scheme may be cited as the City of Belmont Town Planning Scheme No. 14—District Zoning Scheme, (hereinafter called “the Scheme”) and shall come into operation on the publication of the Scheme and notice of the Minister’s final approval thereto in the *Government Gazette*.

**1.2 Contents of Scheme**

The Scheme comprises—

- (a) This Scheme Text
- (b) The Scheme Map (Sheets 1—7)

The Scheme Text is to be read in conjunction with the Scheme Maps and Scheme Report (incorporating Local Planning Strategy).

**1.3 Responsible Authority**

The authority responsible for enforcing the observance of the Scheme is the City of Belmont (hereinafter called “the Council”).

**1.4 Scheme Area**

The Scheme applies to the whole of the municipal district of the Council (hereinafter called “the City”) as identified and contained within the inner edge of a broken black line on the Scheme Map.

**1.5 Relationship to the Metropolitan Region Scheme**

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 within the City. The authority responsible for implementing the Metropolitan Region Scheme is the Commission.

**1.6 Revocation**

The City of Belmont Town Planning Scheme No. 11 published in the *Government Gazette* of 17 June, 1988, and all amendments thereto are hereby revoked.

**1.7 The Aims of the Scheme**

The aims of the Scheme are—

- To assist the effective implementation of regional plans and policies including the State Planning Strategy.
- To ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space.
- To provide for housing choice and variety in neighbourhoods with a community identity and high levels of amenity.
- To assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments, as well as providing opportunities for home-based employment.
- To protect and enhance the environmental values and natural resources of the local government area and to promote ecologically sustainable land use and development.
- To safeguard and enhance the character and amenity of the built and natural environment of the local government area.

**1.8 Relationship With Other Laws**

Where a provision of this Scheme is inconsistent with a Local Law or By-law the provisions of this Scheme shall prevail.

**1.9 Definitions**

1.9.1 In the Scheme, unless the context otherwise requires or unless the Scheme otherwise provides, words and expressions have the respective meanings given to them in the Act, Schedule 1 of the Scheme, the Residential Planning Codes.

1.9.2 If there is a conflict between the meanings of the words and expressions in those instruments then—

- (a) in the case of residential development the definitions in the Residential Planning Codes shall prevail; and
- (b) otherwise the definition in the Act, followed by Schedule 1 of the Scheme will prevail in that order.

1.9.3 Words and expressions used in the Scheme but not defined in the Act, Schedule 1 of the Scheme, elsewhere in the Scheme or in the Residential Planning Codes, shall have their normal and common meanings.

1.9.4 Headings of parts of this Scheme shall be used as an aid to construction of this Scheme but the table of contents, notes, headings of clauses, sub-clauses and paragraphs are intended for reference purposes only and do not affect the construction of this Scheme.

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

### **2.1 Local Planning Strategy Incorporated Into The Scheme**

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

2.1.2 If any inconsistency arises between the Local Planning Strategy and the Scheme, the provisions of the Scheme shall prevail.

### **2.2 Procedure For Amending A Local Planning Strategy**

The Local Planning Strategy may be amended by the following procedures—

- (a) The Council shall publish a notice once a week for two consecutive weeks in a local newspaper circulating with the Scheme Area giving details of where the amendment may be inspected, and in what form and during what period (being not less than 28 days) submissions may be made.
- (b) A copy of the amendment shall be forwarded to the Commission and any other person or organisation which, in the opinion of the Council has a direct interest in the strategy, for consideration and advice.
- (c) The Council shall review the amendment in the light of any submissions made and advice received and shall then resolve either to finally adopt the amendment with or without modification, or not to proceed with the amendment.
- (d) Following adoption of the amendment the Council shall forward a copy of the amendment to the Commission for its endorsement.
- (e) Following endorsement by the Commission, the Council shall—
  - (i) publish a notice of adoption and endorsement of the amendment once in a newspaper circulating within the Scheme area; and
  - (ii) forward a copy of the amended Strategy to the Commission.
- (f) A copy of the amended Local Planning Strategy Plan is to be kept and made available for public inspection at the offices of the Council and Ministry for Planning.

### **2.3 Local Planning Policies**

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

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

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

2.3.2 Any Local Planning Policy prepared under this Part shall be consistent with the Scheme and where any inconsistency arises the Scheme shall prevail.

### **2.4 Local Planning Policy Not Part of A Scheme**

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

### **2.5 Procedures for Making and Amending A Local Planning Policy**

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

- (a) The Council having prepared and adopted a draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area giving details of where the draft Policy may be inspected, the subject and nature of the Policy and in what form and during what period (being not less than 21 days) submissions may be made.
- (b) The Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.
- (c) Following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area.
- (d) Where, in the opinion of the Council, the provisions of any Policy affects the interests of the Commission, a copy of the policy shall be forwarded to the Commission.
- (e) The Council shall keep copies of any Policy with the Scheme documents for public inspection during normal office hours.
- (f) Any amendment or addition to a Policy shall follow the procedures set out in (a)-(d) above.



## 2.6 Rescission of A Local Planning Policy

A Local Planning Policy may be rescinded by—

- (a) the preparation or final adoption of a new Policy pursuant to clause 2.5 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 local government district.

## PART 3—RESERVES

### 3.1 Classification

Certain lands within the Scheme area are shown on the Scheme Map and classified into either—

- (a) Metropolitan Region Scheme Reserves; or
- (b) City of Belmont Local Scheme Reserves.

### 3.2 Metropolitan Region Scheme Reserves

3.2.1 The land shown as “Metropolitan Region Scheme 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.

3.2.2 The approval of the Council under this Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.

### 3.3 Scheme Reserves

#### 3.3.1 Local Scheme Reserves

The land shown as Local Scheme Reserves on the Scheme Map and Supplementary Map are lands reserved under the Scheme for the purposes shown on the Scheme Map and are listed hereunder.

Civic and Cultural	CC	(Civic and Community Centre)
	CL	(Clinic)
	H	(Hall)
Major Distribution Road		
Parks and Recreation		
Parks and Recreation	WSD	(Dual Recreation and Drainage Reserve)
Public Purposes	C	(Civil Defence)
	D	(Works Depot)
	DD	(Defence)
	FS	(Fire Station)
	K	(Kindergarten)
	MTT	(Bus Depot)
	P	(Police)
	TEL	(Telstra)
	PS	(Primary School)
	IVP	(Western Power)

#### 3.3.2 Use and Development of Local Reserves

A person shall not use, commence or carry out development on a local reserve without first having obtained the Planning Approval of the Council under Part 5 of the Scheme, and in determining an application for Planning Approval the Council shall have regard to—

- (a) the matters set out in clause 5.8; and
- (b) the ultimate purpose intended for the reserve;

and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before giving its approval.

#### 3.3.3 Development Standards on Reserved Land

Where the Council considers the development of any Local Scheme Reserve by any person, the Council shall to the extent that it is reasonable to do so apply or impose development standards and requirements which would be imposed for development of the kind in question on zoned land, and the Council shall for that purpose stipulate the zone most relevant for comparison.

#### 3.3.4 Acquisition of Reserves and Compensation

##### 3.3.4.1 This clause applies to land which is—

- (a) a Scheme reserve; and
- (b) not owned by or vested in a public authority, a Commonwealth agency or the Council.

3.3.4.2 A claim for compensation for injurious affection can be made pursuant to Section 11 of the Town Planning Act when the Scheme—

- (i) permits development on land for no purpose other than a public purpose;
- (ii) prohibits wholly or partially the continuance of any non-conforming use according to the terms of the Act.

3.3.4.3 The time limit for the making of claims for compensation for injurious affection pursuant to Section 11 (1) of the Act resultant from the making of, or the making of an amendment to, the Scheme, is six (6) months from the date of publication of the Scheme or Scheme Amendment in the *Government Gazette*.

3.3.4.4 In addition to the compensation provisions of the Act and sub-clause 3.3.4.2 of this Scheme, where, in respect of any application for Planning Approval to commence or carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may claim compensation from the Council for injurious affection.

3.3.4.5 The time limit for the making of claims for compensation pursuant to sub-clause 3.3.4.4 is not later than 6 months after the date of the decision of the Council or appellate body.

### 3.3.5 Election to Purchase and Valuation

3.3.5.1 Where compensation for injurious affection is claimed pursuant to sub-clauses 3.3.4.2 or 3.3.4.4 of the Scheme, the Council may, at its option, elect to acquire the land so affected instead of paying compensation.

3.3.5.2 Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.

3.3.5.3 Where the Council elects to acquire land as provided in sub-clause 3.3.5.1 if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the council shall be the value of the land as determined in accordance with sub-clause 3.3.5.4.

3.3.5.4 The value of the land referred to in sub-clause 3.3.5.3 shall be the value thereof on the date that the Council elects to acquire the land and that value shall be determined—

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

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

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

## PART 4—ZONES

### 4.1 Classification

4.1.1 Land, other than the reserved land referred to in Part III, is classified into zones as set out hereunder—

1. Residential
2. Town Centre
3. Commercial
4. Mixed Use
5. Industrial
6. Service Station
7. Places of Public Assembly
8. Residential and Stables
9. Special Development Precinct

4.1.2 The zones are delineated and coloured on the Scheme Maps according to the legend appended thereto.

### 4.2 Zoning Table

4.2.1 The Zoning Table (Table 1) indicates, subject to the provisions of the Scheme, the permissibility of uses in the various zones.

The symbol indicating the permissibility of any use is determined by cross-reference between the list of use classes on the left-hand side of the Zoning Table and the list of zones on the top of the Zoning Table.

#### 4.2.2 Symbols

(a) The symbols use in the cross-reference in the Zoning Table, and where used elsewhere in the Scheme have the following meanings—

- “P” means that the use is permitted by the Scheme;
- “D” means that the use is not permitted unless the Council has exercised its discretion by granting Planning Approval;
- “S” means that the use is not permitted unless the Council has exercised its discretion and has granted Planning Approval after giving special notice in accordance with clause 5.7.3;
- “X” means a use that is not permitted by the Scheme.

(b) Where in the Zoning Table a particular use is mentioned, it is deemed to be excluded from any use class which by its more general terms would otherwise include such particular use.



TABLE 1—ZONING TABLE—*continued*

USE CLASSES	ZONES								
	Residential	Town Centre	Commercial	Mixed Use	Industrial	Service Station	Places of Public Assembly	Residential and Stables	Special Development Precinct
Industry—Service	X	X	X	D	P	X	X	X	X
Laundromat	X	P	P	P	P	X	X	X	X
Lunch Bar	X	P	P	P	P	X	X	X	X
Marina	D	X	D	D	X	X	X	X	X
Massage Parlour	X	X	X	X	D	X	X	X	X
Medical Centre	X	X	D	D	D	X	X	X	X
Motel	X	X	X	D	X	X	X	X	X
Motor Vehicle & Marine Sales	X	X	X	X	D	X	X	X	X
Motor Vehicle Hire	X	X	X	X	D	X	X	X	X
Motor Vehicle Repair	X	X	X	S	P	X	X	X	X
Motor Vehicle Wash	X	X	X	X	D	D	X	X	X
Motor Vehicle Wrecking	X	X	X	X	X	X	X	X	X
Multiple Dwelling	D	X	D	D	X	X	X	X	D
Night Club	X	S	X	D <sup>2</sup>	D	X	X	X	X
Nursing Home	D	X	X	D	X	X	X	X	X
Office	X	P	P	D	D	X	X	X	D
Open Air Display	X	X	X	X	D	X	X	X	X
Private Recreation	X	X	X	D	D	X	D	X	X
Public Amusement	X	D	S	D	X	X	D	X	X
Public Worship	X	X	X	S	X	X	P	X	X
Radio & TV Installation	D	D	D	D	D	X	D	D	X
Reception Centre	X	X	X	D <sup>2</sup>	X	X	D	X	X
Reformatory	X	X	X	X	X	X	X	X	X
Residential Building	D	X	X	D	X	X	X	D	X
Restaurant	X	P	P	D	X	X	X	X	D
Restricted Premises	X	D	D	D	X	X	X	X	X
Salvage Yard	X	X	X	X	X	X	X	X	X
Service Station	X	S	X	X	X	P	X	X	X
Serviced Apartments	D	X	X	D	X	X	X	X	D
Shop	X	P	P	X <sup>1</sup>	X	X	X	X	D
Showroom	X	D	X	D	P	X	X	X	X
Single House	P	X	D	D	X	X	X	P	D
Stables	X	X	X	X	X	X	X	P	X
Studio	X	X	X	P	P	X	X	X	X
Tavern	X	P <sup>3</sup>	S	S	S	X	X	X	X
Transport Depot	X	X	X	D	P	X	X	X	X
Truck Stop	X	X	X	X	D	X	X	X	X
Vet Consulting Rooms	X	D	D	D	D	X	X	D	X
Vet Hospital	X	X	X	D	D	X	X	X	X
Video Store	X	P	P	D	X	D	X	X	X
Warehouse	X	X	X	D	P	X	X	X	X

<sup>1</sup> Refer to Clause 10.5.6<sup>2</sup> Refer to Clause 10.5.8<sup>3</sup> Refer to Clause 10.4.2<sup>4</sup> Refer to Clause 10.4.2**PART 5—USE AND DEVELOPMENT OF LAND****5.1 Application For Planning Approval**

5.1.1 Subject to clause 5.1.3 all development on land zoned an reserved under this Scheme requires the Planning Approval of the Council in each case. Accordingly, no person shall commence or carry out any development without first having applied for and obtained the Planning Approval of the Council pursuant to the provisions of this Scheme Part.

5.1.2 Any application for Planning Approval shall be made on or in accordance with the form prescribed in Schedule No. 5. Unless Council waives any particular requirement every application for Planning Approval shall be accompanied by—

- (a) a plan or plans to a scale of not less than 1:500 showing—
  - (i) street names, lot number(s), north point and the dimensions of the site;
  - (ii) the location and proposed use of the site, including any existing building to be retained and proposed buildings to be erected on the site;
  - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;

- (iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - (v) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - (vi) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
  - (vii) the nature and extent of any open space and landscaping proposed for the site.
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
  - (c) any specialist studies that Council may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies;
  - (d) any other plan or information that the Council may reasonably require to enable the application to be determined.

5.1.3 The Council's prior Planning Approval on land zoned by the Scheme is not required if the development consists of—

- (a) The erection of a boundary fence except as otherwise required by the Scheme.
- (b) The erection on a lot of a single dwelling house, including ancillary outbuildings, in a zone where the proposed use is designated with the symbol "P" in the cross-reference to that zone in the Zoning Table, except in the case of lots having an area of less than 350 sqm and where otherwise required by clauses 5.1.4 to 5.1.8 inclusive and clause 10.2.4.2.
- (c) The carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act.
- (d) The carrying out of any building or works which affect only the interior of a building and which do not materially affect the external appearance of the building unless the building is—
  - (i) located in a place that has been registered in the Register of Places under the Heritage of Western Australia Act 1990;
  - (ii) the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990;
  - (iii) included on Heritage List under Clause 7.1 of this Scheme.
- (e) The carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services.
- (f) The use of land which is a permitted ('P') use in the zone in which that land is situated provided it does not involve the carrying out of any building or other works.
- (g) The continuation of an existing lawful use by a new owner/occupier provided the continuation does not involve the carrying out of any building or other works.
- (h) The demolition of any building or structure except where the building or structure is:—
  - (i) located in a place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990;
  - (ii) the subject of an order under Part 6 of the Heritage of Western Australia Act 1990;
  - (iii) included on the Heritage List under the Scheme;
  - (iv) located within a Heritage Area designated under the Scheme.

5.1.4 Notwithstanding that a single house does not require the prior approval of the Council pursuant to the Scheme, any person who wishes the Council to vary any particular provision of the R Codes relating to the erection of a single house shall, at the time of lodging an application for a building licence or earlier, apply for Council's Planning Approval for the variation.

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

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

5.1.5 Under the provisions of the Metropolitan Region Scheme, 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. No separate determination is made by the Council.

5.1.6 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 by the Minister for Water Resources in accordance with the Swan River Trust Act 1988.

5.1.7 An application for Planning Approval in respect of land which is zoned under the Metropolitan Region Scheme and is—

- (a) affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme, or
- (b) within or partly within a Planning Control Area duly declared by the Commission pursuant to Section 35c of the Metropolitan Region Town Planning Scheme Act, or
- (c) partly within the management area of the Swan River Trust or abuts waters that are in that area, or
- (d) affected by a 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 and is not of a type which may be determined by the Council under that Notice.

shall be referred by the Council to the Commission in accordance with the requirements of the Metropolitan Region Scheme and Notice of Delegation. Separate determinations are made by the Council under this Scheme and the Commission under the Metropolitan Region Scheme.

5.1.8 Notwithstanding that any development by reason of the provisions of subclause 5.1.3 does not require the approval of the Council, an application must nevertheless be submitted to the Council for referral to the Swan River Trust for determination in accordance with the Swan River Trust Act 1988 if the land the subject of the application is wholly within the management area of the Swan River Trust.

## **5.2 Application for Approval of Use**

5.2.1 For the purpose of obtaining Council's approval for the use of land the commencement, carrying out or change of a use on land shall be a considered development notwithstanding that it may not involve the carrying out of any building or other works and the Council may impose such conditions as are deemed necessary to upgrade a premises as a condition of approval to change the use.

5.2.2 If an application for Planning Approval involves the carrying out of building or other work on land, the approval by the Council of the application shall unless the Council stipulates otherwise in its approval, be an approval also of the commencement and carrying out of any use of the land—

- (a) which is specifically proposed and referred to in the application; or
- (b) which is normally associated with and follows as the most usual consequence of the carrying out or completion of the building or other work.

## **5.3 Determination or Referral of Applications**

If the Council receives an application for Planning Approval on land which is partly zoned by the Scheme and partly within an area in respect of which the Planning Approval of the Commission or the Swan River Trust is required then—

- (a) the Council shall retain one copy of the application and refer the other copy to the Commission for determination of the application pursuant to the Metropolitan Region Scheme;
- (b) if it is reasonable in the circumstances for the Council to make a determination as to the part of the proposed development which is on the land zoned by the Scheme, then the Council shall deal with that part of the application in accordance with subclauses 5.3.2 and 5.3.3 but where appropriate the Council may express any approval it gives to be subject to the approval of the Commission;
- (c) if it is not reasonable in the circumstances for the Council to make a determination as to the part of the development which is on the land zoned by the Scheme the Council may delay its determination of the application as to that part until the determination of the Commission is made known to it.

## **5.4 Discretion to Refer to Other Authorities**

5.4.1 The Council may if it so desires, notwithstanding that it is under no obligation to do so, before determining any application, consult with any other statutory, public or planning authority and with any other party it deems fit.

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

## **5.5 Deemed Refusal**

5.5.1 Subject to sub-clause 5.5.2 an application for Planning Approval shall be deemed to have been refused where a decision in respect of that application is not posted, given or otherwise conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

5.5.2 An application for Planning Approval which is subject of a notice under clause 5.7 shall be deemed refused where a decision in respect of that application is not posted, given or otherwise conveyed to the applicant by the Council within 90 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

5.5.3 Notwithstanding that the application for Planning Approval may be deemed to have been refused, the Council may issue a decision in respect of the application at any time after the expiry of the 60 days or 90 day period specified in those classes, and that decision shall be effective as from the date of determination.

## **5.6 Dealing With "P", "D" and "X" Uses**

5.6.1 **"P" Uses**—If an application under this Scheme for Planning Approval involves a "P" use, the Council shall not refuse the application by reason of the unsuitability of that use, but notwithstanding that, the Council may in its discretion impose conditions upon the Planning Approval and if the application proposes or necessarily involves any building or other work the Council upon considering that building or other work may exercise its discretion as to the approval or refusal and the conditions to be attached to the proposed development.

5.6.2 **"D" Uses**—The Council in exercising its discretion as to the approval or refusal of an application for Planning Approval, shall have regard to the provisions of subclause 5.8.

5.6.3 **"X" Uses**—The Council shall refuse to approve of so much of any development which involves a use which is not permitted.

**5.7 Advertising of Applications and Dealing With "S" Uses**

5.7.1 Where an application is made for Planning Approval to commence or carry out development which involves an "S" use, the Council shall not grant approval to that application unless notice of the application is first given in accordance with the provisions of subclause 5.7.3.

5.7.2 Where an application is made for Planning Approval to commence or carry out development which involves an "D" use, or any other development which requires the Planning Approval of the Council, the Council may give notice of the application in accordance with the provisions of subclause 5.7.3.

5.7.3 Where the Council is required or decides to give notice of an application for Planning Approval the Council shall cause one or more of the following to be carried out—

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

5.7.4 The notice referred to in subclause 5.7.3(a) and (b) shall be in the form contained in Schedule No. 6 with such modifications as circumstances require.

**5.7.5 Consideration of Submissions After Advertising or Notification**

The Council shall not make a decision to approve a development application in respect of which advertising or notification under subclause 5.7.3 has occurred until after the latest date for submissions stated in any advertisement or notice given or published pursuant to that subclause, and until after the Council has considered each submission lodged in accordance with the advertisement or notice.

**5.7.6 Expenses**

In the event that the Council undertakes responsibility for any notice or advertising pursuant to subclause 5.7.3 then the Council may require that any expenses incurred by the Council be advanced or reimbursed by the applicant to the Council, whether or not the application is approved.

**5.8 Matters to Be Considered When Council Exercises Discretion**

5.8.1 The Council when considering an application for Planning Approval shall have due regard to the following—

- (a) the aims and provisions of this Scheme and any other relevant town planning scheme(s) operating within the district including the Metropolitan Region Scheme;
- (b) the provisions of the Local Planning Strategy;
- (c) the requirements of orderly and proper planning including any relevant proposed new town planning scheme that has been adopted by the Council pursuant to the Town Planning Regulations 1967 or any pending amendment to the Metropolitan Region Scheme;
- (d) any approved Statement of Planning Policy of the Commission;
- (e) any approved Environmental Protection Policy under the Environmental Protection Act 1986;
- (f) any other policy or strategy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
- (g) any planning policy adopted by the Council under the provisions of clause 2.5 of this Scheme, any heritage policy statement for any designated Heritage Area adopted under sub-clause 7.2.2 of this Scheme, or any other plan or guideline adopted by the Council under the provisions of this Scheme;
- (h) the conservation of any place on the Heritage List or character or appearance of a Heritage Area;
- (i) any environmental consideration;
- (j) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (k) the preservation of the amenity of the locality;
- (l) the relationship of the proposal to development on adjoining land or on other land in the locality;
- (m) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (n) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (o) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (p) whether public utility services are available and adequate for the proposal;
- (q) whether adequate provision has been made for access by disabled persons;

- (r) whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- (s) whether the proposal is likely to cause soil erosion or land degradation;
- (t) the potential loss of any community service or benefit resulting from the Planning Approval;
- (u) any relevant submissions or objections received on the application;
- (v) the comments or submissions received from any authority consulted under clause 5.4;
- (w) any other consideration the Council considers relevant.

5.8.3 In addition to the matters referred to in the preceding subclauses of this clause, the Council when considering whether or not to approve an "S" or a "D" use application shall have due regard to the following (whether or not by implication or otherwise the matters may have required consideration under the preceding subclauses of this clause)—

- (a) the nature of the proposed use and its relationship to the use of other land within the locality;
- (b) the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building, the view from the building and any possible interruption of the existing view from other buildings or land in the locality;
- (c) the nature of the roads giving access to the subject land;
- (d) the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;

### **5.9 Power and Options in Determining Applications for Planning Approval**

5.9.1 The Council having regard to the appropriateness of any proposed development may make any of the following decisions—

- (a) refuse to grant its approval;
- (b) grant approval without conditions;
- (c) grant approval subject to such conditions and requirements as it deems fit; or

5.9.2 The Council may, where it deems appropriate, grant a Planning Approval which—

- (a) if not commenced, substantially commenced, or completed as the case may be within the period of time specified in the Approval shall cease to be valid; or
- (b) permits the use and/or other development of land to occur for a limited period of time specified in the Approval, after the expiration of which period the use and/or other development shall cease and unless otherwise stipulated by the Council the site shall be restored to the condition existing at the time when the Approval was given, unless a further Approval has been sought and obtained; or
- (c) in its terms invalidates a previous Planning Approval or part of it, or includes a condition which purports to invalidate a previous Planning Approval or part of it, then upon the later Planning Approval being acted upon, the earlier Planning Approval is invalid to the extent stated in the later Planning Approval or condition, and the later Planning Approval shall be the only Planning Approval applying to that development or part.

5.9.3 The Council shall convey its decision to an applicant by way of the form contained in Schedule No. 7.

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

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

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

5.10.3 Where the Council has granted approval subject to matters requiring the later Planning Approval of the Council, an application for approval of those matters must be made not later than the expiration of two years beginning with the date of the first approval, or such other period as specified in the approval.

### **5.11 Approval of Existing Developments**

5.11.1 The Council may grant Planning Approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, providing the development conforms to the provisions of the Scheme.

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

5.11.3 The approval by the Council of an existing development shall not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement of the development without approval.

### **5.12 Variation of Conditions**

5.12.1 Where the Council gives a Planning Approval with or without conditions, the Council, upon request or other initiative of the land owner, may add to, vary or delete any condition, or substitute any other condition.



5.12.2 If the Council adds to, varies or deletes any conditions, or substitutes a condition pursuant to the provisions of the preceding subclause, then the Council shall as soon as possible send to the owner, and if the owner is not the occupier of the subject land, also send to the occupier, an updated list of the conditions.

### **5.13 Temporary Uses**

5.13.1 Notwithstanding any other provision of the Scheme to the contrary, if the Council considers that any use should be permitted on any land temporarily, it may give Planning Approval strictly limited in time as a temporary use.

5.13.2 The Council may approve a temporary use in respect of any use class, but it shall only give such approval in respect of a use which would not ordinarily be permissible in the relevant zone where—

- (a) no building would be placed on the land unless it could be readily adapted for use for a purpose permitted in the zone, or which might preclude or inhibit the ultimate use of the land for a permitted purpose;
- (b) the use would be compatible with the use of adjoining properties or the predominant use of land in the immediate locality; and
- (c) the use would not be prejudicial to the amenity of the locality.

5.13.3 Before approving a temporary use under the provisions of this subclause the Council shall advertise the proposal and consult with the public in accordance with the manner prescribed for "S" uses under subclause 5.7.3 of the scheme.

5.13.4 The Council shall not approve a temporary use for more than two years.

5.13.5 The Council shall only approve a temporary use in the Residential Zone if the use proposed will not be offensive, unsightly or otherwise considered to be detrimental to the amenity of the neighbourhood.

5.13.6 Notwithstanding the generality of the foregoing, the Council in approving a temporary use may impose conditions appropriate to the circumstances, including, but without limiting the generality of the foregoing, a condition requiring the proponent to enter into an agreement in regard to the termination of the use.

### **5.14 Environmental Conditions**

5.14.1 In accordance with Section 7A4 of the Town Planning Act, environmental conditions imposed by the Minister for the Environment on the Scheme or amendments to the Scheme and contained in Statements under Section 48F Environmental Protection Act, are incorporated into the Scheme by Schedule 10 of the Scheme.

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

5.14.3 The Council shall maintain a register of all the Statements published under Section 48F referred to in sub-clause 5.14.1 which shall be made available for public inspection at the offices of the Council.

## **PART 6—NON-CONFORMING USES**

### **6.1 Existing, or Lawful Non-Conforming Use Rights**

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

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme; or
- (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 8.7, the continued display of advertisements which were lawfully erected, placed or displayed prior to the approval of this Scheme.

### **6.2 Extension of Non-Conforming Use**

A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the Planning Approval of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme. All applications for Planning Approval under this clause will be subject to notice under clause 5.7 and Council shall have special regard to the impact of the proposed erection, alteration or extension of the building on the preservation of the amenity of the locality.

### **6.3 Change of Non-Conforming Use**

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

### **6.4 Discontinuance of Non-Conforming Use**

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

**6.5 Termination of A Non-Conforming Use**

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

**6.6 Destruction of Non-Conforming Use Buildings**

When a building used for a non-conforming use is destroyed to 75% or more of its value, the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the buildings shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the Planning Approval of the Council.

**6.7 Register of Non-Conforming Uses**

6.7.1 The Council shall keep a Register of non-conforming uses at the offices of the Council which shall be made available for public inspection during office hours.

6.7.2 A person who wishes the Council to record that a non-conforming use exists may submit to the Council in writing full details of the nature, location and extent of the non-conforming use claimed.

6.7.3 Where the Council is satisfied that a non-conforming use exists, it shall record details of the non-conforming use on the Register.

6.7.4 A non-conforming use does not cease to exist if it is not registered on the Register.

**PART 7—HERITAGE CONSERVATION AND PRESERVATION****7.1 Purpose and Intent**

The purpose and intent of the provisions in this clause is, with a view to securing the amenity of the Scheme Area, to provide for—

- (a) conservation of places of cultural heritage significance;
- (b) designation of conservation areas;
- (c) conservation of the natural beauties of an area, including places of the kind referred to in clause 11 of the First Schedule of the Act; and
- (d) the preservation of particular trees, trees of a particular species, trees of a particular height or girth or both, or trees belonging to a particular group of trees which the Council considers ought to be preserved, and for the purpose of these provisions the word “trees” includes shrubs and other perennial plants of species specified in the decision or declaration of the Council.

**7.2 Municipal Heritage List**

7.2.1 The Council shall establish and maintain a Heritage List, which shall identify those places within the Scheme Area to be of cultural heritage significance and worthy of conservation under the provisions of this Scheme, together with a description of each place and the reasons for its entry.

7.2.2 In the preparation of the Heritage List the Council shall have regard to the Municipal Inventory prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 and will include on the List such of those entries on the Inventory it considers to be appropriate.

7.2.3 In considering a proposal to include a place on the Heritage List, the Council shall—

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description referred to in sub-clause 7.2.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the date specified in the notice;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

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

7.2.5 The Council shall keep copies of the Heritage List with the Scheme documents for public inspection.

7.2.6 The Council may remove or modify the entry of a place on the Heritage List by following the procedures set out in sub-clause 7.2.3.

**7.3 Designation of A Heritage Area**

7.3.1 If, in the opinion of the council, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the Council may, by resolution, declare that area to be a Heritage Area.

7.3.2 The Council shall adopt for each Heritage Area a Local Planning Policy which shall comprise —

- (a) a map showing the boundaries of the Heritage Area;
- (b) places of heritage significance; and
- (c) objectives and guidelines for the conservation of the Heritage Area;

and shall keep a copy of the Local Planning Policy for any designated Heritage Area with the Scheme documents for public inspection.

7.3.3 The procedure to be followed by the Council in designating a Heritage Area shall be as follows—

- (a) the Council shall notify in writing each owner of land affected by the proposed designation and shall provide them with a copy of its Local Planning Policy for the Heritage Area;

- (b) the Council shall advertise the proposal by way of a notice published once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as the Council considers necessary to ensure widespread notice of the proposal;
- (c) the form of notice shall describe the area subject of the proposed designation, where the Local Planning Policy which applies to the Heritage Area may be inspected and in what form and during what period (being not less than 21 days from the date specified in the notice) submissions may be made;
- (d) the Council shall carry out such other consultations as it thinks fit;
- (e) the Council shall consider any submissions made and resolve to designate the Heritage Area with or without modification or reject the proposal after consideration of submissions and the Council shall adopt such part or parts of the Local Planning Policy as is appropriate in respect of the Heritage Area; and
- (f) the Council shall forward notice of its decision to the Heritage Council of WA, the Western Australian Planning Commission and each owner of land affected by the designation.

#### **7.4 Application for Planning Approval**

Notwithstanding any other provisions of the Scheme to the contrary, the approval of the Council is required for the following development on or in relation to any place or object on the Heritage List or within a Heritage Area—

- (a) the clearing, excavation or filling of any land;
- (b) the erection of any fence;
- (c) the commencement or carrying out of any renovation, modification, refitting, decorating or demolition of any building; or
- (d) the alteration or removal of any building or object or part thereof.

#### **7.5 Referral to Other Authorities**

The Council may solicit the views of the Australian Heritage Commission, the Heritage Council of Western Australia and/or any other relevant body, and take those views into account when determining the application.

#### **7.6 Heritage Assessment**

Notwithstanding any existing assessment on record, the Council may require a heritage assessment to be carried out prior to the determination of the application for Planning Approval in respect of any development proposed in a conservation area or individual entry listed on the Municipal (Heritage) Inventory.

#### **7.7 Formalities of Application**

In addition to the application formalities prescribed in subclause 7.5 and any formalities or requirements associated with development applications contained in any other provision of the Scheme, the Council may require an applicant for Planning Approval where the proposed development may affect a place of cultural heritage significance or a conservation area to provide one or more of the following to assist the Council in its determination of the application—

- (a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) side and rear elevations of the proposed development, drawn to a scale of not smaller than 1:100;
- (c) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height or on the Register of Trees, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
- (d) an assessment of the cultural heritage significance of any existing buildings and the development site according to any policy guidelines adopted by the Council;
- (e) a detailed schedule of all finishes, including materials and colours of the proposed development, and unless the Council exempts the applicant from the requirement or any part of it, also the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
- (f) any other information which the Council indicates that it considers relevant.

#### **7.8 Agreements**

The purpose of conserving or enhancing a place of cultural heritage significance or a conservation area, and without affecting the generality of any other provision in this clause, and without affecting the generality of any other provision in this Scheme giving power to make agreements, the Council may—

- (a) enter into agreements with any applicant or owner or occupier of land;
- (b) enter into agreements with the Heritage Council of Western Australia incorporated into the Heritage of Western Australia Act 1990, the National Trust of Australia (W.A.), the Royal Western Australian Historical Society (Inc.), or any Government Department, authority or any other body or person; and
- (c) generally enter into agreements relating to the payment of money or financial arrangements or the provision of incentives or disincentives in relation to the development of land.

### **7.9 Advisory Panel**

Notwithstanding the generality of the provisions of clause 9.15 the Council may establish a panel of persons which it considers suitable to be appointed as members of an advisory committee pursuant to subclause 9.15.2 to advise the Council on any matter arising under this clause. The membership of the advisory panel may include at least one person nominated by each the National Trust and the Heritage Council of Western Australia, at least one person having experience or expertise relevant to the conservation or adaptation of places of cultural heritage significance, and at least one person representing the community within a conservation area.

### **7.10 Variations to Scheme Provisions for A Heritage Place and Heritage Area**

7.10.1 Where desirable to facilitate the conservation of a heritage place listed in the Heritage List or to enhance or preserve heritage values in a Heritage Area the Council may vary any site or development requirement of the Scheme provided that, where in the Council's opinion the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall—

- (a) consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to clause 5.7; and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

7.10.2 In granting variations under sub-clause 7.10.1, the Council may require a formal agreement with an owner who is to benefit from the variation for any of the purposes prescribed for a Heritage Agreement by Section 29 of the Heritage of Western Australia Act 1990.

## **PART 8—CONTROL OF ADVERTISEMENTS**

### **8.1 Objectives**

The objectives of the provisions for control of advertisements are—

- (a) To ensure that the visual quality and character of particular localities and transport corridors are not eroded;
- (b) To achieve advertising signs that are not misleading or dangerous to vehicular or pedestrian traffic;
- (c) To minimise the total area and impact of outdoor advertising commensurate with the realistic needs of commerce for such advertising;
- (d) To prohibit outdoor advertising which is considered to be superfluous or unnecessary by virtue of their colours, height, prominence, visual impact, size, relevance to the premises on which they are located, number and content;
- (e) To reduce and minimise clutter; and
- (f) To promote a high standard of design and presentation in outdoor advertising.

### **8.2 Power to Control Advertisements**

8.2.1 For the purpose of this Scheme the erection or display of any advertisement and/or the continued use of any land or building for any advertising purpose is development requiring the prior Planning Approval of the Council except as otherwise provided for in clause 8.5. Such Planning Approval is required in addition to any licence pursuant to the Council's Signs, Hoardings and Bill Posting Local Laws.

8.2.2 Applications for the Council's Planning Approval shall be submitted in the form of Schedules 5 and 8 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form specified by the Council from time to time giving details of the advertisement(s) proposed to be erected, placed or displayed on the land.

### **8.3 Existing Advertisements**

Advertisements which—

- (a) were lawfully erected, placed or displayed prior to the Gazettal date of this Scheme; or
- (b) are erected, placed or displayed pursuant to a licence or other approval granted by the Council prior to the Gazettal date (hereinafter in this Part referred to as "existing advertisements") may, except as otherwise provided, continue to be displayed or be erected and displayed in accordance with the licence or approval as appropriate.

### **8.4 Consideration of Applications**

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for Planning Approval to erect, place or display an advertisement, the Council shall examine each such application in the light of the objectives of this clause and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and effect on traffic safety. The Council shall also consider whether the advertisement the subject of an application complies with the other local laws of the City.

### **8.5 Exemptions from the Requirement to Obtain Approval**

Subject to the provisions of the Main Roads (Control of Signs) Regulations 1983, and notwithstanding the provisions of subclause 8.2, the Council's prior Planning Approval is not required in respect of those advertisements listed in Schedule No. 4 which for the purpose of this clause are referred to as "exempted advertisements". The exemptions listed in Schedule No. 4 do not apply to any place or thing of environmental or cultural significance declared or otherwise protected under Part VI of the Scheme.

**8.6 Prohibited Advertising**

Within the district the following signs and advertising are prohibited and shall not be approved by the Council—

- (a) any hoarding or structure in the form of a hoarding erected on a building;
- (b) more than one roof sign erected on any building;
- (c) more than one pylon sign erected on any lot or on the common property of any strata scheme; or
- (d) any sign, hoarding or advertising device whatsoever which does not comply with any other local law of the City.

**8.7 Discontinuance**

Where in the opinion of the Council an exempted or existing advertisement seriously conflicts with any of the objectives in clause 8.1, it may by notice in writing require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within a period of time specified in the notice.

**8.8 Derelict or Poorly Maintained Signs**

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

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

**8.9 Notices**

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

8.9.2 Any notice served pursuant to either of clauses 8.7 and 8.8 shall be served upon the advertiser and shall specify—

- (a) the advertisement(s) the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, not being less than 28 days, within which the action specified shall be completed by the advertiser.

8.9.3 Any person upon whom a notice is served pursuant to this clause may within a period of 28 days from the date of the notice appeal to the Minister or the Town Planning Appeal Tribunal in accordance with Part V of the Act, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

**8.10 Scheme to Prevail**

Where the provisions of this clause are found to be at variance with the provisions of the Council's Signs Hoardings and Bill Posting local law and any other relevant local law, the provisions of the Scheme shall prevail.

**8.11 Enforcement and Penalties**

The offences and penalties provisions referred to in clause 9.12 of the Scheme apply to the advertiser referred to in this Part.

**PART 9—GENERAL AND ADMINISTRATIVE PROVISIONS****9.1 General Obligations**

Subject to the provisions of the Act and all regulations made thereunder and to Part V of the Scheme, no person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or permit the use of any land or building or commence or permit the commencement of any other development which—

- (a) does not conform with the Scheme; or
- (b) does not comply with the terms of any approval or any condition attached thereto.

**9.2 Acquisition of Land**

The Council may acquire by purchase or compulsory acquisition any land or buildings within the Scheme Area pursuant to the provisions of the Scheme or the Act and for such purpose may enter into agreements and arrangements with any owner of land within the Scheme Area and the Council may at any time exercise its powers conferred upon it by Section 13 of the Act.

**9.3 Disposal of Land**

The Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme, in accordance with the Act and in conformity with the provisions of the Scheme, upon such terms and conditions as it thinks fit, and for such purpose may make such agreements with other owners and parties as it thinks fit.

#### **9.4 Entry to Premises**

The Council in the conduct and management of the Scheme has the power by its officers, employees, agents or contractors to enter and inspect any land or building within the Scheme Area for the purpose of ascertaining whether the provisions of the Scheme are being observed, and that entry may be effected without more authority than this clause.

#### **9.5 Agreements**

The Council may enter into an agreement with any owner of land within the City or with any other person in respect of any matter pertaining to the Scheme.

#### **9.6 Compensation**

9.6.1 A claim for compensation for injurious affection can be made pursuant to Section 11 of the Town Planning Act when the Scheme—

- (i) permits development on land for no purpose other than a public purpose;
- (ii) prohibits wholly or partially the continuance of any non-conforming use according to the terms of the Act.

9.6.2 The time limit for the making of claims for compensation for injurious affection pursuant to Section 11(1) of the Act resultant from the making of, or the making of an amendment to, the Scheme, is six (6) months from the date of publication of the Scheme or Scheme Amendment in the *Government Gazette*.

9.6.3 In addition to the compensation provisions of the Act and sub-clause 9.6.1 of this Scheme, where, in respect of any application for planning approval to commence or carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose, the owner of the land may claim compensation from the Council for injurious affection.

9.6.4 The time limit for the making of claims for compensation pursuant to sub-clause 9.6.3 is not later than 6 months after the date of the decision of the Council or appellate body.

#### **9.7 Rights of Appeal**

Should an applicant or an owner of land the subject of an application be aggrieved by a decision of the Council exercising a discretionary power under the Scheme the applicant or the owner may appeal in accordance with Part V of the Act and the rules and regulations made pursuant to the Act.

#### **9.8 Arbitration**

The Council may agree to any dispute or difference or other matter arising out of the Scheme to be referred to and determined by arbitration, notwithstanding any other method of resolution of the dispute, difference or matter may be available.

#### **9.9 Offences**

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

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

9.9.2 Any person or advertiser 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.

#### **9.10 Delegation**

9.10.1 The Council may, either generally or in a particular case by resolution passed by an absolute majority of the Council, delegate to an officer or officers of the Council the authority to deal with an application for Planning Approval made under this Scheme, and to make any decision which can be made by the Council under the Scheme. The Council may in the same way delegate the same powers to a committee of the Council provided that the delegation will not result in that committee having power to determine matters under this Scheme which it does not have to determine matters of a similar kind delegated to the Council for determination under the Metropolitan Region Scheme.

9.10.2 The power of delegation in the preceding subclause shall not apply to any decision which by express provision is excluded from delegation.

9.10.3 A delegation of authority made by the Council pursuant to subclause 9.13.1 shall have effect for the period of 12 months following the resolution, unless the Council stipulates a lesser or greater period in the resolution.

9.10.4 A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power. The performance of a function by a delegate under subclause 9.13.1 shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

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

9.10.6 A resolution to revoke or amend a delegation under this clause does not require an absolute majority.

9.10.7 The relevant officer or officers or committee exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power by the Council, insofar as such provisions are reasonably applicable.

#### **9.11 Advisory Committees**

9.11.1 The Council may from time to time establish Advisory Committees to advise it on any matters in the Scheme subject to such terms of reference, procedures and conditions of office as it thinks fit.

9.11.2 An Advisory Committee may comprise of community representatives and/or technical experts who in the opinion of the Council have the relevant knowledge, experience or expertise to give fair and reasoned advice on the matters referred to the Committee.

9.11.3 When dealing with any matter involving an application for Planning Approval or when considering a Structure Plan or when dealing with any other matter involving a development proposal, the Council shall have due regard to any relevant recommendation of any Advisory Committee.

#### **9.12 Notice For Removal of Certain Buildings**

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

9.12.2 Council may recover expenses under section 10(2) of the Act in a court of competent jurisdiction.

#### **9.13 Review and Amendment**

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

9.13.2 The Council may, from time to time, initiate an amendment to the Scheme in accordance with the Act and Regulations and shall give consideration to any application to have the Scheme amended.

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

9.13.4 Amendments which have been made to the Scheme shall be listed in a Register at the offices of the Council and shall be made available for public inspection during office hours.

### **PART 10—GENERAL DEVELOPMENT REQUIREMENTS**

#### **10.1 Residential Planning Codes**

10.1.1 For the purpose of this Scheme “Residential Planning Codes” means the Residential Planning Codes set out in Schedule No.2 to Statement of Planning Policy No. 1, together with any amendments thereto.

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

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

10.1.4 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 Code density, as being contained within the centre-line of those borders.

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

##### **10.2.1 Residential Planning Codes—Variations and Inclusions**

The Residential Planning Codes (R Codes) are hereby varied as set out hereunder.

##### **10.2.2 Residential Zone**

10.2.2.1 Council may permit the development of R20-coded corner lots to a maximum density of R30, provided existing improvements are demolished and the proposed development, in the opinion of Council, will achieve a high degree of compliance with the performance based criteria contained in the relevant Local Planning Policy

##### **10.2.3 Residential and Stables Zone**

The provisions of the R10 Code applying to the Residential and Stables Zone under Table 1—“Open Space” and “Minimum Setbacks from Boundaries” may be varied at the discretion of the Council in order to allow the satisfactory development of a residence and stables on a lot.

The Council in exercising such discretion must be satisfied in regard to the following matters—

- (a) That the landowner within the zone will develop the lot for both a residence and stables and that this intention be supported by an application to commence development.
- (b) The standard of the proposed development is of a sufficiently high quality appropriate for the area.

- (c) That acceptable standards of residential amenity and health will be maintained or improved.
- (d) The appearance of the streetscape will in the opinion of the Council be either maintained or enhanced.

#### 10.2.4 Special Development Precincts

10.2.4.1 There are 3 Special Development Precincts which are delineated on the Scheme Map and named as follows—

- “Ascot Waters” (generally bounded by Grandstand Road, Stoneham Street, Great Eastern Highway and the Swan River, Ascot)
- “Nulsen Haven” (generally bounded by Tibbradden Circle, Hay Road, Fauntleroy Avenue and Great Eastern Highway, Ascot)
- “The Springs” (generally bounded by Graham Farmer Freeway, Great Eastern Highway Brighton Road and the Swan River, Rivervale which is shown as the ‘Special Development Precinct’ zone and the subject of the City of Belmont Town Planning Scheme No.13)

10.2.4.2 All development, including single houses within the Special Development Precincts shall require the Planning Approval of the Council.

10.2.4.3 The provisions of the R Codes relating to front and rear setbacks, carparking and open space may be varied at the discretion of the Council in the 3 Special Development Precincts provided Local Planning Policies are adopted for each of the Precincts pursuant to clause 2.3 of the Scheme.

10.2.4.4 The Council in exercising such discretion and in consideration of any application for Planning Approval shall make its decision having regard to relevant Council Policies adopted under this Scheme.

### 10.3 Residential Zone

10.3.1 *Intention:* The purpose and intent of the Residential Zone is to permit a mix of single housing and other housing types to encourage families to the district and increase the resident population.

10.3.1.1 The Council may require applications for the development of more than two grouped or multiple dwellings to be advertised in accordance with clause 5.7 and the Council may require the application to be modified having regard to submissions received on the proposed development.

10.3.1.2 Where residential land abuts a regional road reserve, vehicular access to that road shall not be permitted for residential development other than for a single house, unless a vehicular access plan has been approved by the responsible authority.

10.3.1.3 All residential development apart from a single house or an existing development (in an unsewered area) is required to be connected to a reticulated sewerage system. If no sewerage is available, development in excess of the single house is not permitted unless such development complies with the requirements of the Government Sewerage Policy.

10.3.1.4 When considering applications for the development of medium density housing the Council shall have due regard to its Medium Density Housing Guidelines and Statements of Planning Policy adopted pursuant to clause 2.3 of this scheme.

10.3.1.5 The City of Belmont Housing Strategy comprises several Local Planning Policies. The Scheme Map depicts specific street blocks and lots which are the subject of a flexible R20/40 residential code. For such lots designated R20/40, the base R20 code shall apply and may be increased to a higher code of maximum R40 where in the opinion of Council there is a high degree of compliance with the performance-based criteria contained in the relevant Local Planning Policy.

#### 10.3.1.6 25-30 ANEC Noise Zone

Notwithstanding any other provision of the Scheme to the contrary the R12.5 Code shall apply to those properties within or partly within the noise zone of 25-30 ANEC (Australian Noise Exposure Concept—Ultimate Capacity cases 1 & 2) for Perth Airport, as shown on the Scheme Map.

#### 10.3.1.7 Outbuildings

The development of outbuildings within the Residential Zone shall be subject to the following controls—

- (a) No more than two (2) outbuildings aggregating 80m<sup>2</sup> shall be permitted to be erected on any lot used for single residential purposes except that the Council may in extenuating circumstances approve the erection of two (2) outbuildings aggregating no more than 120m<sup>2</sup>.
- (b) No outbuilding shall be constructed with a wall higher than 3.6 metres, including the height of the parapet above the natural ground level at the centre point of the site.
- (c) No outbuilding exceeding 5m<sup>2</sup> in area shall be constructed closer to a side boundary than 1.2 metres unless constructed of brick.
- (d) No outbuildings will be permitted on land developed with grouped dwellings except that the Council shall require each grouped dwelling to be provided with 4m<sup>2</sup> of storage space.
- (e) No outbuilding shall be erected forward of the front setback determined for any lot unless—
  - (i) the outbuilding is constructed of materials which complement the residential component of a development in terms of style and roof pitch;
  - (ii) the outbuilding can be adequately screened from public view if considered necessary by the Council; and
  - (iii) the outbuilding is constructed of materials to match the existing residence and such upgrading of an existing residence as may be required is carried out to the satisfaction of the Council.



#### 10.3.1.8 Multi-Storey Residences

Notwithstanding the provisions of subclause 5.1.3, the Council's prior Planning Approval is required for the development of a residence comprising two or more storeys, or similar additions to an existing residence.

#### 10.3.1.9 Floodway Limit Boundary

No building shall be constructed upon any land within the floodway limit boundary prescribed on the Western Australian Water Authority Swan River Flood Study Review 1985 maps or those maps as modified by the Water and Rivers Commission.

### 10.4 Town Centre and Commercial Zone

*Intention:* The Town Centre and Commercial Zones are intended to provide for the retail commercial function and entertainment.

Proposals for land use and development are to demonstrate good urban design by—

- (a) the presentation of buildings and facades that are attractive and inviting, and which harmoniously relate with each other, and have regard to climate; and
- (b) the creation of spaces which encourage pedestrian movement and provide places for pedestrians to congregate.

#### 10.4.1 Site and Development Requirements

The extent of development shall be governed by the Council's requirements for car parking and landscaping determined in the light of the circumstances of any particular application.

The Council, may as a condition(s) of Planning Approval, require amongst other things the integration of building layout and design with adjoining development and determine car parking layout, vehicular access and pedestrian circulation.

No part of any building shall be built upon that area of land between the street alignment and the building setback line drawn parallel thereto a distance of two metres within the site.

#### 10.4.2 Advertising Certain Uses

Applications to use or develop land for any of the following uses shall, if the land abuts the Residential zone, be advertised in accordance with the provisions of clause 5.7.3—

- Fast food/takeaway
- Hotel
- Tavern

### 10.5 Mixed Use Zone

10.5.1 *Intention:* The Mixed Use Zone is intended to allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents. Buildings should be of a high standard of architectural design set in pleasant garden surrounds with limited vehicular access from properties to primary roads.

10.5.2 *Site and Development Requirements:* The following site and development requirements shall apply within the Mixed Use Zone with the exception of residential development which, subject to subclause 10.5.8 shall conform with the provisions of the Residential Planning Codes—

- (a) **External Space:** The use of external space for storage or the conduct of any business activity associated with a premises is prohibited.
- (b) **Lot Area and Dimensions:** The minimum lot area shall be 2000 square metres with a minimum effective frontage of 30 metres. However, the Council may approve a site with a lesser area or a lesser effective frontage in circumstances where the site existed prior to the approval of this Scheme and where it can clearly be shown that the site cannot be amalgamated with any other site within the zone to aggregate a minimum site area of 2000 square metres and a minimum effective frontage of 30 metres so as to permit Mixed Use usage.
- (c) **Lot Coverage:** Building including accessory buildings shall not cover a total of more than 60 percent of the area of any lot.
- (d) **Setbacks of Buildings from Site Boundaries:** No part of any building shall be built upon that area of land between the street alignment and the building setback line drawn parallel thereto a distance of 15 metres within the site. In regard to any site having more than one street frontage, the minimum setback from the street alignment shall apply to the frontage of the site to the road or roads of higher category as determined by the Council and the setback from the lesser roads shall not be less than a distance of 7.5 metres.

The Council will only permit averaging of building setbacks in those cases where it is satisfied that the functioning of any proposed use will be improved without detriment to the appearance of the development or the street scene or to the safe movement of traffic on or about the site and in case will the Council permit a part of any building to be built closer to the street than one half of an average building setback.

- (e) **Setback Areas:** No use of the area between the street alignment and building setback lines shall be permitted other than for planting or for pedestrian and vehicular circulation and vehicle parking in accordance with the provisions of this Scheme, except that an area up to 25 percent of the building setback area may be used for trade display purposes with the approval of the Council.

- (f) **Pedestrian and Garden Areas:** No less than 25 percent of the building setback area must be set aside, developed and maintained as garden space for pedestrian use only. A landscaping and reticulation plan must be submitted to the Council for approval. The landscaping subsequently carried out shall be in accordance with the approved plan. The Council will require as a condition of Planning Approval the reticulation and landscaping of the street verge.

#### 10.5.3 Parking and Loading Requirements

Adequate off-street parking shall be provided on site in accordance with the requirements of Table II, together with adequate parking space for customers and visitors as required by the Council. The Council shall also require adequate space for parking, loading and unloading of trade vehicles to be provided on site.

#### 10.5.4 Vehicular Cross Access

Where necessary vehicular cross access shall be provided over all parcels of land to give customer and service traffic access to streets wherever access to Great Eastern Highway or other important roads is inappropriate or should be minimised. Cross access provision shall take the form of easements in gross or encumbrances on titles granting right of carriageway with the Council a party to the agreements. All documentation costs shall be met by respective owners.

#### 10.5.5 Building Facades

The primary street frontage of all buildings must have a facade predominantly constructed of brick, concrete, glass or steel or a combination of these materials acceptable to the Council. Where a proposed structure is to extend from one street frontage to another, as distinct from the double street frontage of a corner lot, there must be a full height facade to both street frontages of the above materials or similar materials to acceptable to the Council.

In the cases of walls fronting secondary streets, the construction must be as above to a minimum height of two metres except that in the case of a building having walls in excess of five metres to plate height the construction must be increased to half the vertical height of the wall. The Council shall retain the discretion to determine which is a primary and which is a secondary street frontage.

#### 10.5.6 Shop

Notwithstanding the classification in Table 1—Zoning Table, the Council may approve the use of land or buildings as a shop where such use is incidental to the predominant use, as decided and approved by the Council.

#### 10.5.7 Fencing and Walls

It is the Council's intention that in the Mixed Use Zone, fencing within the front setback area should be kept to a minimum. In circumstances where security cannot be provided by any other means the Council may allow fencing within the front setback provided it is of a high quality and constructed of wrought iron, masonry or similar materials.

#### 10.5.8 Advertising Certain Uses

Applications to use or develop land for any of the following uses shall, if the land abuts the Residential zone, be advertised in accordance with the provisions of clause 5.7.3—

- Fast food/takeaway
- Hotel
- Nightclub
- Reception Centre

#### 10.5.9 Discretion to Vary Standards—

Without affecting the generality of clause 10.1.4, for residential development in the Mixed Use Zone the Council may allow a relaxation or variation of the standards and requirements applicable to the Mixed Use Zone if the Council is satisfied that the matters referred to in items (a), (b) and (c) conditioning the discretion in clause 10.15.1 are complied with.

### 10.6 Industrial Zone

**10.6.1 *Intention:*** The Industrial Zone is intended to provide for the industrial development of the Kewdale Industrial Estate. The Council may approve a wide range of industrial activities within this zone subject to conditions designed to achieve a high standard of industrial environment.

**10.6.2 *Site and Development Requirements:*** The following site and development requirements shall apply to all applications for Planning Approval within the Industrial Zone.

- (a) **Amenity:** No use or other development of land within the Industrial Zone shall cause in the opinion of the Council nuisance or annoyance by way of noise or other emissions beyond the site on which it is conducted.

When considering the design of a building proposed to be erected in the Industrial Zone the Council shall have regard to and comply with the following provisions—

- (i) the Council must be satisfied that the building will comply with any objectives adopted by the Council from time to time for industrial development, and if appropriate, be aesthetically compatible and integrated with the exterior design of neighbouring buildings;
- (ii) in considering the design of any building the Council must give consideration to the relationship which the shape and siting of the building bears to the shape of the lot (or lots) on which erection is to take place.
- (iii) The storage of goods and the carrying out of industrial activities in open yard areas visible from a street is not permitted. Such areas must be screened from public view by a closed wall or fence constructed of materials approved by the Council.

- (b) Maximum Building Height: No part of any building shall exceed a height fixed by Air Services Australia as a maximum height in relation to the safe operation of Perth International Airport.
- (c) Maximum Site Cover: No site shall be built upon so as to exceed a site coverage of 70 percent.
- (d) Setback of Buildings from Site Boundaries: No part of any building shall be built upon that area of land between the street alignment and the building setback line drawn parallel thereto an average distance of 15 metres within the site.

In regard to any lots having multiple street frontages, the minimum setback from the street alignment shall apply to the frontage of the site to the road or roads of higher category as determined by the Council and the setback from the lesser roads shall not be less than an average of 9 metres.

Parapet walls may be erected on side and/or rear boundaries if constructed of brick or concrete panels coloured to the satisfaction of the Council.

In the case of walls set back from side and/ or rear boundaries, the Council shall require the use of materials of a colour and texture consistent with the intention of the zone and complementary to existing or surrounding developments.

- (e) Building Setback Areas: No use of the area between the street alignment and building setback lines shall be permitted other than for planting or for pedestrian and vehicular circulation and parking in accordance with the requirements of Table II except that not more than 25 percent of the setback area may be used for trade display purposes approved by the Council.

#### 10.6.3 Parking and Loading Requirements

Notwithstanding the generality of clause 5.8 any person undertaking any development within the Industrial Zone shall submit a plan for the approval of the Council showing the number, layout and dimensions of parking and loading spaces and the proposed access thereto. In those cases where the Council is satisfied that a number of spaces less than those stipulated in Table II is appropriate, it may grant approval, subject to the number of spaces required being not less than 50 percent of the requirements of Table II and then only on the condition that adequate space is reserved to meet the full parking requirement should it be needed at any future time.

The Council shall consider such plans having regard to the adequacy, efficiency and safety of proposals for employee, visitor and customer parking, for the loading and unloading of vehicles and for access to and from the site.

#### 10.6.4 Pedestrian and Garden Areas

Every person who constructs or who substantially reconstructs, alters or adds to a building or who changes the use of any land or building within the Industrial Zone shall make provision for 25 percent of the building setback area between the street alignment and the minimum building setback line to be set aside, developed and maintained as a garden space for pedestrian use only. A landscaping and reticulation plan prepared to a standard satisfactory to the Council shall be submitted for approval of the Council. The landscaping subsequently carried out shall be in accordance with the approved plan. Reticulation and landscaping of the street verge must be carried out in conjunction with any construction or substantial reconstruction alteration or addition to a building, or the change of use of any land or building, and notwithstanding the generality of that requirement the Council may impose appropriate conditions in relation to landscaping and reticulation on any development approved.

#### 10.6.5 Facades

The Council shall require the primary street frontage of all buildings to have a facade predominantly constructed of brick, concrete, glass or steel or combinations of those or similar materials acceptable to the Council. Where a proposed structure is to extend from one street frontage to another, as distinct from the double street frontage of a corner lot, the Council shall require a full height facade of the above or similar materials to both street frontages.

In the case of walls fronting secondary streets, the Council shall require construction to be as above to a minimum height of two metres except that in the case of a building having walls in excess of five metres to plate height the Council shall require the brickwork to be increased to half the vertical height of the wall. The Council shall retain the discretion to determine which is a primary and which is a secondary street.

#### 10.6.6 Fencing and Walls

It is the Council's intention that in the Industrial Zone, fencing within the front setback area should be kept to a minimum. In circumstances where security cannot be provided by any other means the Council may allow fencing within the front setback provided it is of a high quality and constructed of wrought iron, masonry or similar materials

### 10.7 Residential and Stables Zone

10.7.1 *Intention:* The Residential and Stables Zone is intended to provide for compatible usage of land in close proximity to the Ascot Racecourse by residential accommodation and stables and ancillary functions of the horse racing industry.

10.7.2 For requirements relating to "Open Space" and "minimum setbacks from boundaries" under the Residential Planning Codes refer to subclause 10.2.3.

10.7.3 Use Controls: Notwithstanding provision of the Zoning Table to the contrary, uses permitted within the zone are—

The stabling and training of horses, and with the approval of the Council—

- (a) the storage of commercial vehicles used in the transport of stock; and
- (b) any other use incidental to the horse racing industry.

#### 10.7.4 Setback of Stables and Yards from Site Boundaries

Subject to the provisions of the Council's Stable By-laws made under the provisions of the Health Act 1911,

- (a) no part of any stable shall be sited less than—
  - (i) 24m from the frontage of the lot;
  - (ii) 6m from any other street boundary of the lot. The Council may allow zero setbacks on the other boundaries; and
- (b) yards may at the discretion of the Council be located up to a secondary street boundary provided a 1.8 metre high brick wall is erected on the property boundary.

#### 10.7.5 Proposals for Stables Only

An application for Planning Approval for a stables use only shall comply with subclause 10.7.3 and make provision for the possibility of locating a residence on the lot.

### 10.8 Special Development Precinct Zone

10.8.1 The land within the Special Development Precinct zone is the subject of proposed Town Planning Scheme No. 13—The Springs Guided Development Scheme (herein after referred to as "TPS No. 13").

10.8.2 It is the Council's intention, following the finalisation of TPS No. 13, to amend the Scheme to accord with the detailed provisions in TPS No. 13.

10.8.3 When considering an application for Planning Approval, the Council shall have regard to the objectives of TPS No 13 and may—

- (a) refuse Planning Approval; or
- (b) grant Planning Approval; or
- (c) grant Planning Approval subject to such conditions as the Council deems appropriate including a condition requiring an applicant to contribute a proportion of the costs of—
  - (i) upgrading existing roads and drainage;
  - (ii) new footpaths;
  - (iii) underground power supply and street lighting;
  - (iv) landscaping;
  - (v) foreshore improvements and jetty construction;
  - (vi) water supply upgrade;
  - (vii) relocation of existing warehouses;
  - (viii) engineering;
  - (ix) surveying; and
  - (x) management expenses.
- (d) Prior to the finalisation of definite proposals and costs for the precinct the Council shall prepare estimates of the costs referred to in paragraph (c) and shall review those estimates annually. Such estimates of costs and any review thereof shall be made available on request of any landowner/developer within the precinct.

#### 10.8.4 Arbitration

(a) If an owner is unable to reach agreement with the Council as to the value or estimated value of the costs referred to in subclause 10.8.3(c) and the method by which such costs are apportioned, the matter may be resolved independently of the Council in the manner provided in clause 9.11 of the Scheme.

(b) The costs of Arbitration shall be shared equally between the relevant parties involved in the Arbitration.

#### 10.8.5 Right of Appeal

An owner aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the provisions of clause 10.8 of this Part may appeal in the manner provided in clause 9.10 of the Scheme.

### 10.9 Vehicle Parking and Loading

10.9.1 Any person who constructs or substantially reconstructs, alters or adds to a building or changes the use of any land or building shall make provision in accordance with the requirements of subclause 10.9.3 for vehicles used in conjunction with the site (whether by the occupiers, their employees or invitees or other persons) to stand on or, in the opinion of the Council, sufficiently close to the site but not on a street, while being loaded or unloaded or awaiting use.

10.9.2 In circumstances where alterations and/or extensions to an existing development give rise to the need for temporary car parking on land not associated with the alterations and or extensions, the Council may approve the establishment of temporary parking subject to such conditions and time limits as it deems appropriate.

#### 10.9.3 Size and Location of Car Spaces and Loading Facilities—

When considering any Development Application, the Council must have regard to and impose conditions to the location and design of the car parking spaces and loading facilities. In particular, the Council must take into account, and may impose conditions concerning—

- (a) the proportion of spaces to be roofed or covered;
- (b) the proportion of spaces to be below natural ground level;
- (c) the means of access to each space and the adequacy of any manoeuvring area;

- (d) the location of the spaces on the site and their effect if spaces should later be roofed or covered;
- (e) the adequacy of proposed screening or planting;
- (f) the extent to which spaces are located within required setback areas;
- (g) the location of proposed footpaths and the effect on traffic movement and safety; and
- (h) the location of proposed accessways on and off public roads and the effect on traffic movement and safety.

#### 10.9.4 Number and Layout of Parking and Loading Spaces to be Provided

10.9.4.1 The number of spaces to be provided in respect of any particular site shall be determined by the Council, having regard to the nature of the use and the known or likely volume of goods, material or people moving to and from the site. Subject to any provision of the Scheme to the contrary the number of car parking spaces shall be in accordance with the requirements of Table II.

10.9.4.2 Layout of parking spaces shall be in accordance with Schedule No. 3.

10.9.4.3 When making decisions relative to parking provision, the Council shall at all times have regard to any existing or proposed public parking facilities nearby.

TABLE II

#### CAR PARKING REQUIREMENTS

Land Use/Use Class	Minimum Parking Provision
Auction Mart	Parking to be at the discretion of the Council
Automotive & Marine Sales Premises	1 space for every employee plus 1 space for every 100m <sup>2</sup> of display area
Bank	1 space for every 20m <sup>2</sup> of NLA
Child Day Care Centre	1 space for every employee plus a paved put down and pick up area to the satisfaction of the Council
Community Purposes	Parking to be negotiated with the Council
Consulting Rooms & Consulting Rooms—Group	4 spaces for every practitioner
Club Premises	1 space for every 4 persons whom the building is designed to accommodate
Educational Establishment	1 space for every employee, provision for student parking to be negotiated with the Council
Funeral Parlour	6 spaces plus 1 space for every 4 persons where a chapel is included
Hospital	1 space for every 4 hospital beds plus 1 space for each staff member on duty
Hotel/Motel	1 space for every 2m <sup>2</sup> of bar and lounge floor area. (1 space for every 4m <sup>2</sup> of seating only areas) plus 1 space for every bedroom. Where other facilities are provided parking is to be negotiated with the Council.
Industry/Workshop/Factory	1 space for every 50m <sup>2</sup> of open space used for industrial purposes, plus 1 space for every 50m <sup>2</sup> of GFA; or 1 space for each employee, whichever is the greater.
Lunch Bar	6 spaces for every 100m <sup>2</sup> of NLA
Night Club	1 space for every 4 persons whom the building is designed to accommodate
Nursing Homes/Aged Persons Hostels	1 space for every 4 beds 1 space for every employee
Office	1 space for every 20m <sup>2</sup> of NLA or 1 space for each employee, whichever is greater
Plant Nursery	1 space for every 50m <sup>2</sup> of display and sales area
Public Amusement	1 space for every 4 persons whom the building is designed to accommodate
Public Worship	1 space for every 4 persons whom the building is designed to accommodate
Reception Centre	1 space for every 4 persons whom the building is designed to accommodate
Restaurant	1 space for every 4 persons whom the building is designed to accommodate
Restricted Premises	6 spaces for every 100m <sup>2</sup> NLA
Service Station	1 space for every service bay plus 1 space for every employee (bowser bays shall be excluded from any calculation of parking bays)
Shop	6 spaces per 100m <sup>2</sup> of NLA
Showroom	1 space for every 100m <sup>2</sup> of NLA plus 1 space for every employee

Land Use/Use Class	Minimum Parking Provision
Take Away Food Outlet	6 spaces for every 100m <sup>2</sup> of NLA plus 1 space for every 4 seated customers (car queuing areas may be permitted to be calculated as parking spaces)
Tavern	1 space for every 2m <sup>2</sup> of bar and lounge floor area (1 space for every 4m <sup>2</sup> of seating only areas)
Vet Consulting Rooms	4 spaces for every practitioner
Vet Hospital	1 space for every employee
Video Store	6 spaces for every 100 m <sup>2</sup> NLA
Warehouse	1 space for every 100m <sup>2</sup> of GFA plus 1 space for every 100m <sup>2</sup> of open space used for warehousing progress
Any other use	To be determined by the Council

### 10.10 Parking of Commercial Vehicles in A Residential Area

10.10.1 No person shall on privately owned land within a Residential area—

- (a) park or allow to remain stationary a commercial or industrial vehicle for a longer period than is necessary for loading or unloading unless—
  - (i) it is parked behind the rear building line of the residence; and
  - (ii) the vehicle and its load does not exceed 3.0 metres in height.
- (b) repair, service or clean the commercial vehicle unless such work is carried out whilst the vehicle is housed in a domestic garage.

### 10.11 Protection of Neighbourhood Amenity

10.11.1 Where the Council is of the opinion that the condition of any lot, (other than the condition of a building on the lot as referred to in Division 12 of Part XV of the Local Government (Miscellaneous Provisions) Act 1960) is neglected to the point where it is clearly below the standard of the other lots in the same street, and that condition is detrimental to the amenity of the neighbourhood, the Council may give a notice under this clause.

10.11.2 A notice issued under this clause shall be given to the owner, and if the lot is occupied, a notice shall also be given to the occupier. In the case of the owner the notice must be given to the owner personally or must be posted to the last known address of the owner in the records of the Council. In the case of an occupier who is not also an owner of the lot, the notice may be given to the occupier personally or may be posted to the address of the lot addressed to the name of the occupier of simply addressed to "The Occupier" at that address.

10.11.3 A notice shall be taken to be given under this clause on the day it is given personally to the addressee, or 24 hours after it is posted to the addressee.

10.11.4 A notice given under this clause may call upon the owner or occupier to carry out the works stipulated in the notice, intended to remove the detriment to the amenity of the neighbourhood, within the time stipulated in the notice being not less than 60 days from the date the notice is given.

10.11.5 Any person aggrieved by a notice given to that person under this clause may, within 14 days of the date the notice was given under this clause, or such longer time as the Council permits, request the Council in writing to reconsider the requirements of the notice, and to modify those requirements, or the time they are to be complied with, or to cancel the requirements altogether. Such a request should state the grounds upon which the reconsideration is requested.

10.11.6 Any person aggrieved by the requirements of the Council in a notice given under this clause, or by the Council's response to a request for the reconsideration, may appeal against the requirements or the determination of the Council in accordance with the provisions of Part V of the Act. This right of appeal applies without affecting the generality of the general right of appeal conferred by the Scheme.

10.11.7 Where a request for reconsideration is made or where there is an appeal in respect of any notice, the time for compliance with the requirements of that notice shall run from the date the Council gives notice of its determination or the date of determination of the appeal, whichever is the later.

10.11.8 Where any land is used or is proposed to be used for the storage or sale of any article, object or thing, and that storage or sale in the opinion of the Council may be offensive, unsightly, or otherwise detrimental to the amenity of the neighbourhood, the Council may—

- (a) limit the time and period of the storage, sale or delivery of the article, object or thing is to take place; and/or
- (b) limit the number or amount of the articles, objects or things which may be stored and/or sold, or otherwise limit the extent of the storage or sale; and/or
- (c) require screening by walls or fences and/or landscaping in a position on the property as decided by the Council.

The Council shall give written notice of its opinion referred to in this subclause, and the limitation or requirement imposed, to each the owner and the occupier of any part of the land likely to be affected.

The occupier of the land shall comply with a limitation referred to in (a) or (b) of this subclause within the time stipulated by the Council, being not less than 60 days from the date the notice is given to the occupier. The owner of the land shall comply with a requirement referred to in (c) of this subclause within the time stipulated by the Council being not less than 60 days from the date the notice is given to the owner.

Nothing in this subclause shall be taken to prevent either the owner or the occupier complying with all or any of the limitations or requirements imposed by the Council, and the time limit for complying shall be 60 days from the date the notice is given to the person complying.

#### **10.12 Structures Height Control Contours Map**

The height of structures within the Scheme Area shall be subject to the requirements of the Westralia Airports Corporation Structures Height Control Contours Map (Schedule No. 10). Structures erected in the Scheme Area shall not exceed in height the contour level indicated on the map. Where indicated on the map all applications for development shall be referred to the Westralia Airports Corporation for comment.

#### **10.13 Tree Preservation Orders and Planting of Trees**

10.13.1 (a) The Council may resolve that an Order ("Tree Preservation Order") be served upon the owner of any land requiring the preservation of a tree or group of trees growing wholly or partly on that land.

(b) If portion of the canopy of a tree, the subject of a Tree Preservation Order, overhangs property adjoining that on which the tree is growing, the Council may also resolve that a Tree Preservation Order be served upon the owner of that adjoining property and the order with any necessary modification shall have the same effect in respect of that owner as the order referred to in paragraph (a).

(c) If the owner of land on which any tree affected by a Tree Preservation Order is situated or the owner of land which any such tree overhangs is not also the occupier of that land the Council may additionally or alternatively serve a copy of the order on the occupier of such land, and the order shall have the same effect in respect of the occupier as the orders referred to in paragraph (a) and (b) in relation to owners.

(d) No person served with an order or a copy of an order in accordance with this subclause, and no person who has knowledge of such an order may remove or otherwise destroy, or cut, break or otherwise damage any part of a tree affected by the order, or cause or permit such removal, destruction, cutting, breaking or damaging except with the prior approval in writing of the Council.

10.13.2 An owner of land affected by a Tree Preservation Order within 28 days of the service of the order on that owner may request in writing to the Council require the Council to reconsider the Tree Preservation Order and to revoke or to modify it in a manner specified in the request. If the Council within 60 days of receipt of such a request fails or refuses to revoke or modify the order as requested the owner may appeal against that refusal in accordance with the provisions of part V of the Act.

10.13.3 (a) The Council may at any time reconsider a Tree Preservation Order and either as a result of a request by an owner or of its own motion, may resolve to revoke or modify the order.

(b) A revocation or modification under the preceding paragraph may be in relation to any one or more of all the lands affected by the original Tree Preservation Order.

(c) The fact of a Tree Preservation order being revoked or modified shall be notified to any owner and occupier of land affected by the original Tree Preservation Order.

10.13.4 The Council may keep and maintain a register of trees which includes the description and location of any tree or group of trees the subject of a Tree Preservation Order, and the name and address of the landowner or occupier on whom any order has been served in accordance with this clause. The register shall be kept available for public inspection at the administrative office of the Council.

10.13.5 When the Council resolves to serve a Tree Preservation Order on the owner or occupier of any land the Council may without any further resolution deliver a copy of the Tree Preservation Order—

- (i) In the case of an order relating to land which is under the operation of the Transfer of Land Act 1893, to the Registrar of Titles;
- (ii) In the case of an order relating to land which is alienated from the Crown but which is not under the Transfer of Land Act 1893, to the Registrar of Deeds and Transfers; or
- (iii) In the case of an order relating to land which is under the operation of the Land Act 1933, to the Under Secretary for Lands.

10.13.6 Upon the revocation or modification of a Tree Preservation Order which has the effect that any land is no longer affected by the Order, the Council shall deliver a notification of the fact that the land is no longer affected in the same way and to the same officers as a copy of an order is delivered under the preceding subclause. Such notification shall specify the date on which the revocation or modification took place and the land to which it relates.

10.13.7 (a) On receiving a copy of a Tree Preservation Order delivered under the provisions of this clause, the Registrar of Titles, the Registrar of Deeds and Transfers or the Under Secretary for Lands, as the case requires, shall register the order and endorse or note accordingly the appropriate register book or register or record in respect of the land stipulated in the order as the land to which it relates.

(b) On receiving a notification of revocation or modification of a Tree Preservation Order delivered under the provisions of this clause, the Registrar of Titles, the Registrar of Deeds and Transfers or the Under Secretary for Lands, as the case requires, shall cancel or modify (as the notification requires) the registration of the Tree Preservation Order in relation to the land specified and endorse or note accordingly the appropriate register books register or record in respect of the land so specified.

10.13.8 In this clause—

- (a) "Registrar of Titles" has the meaning given by the Transfer of Land Act 1893;
- (b) "Registrar of Deeds" has the meaning given by the Registration of Deeds Act 1856; and
- (c) "Under Secretary for Lands" means permanent head of the department within the meaning of the Land Act 1933.

**10.14 Restrictive Covenants**

10.14.1 Subject to the provisions of subclause 10.14.2, a restrictive covenant affecting any land in the Scheme Area the effect of which is that the number of residential units that may be constructed on the land is limited or restricted to a number less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Planning Codes which apply under this Scheme.

10.14.2 Where subclause 10.14.1 operates to extinguish or vary a restrictive covenant the Council shall not grant Planning Approval to the development of the land which would but for the operation of subclause 10.14.1 have been prohibited unless the application has been dealt with as an 'S' use and has complied with all of the advertising requirements of subclause 5.7.3.

**10.15 Variations to Site and Development Standards and Requirements**

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

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

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

10.15.3 The power conferred by this clause may only be exercised if the Council is satisfied that—

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

**PART 11—SCHEDULES****SCHEDULE NO. 1—INTERPRETATIONS**

**absolute majority:** has the same meaning given to the term in the Local Government Act 1995;

**Act:** means the Town Planning and Development Act 1928;

**advertisement:** includes any sign or advertising device, and the term “advertising sign” has a corresponding message;

**advertising:** means the publication, display or presentation of any advertisement;

**advertising device:** means any object or structure on which any word, number, figure, image, drawing, representation or message whatsoever is written, placed, affixed, attached, painted, projected or otherwise displayed, or on which provision is made for the same, for the purpose of advertising any business, function, operation, development, event, undertaking, person or any product or thing whatsoever, and includes any airborne device anchored to any land or building or any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising any business, function, operation, development, event, undertaking, person or any product or thing whatsoever;

**aged or dependent person:** has the same meaning given to the term in the Residential Planning Codes;

**amenity:** means the quality and the conditions and characteristics of a locality which contribute to its pleasantness and harmony and its better enjoyment;

**amusement facility:** means any land or building, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use;

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

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

**ancillary accommodation:** has the same meaning given to it in the Residential Planning Codes;

**auction mart:** means any land or building on or in which goods are exposed or offered for sale by auction, but does not include a place used for the sale by auction of fresh food, fruit, vegetables or livestock;

**authorised officer:** means an officer of the Council, authorised by the Council to exercise all or some of the powers of the Council under this Scheme;

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

**bed and breakfast:** means the provision of temporary bed and breakfast accommodation in a single house;

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

**building:** has the same meaning given it in the Residential Planning Codes;



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

**building envelope:** means an area of land defined on a lot diagrammatically on a plan or defined by measurement to the boundaries of the lot or by other means acceptable to the Council and within which area all buildings on the lot are to be contained;

**building line:** means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act and the term building set-back line has a like meaning;

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

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

**caravan:** means any vehicle whether currently equipped with wheels or not, together with attachments, designed or adapted for human habitation and includes a mobile home which fits the foregoing description;

**caravan park:** means an area of land specifically set aside for the parking of caravans or for the erection of camps, on bays or tent sites allocated for the purpose, and includes cabins and chalets provided the area is used predominantly for the parking of caravans;

**caretaker's dwelling:** means a building or portion of a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site;

**child care premises:** has the same meaning given to the term in the Community Services (Child Care) Regulations 1988

**child family care:** has the same meaning given to the term in the Community Services (Child Care) Regulations 1988

**city:** means the City of Belmont;

**civic use:** means land or buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose;

**club premises:** means any land or buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Licensing Act 1988 or not and which building or premises are not otherwise classified under the provisions of the Scheme;

**commercial vehicle:** means a vehicle whether licenced or not and which is used or designed for use for business purposes or otherwise in conjunction with a trade or profession and without limiting the generality of the foregoing includes any trailer, tractor and an attachment to any of them and any bus or earthmoving machine whether self propelled or not but shall not include a vehicle designed for use as a passenger car derivative as defined by the Vehicle Sales Regulations 1976, a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of up to 1.5 tonnes;

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

**community home:** means a building used primarily for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care and by a constituted community based organisation, a recognised voluntary, charitable or religious organisation, government department or instrumentality of the Crown;

**community purpose:** means the use of land or buildings designed or adapted primarily for the provision of educational, social and recreational facilities and services by organisations involved in activities for community benefit;

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

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

**consulting rooms:** means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, podiatrists, and persons ordinarily associated with a practitioner, in the prevention or treatment of physical or mental injuries or ailments, and the two practitioners may be of the one profession or any combination of professions or practices;

**convenience store:** means any land and building used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol, and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300 m<sup>2</sup> gross leasable area;

**corner shop:** means a shop used for the sale of daily grocery needs to persons in the immediate locality, with a gross floor area not exceeding 100 m<sup>2</sup>, attached to a dwelling in residential zones and which is operated as an additional use thereto by a permanent occupier of the dwelling but does not include a lunch bar or fast food/takeaway outlet;

**Council:** means the executive body of the City of Belmont;

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

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

**curtilage:** in relation to a dwelling means the yard of the dwelling, or an area in the immediate vicinity of the dwelling on the same lot used for purposes ancillary to the dwelling. The curtilage shall not include the area located between the street frontage of the lot and the dwelling thereon except with the special approval of the Council. The term has a like meaning in relation to land around buildings other than dwellings.

**development:** has the same meaning given to it in and for the purposes of the Act;

**display home centre:** means a group of two or more dwellings which are intended to be open for public inspection;

**District:** means the local government district of the City of Belmont;

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

**dry cleaning premises:** means any land or buildings used for the cleaning of garments and other fabrics by chemical processes;

**educational establishment:** means a school, college, university, technical institute, academy or other educational centre of a like kind, but does not include a reformatory;

**facade:** means the exposed faces of a building towards roads or public open space or the frontal outward appearance of the building where it does not face a road or public open space;

**family day care centre:** has the same meaning given to the term in the Community Services (Child Care) Regulations 1988

**fast food/take-away outlet:** means any building used primarily for the sale of food to customers in a form ready to be eaten without further preparation with the intention that the food be eaten off the premises;

**floor area:** shall have the same meaning given to it in and for the purposes of the Building Code of Australia 1988;

**fuel depot:** means any land or building used for the storage and sale in bulk of solid or liquid gaseous fuel, but does not include a service station retail sale;

**funeral parlour:** means any land or buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation;

**garden centre:** means any land or building used for the display and sale of garden products, including but without limiting the generality of the foregoing garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden buildings;

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

**gross floor area:** shall have the same meaning as Floor Area in the Building Code of Australia 1988;

**health centre:** means any building used as a maternity or x-ray centre, a district clinic, a medical clinic or the like and may include ancillary services such as pathologists, radiologists, paramedicals and masseurs provided that the predominant use to which those services are ancillary is carried out on the same premises;

**health studio:** means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation;

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

- (a) residential purposes, has the same meaning given to it in and for the purpose of the Residential Planning Codes; or
- (b) purposes other than residential purposes, means the measurement taken from the natural ground level immediately in front of the centre of the face of the building to a level of the top of the eaves, parapet or flat roof, whichever is the highest.

**heritage list:** means the list of places drawn by the Council for the purpose of this scheme from time to time from the Council's Municipal Inventory, prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990. The list so drawn is to be kept with the scheme documents for public inspection during normal office hours;

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

**home occupation:** means a business or activity carried out within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that—

- (a) entails the conduct of a business, office, a workshop only, and does not entail the retail sale or display of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;

- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) does not entail employment of any person not a member of the occupier's household;
- (e) does not occupy an area greater than 20 m<sup>2</sup>;
- (f) does not display a sign exceeding 0.2 m<sup>2</sup> in area.
- (g) is compatible with the principal uses to which land in the zone in which it is located may be put;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not entail the presence, parking and garaging of a vehicle of more than two (2) tonnes tare weight;

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

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

**industry:** means the carrying out of any process for or incidental to—

- (a) production or manufacture of any product or thing whatsoever whether or not a finished article results therefrom;
- (b) the dismantling (and separating into parts) of any article, machinery, vehicle or other thing whatsoever;
- (c) the breaking up of any article, machinery, vehicle or other thing whatsoever;
- (d) the treatment of waste materials;
- (e) the mining of sand, gravel, clay, turf, soil, rock, stone or similar substances;
- (f) repairing, laundering and servicing of articles including vehicles, machinery and buildings, but not including on-site work on buildings;
- (g) the packaging of any goods or machinery;
- (h) any process of testing or analysis of any article, goods or materials;
- (i) the storage of goods, equipment or vehicles outdoors not in association with any other activity on the site, but not including a vehicle sales yard;
- (j) If on the same land as any of the above operations—
  - (i) the storage of goods used in connection with or resulting from any of the above operations;
  - (ii) the provision of amenities for persons engaged in such operations;
  - (iii) the sale of goods resulting from such operations;
  - (iv) any work of administration or accounting in connection with the undertaking;

and includes any industry or any class of industry particularly described or defined in this scheme, but does not include a home occupation or motor body works;

**industry—extractive:** (or extractive industry) means an industry which involves—

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

**industry—general:** (or general industry) means an industry other than an extractive, hazardous, light, noxious, rural or service industry;

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

**industry—light:** (or light industry) means an industry—

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

**industry—noxious:** (or noxious industry) means an industry which is subject to licensing as “Prescribed Premises” under the Environmental Protection Act 1986 (as amended);

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

**land:** shall have the same meaning given to the term in and for the purposes of the Act;

**laundromat:** means any land or building, open to the public in which washing machines, with or without provision for drying clothes, are available for use;

**liquor store:** means any land or building the subject of or proposed to be the subject of, a Store Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended);

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

**lot:** shall have the same meaning as is given to the term in and for the purposes of the Act, and "allotment" has the same meaning;

**lunch bar:** means a building or part of a building used for the sale of take-away sandwiches and similar foodstuffs within industrial and commercial areas, in a form ready to be consumed off the premises without further preparation but does not include a fast food take-away outlet;

**marina:** means premises at which berths or pens, and services including fuelling, servicing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings appurtenant thereto and all offices and storerooms used in connection therewith;

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

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

**medical centre:** means a building (other than a hospital) that contains or is designed to contain facilities not only for the practitioner or practitioners mentioned under the interpretations of consulting rooms but also for ancillary services provided by chiropractors, masseurs, paramedicals, pharmacists, pathologists and radiologists provided that the predominant use to which those services are ancillary is carried out on the same premises;

**Metropolitan Region Scheme:** means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 published in the *Government Gazette* of August 9 1963 and as amended from time to time;

**Minister:** means the Minister for Planning or the Minister of the Western Australian Government responsible for town planning;

**motel:** means any land or building used or intended to be used to accommodate patrons in a manner similar to a hotel but in which special provision is made for the accommodation of patrons with motor vehicles and to which a motel licence under the Liquor Licensing Act 1988 has been granted or may be granted;

**motor vehicle hire:** means any land or building used for the hiring out of motor vehicles and when conducted on the same site, the storage and cleaning of motor vehicles for hire but does not include mechanical repair or servicing of such vehicles;

**motor vehicle repair:** means any land or buildings used for the mechanical repair and overhaul of motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis reshaping but the term does not include a service station or motor vehicle wrecking;

**motor vehicle wash:** means any land or building where vehicles are washed and cleaned by or primarily by mechanical means;

**motor vehicle wrecking:** means any land or building used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts on the same premises;

**motor vehicles and marine sales premises:** means any land or building used for the display and sale of new or second hand motor-cycles, cars, trucks, caravans and boats or any one or more of them and may include the servicing of motor vehicles sold from the site;

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

**net lettable area (nla):** means the area of all floors confined within the finished surfaces of permanent walls but excludes the following areas—

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

**night club:** means any land or building used for entertainment with or without eating facilities and to which a cabaret or night club licence under the provisions of the Liquor Licensing Act 1988 has been or may be granted;

**non-conforming use:** means any use of land or building which was lawful immediately prior to the coming into operation of the Scheme, but is not now in conformity with the provisions of the Scheme.

**nursing home:** means any building used for the medical treatment and/or care of sick persons, whether resident or not, but does not include consulting rooms;

**office:** means a building or part of a building used for the conduct of administration, the practise of a profession, the carrying on of an agency, a post office, bank, building society, insurance office, estate agency, typist or secretarial service, or services of a similar nature, and where not conducted on the site thereof, the administration of or the accounting in connection with a commercial or industrial undertaking;

**open air display:** means the use of land as a site for the display and/or sale of goods and equipment;

**outbuilding:** means a non-habitable building being a private garage, carport, shed or the like associated with a residential use;

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

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

**park:** in relation to vehicles, means to leave stationary on land for more than one hour, and inflexions of the term have corresponding meanings;

**park home:** means a movable dwelling, not being a vehicle as defined under the Road Traffic Act 1974 (as amended), but constructed and maintained on its own chassis and wheels and capable of mobility at all times although stabilised by jacks and provided with skirtings and being so designed and constructed as to permit independent occupancy for dwelling purposes;

**parking area:** has the same meaning as the term car park;

**petrol filling station:** means any land or building used for the supply of petroleum products and motor vehicle accessories but does not include a service station;

**place:** when used in a heritage context has the same meaning as is given to the term in the Heritage of Western Australia Act 1990;

**plot ratio:** shall have the same meaning given to the term in the Building Code of Australia except for residential dwellings where the term shall have the same meaning given to it in the Residential Planning Codes;

**produce store:** means any land or building wherein fodders, fertilisers and grain are displayed and offered for sale;

**public amusement:** means any land or building used for the amusement or entertainment of the public, with or without charge;

**public assembly—place of:** (or place of public assembly) means any special place of assembly including private schools, halls, grounds for athletics, all sports grounds with provisions for spectators, racecourses, trotting tracks, stadia and/or showgrounds;

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

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

**public worship—place of:** (or place of public worship) means any land or building used primarily for religious activities;

**radio and TV installation:** means any land or building used for the transmission, relay and reception of signals and pictures, both commercial and domestic;

**reception centre:** means any land or building used for functions on formal or ceremonial occasions, but not for unhosted use or general entertainment purposes;

**recreation private:** (or private recreation) means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not usually open to the public without charge;

**recreation public:** (or public recreation) means land used for a public park, public gardens, foreshore reserve, playground or other grounds for recreation which are usually open to the public without charge;

**reserve:** means any land reserved for a public purpose;

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

- temporarily by two or more persons, or
- permanently by seven or more persons,

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

**Residential Planning Codes:** means the Residential Planning Codes, in Schedule No.2 to the Western Australian Planning Commission's Statement of Planning Policy No.1;

**restaurant:** means a building wherein food is prepared for sale and consumption on the premises and the expression shall include a licensed restaurant;

**restaurant/take-away:** means any building having a liquor licence or not, used for the sale of food to customers in a form ready to be eaten without further preparation where provision is made for the food either to be eaten on the premises or to be taken away and eaten elsewhere. The term does not include a hotel, restaurant, fast food take-away outlet or a lunch bar;

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

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

**retail:** means the sale or hire of products, goods or services to the ultimate consumer rather than by wholesale generally in small quantities;

**retirement village:** means a development containing accommodation for aged or dependent persons together with ancillary facilities;

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

**Schedule:** means a Schedule to the Scheme;

**service station:** means any land or buildings used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking;

**serviced apartment:** means an independent living residential unit development for short stay accommodation purposes but does not include a hotel or motel;

**shop:** means any land or building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food/take-away outlet or any other premises specifically defined elsewhere in this Scheme;

**showroom:** means any building or part of a building used or intended for use for the purpose 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 but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, medical or pharmaceutical products, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment;

**sign:** means a notice, message or display or the presentation or exposure of a notice, message or display on any structure object or thing on land or attached to land and where the context permits the term includes an advertising device;

**single house:** means an independently constructed dwelling standing wholly on its own lot created pursuant to the Town Planning and Development Act and used for the purpose of human habitation on a permanent basis by—

- (a) a single person
- (b) a single family; or
- (c) no more than six (6) persons who do not comprise a single family and includes any outbuilding erected within the curtilage;

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

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

**structure plan:** means a plan which indicates broad land use options for the development and subdivision of an area and provides a policy framework for such future subdivision and development;

**studio:** means a building or part of a building used as a work-room by a painter, photographer, sculptor or craftsperson in the conduct of his/her profession and includes incidental display and sale of things made, decorated or adapted therein;

**tavern:** means any land or building being or proposed to be the subject of a Tavern Licence granted under the provisions of the Liquor Licensing Act 1988;

**trade display:** means any land and/or buildings used for the display of trade goods and equipment manufactured and/or sold from a premises such display being for the purpose of advertisement.

**transport depot:** means any land or building used for the garaging or parking of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration or for the transfer of goods or persons from one motor vehicle to another and includes where carried out on the same premises maintenance, management and repair of the vehicles used, but not of other vehicles;

**truck stop:** means land used for the parking of motor vehicles used for carrying goods, and may include facilities for ancillary accommodation of drivers and the retail sale of petroleum products and convenience goods, but excludes the garaging, maintenance, management, and repair of any motor vehicle;

**vet consulting room:** means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight, and may include a dispensary of medications incidental thereto;

**veterinary hospital:** means a building used in connection with the treatment of animal injuries and ailments, and includes the care and accommodation of animals during or after such treatment;

**video store:** means any building, part or parts thereof used for the purpose of sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of pre-recorded video tapes;

**warehouse:** means a building wherein goods are stored and may be offered for sale by wholesale;

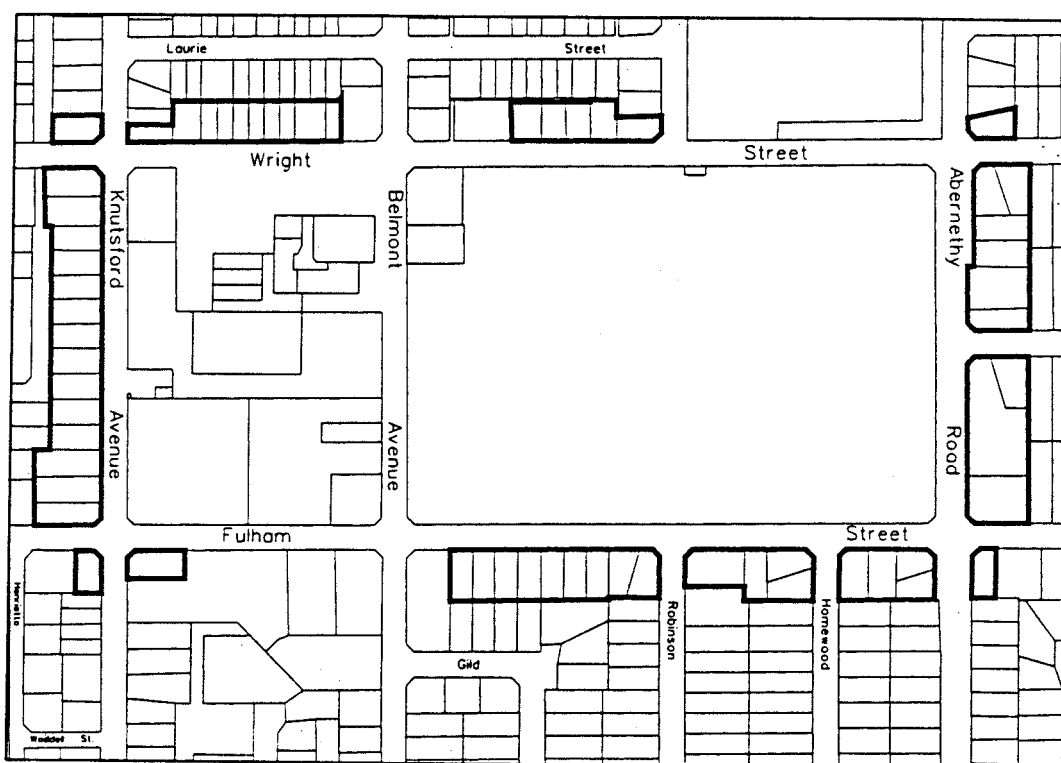
**waterway:** shall have the same meaning given to it in and for the purposes of the Act;

**wholesale:** means the sale of any goods to any person or persons other than the ultimate consumer of those goods;

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

#### SCHEDULE NO. 2—ADDITIONAL USES

No.	Land Particulars	Permitted Uses	Development Standards/Conditions
1.	All residential land coded R80B and above	"Corner Store" Shop	Maximum Floor area 50m <sup>2</sup>
2.			



Within The Residential Zone localities detailed in the above plan Council may approve the following additional uses.

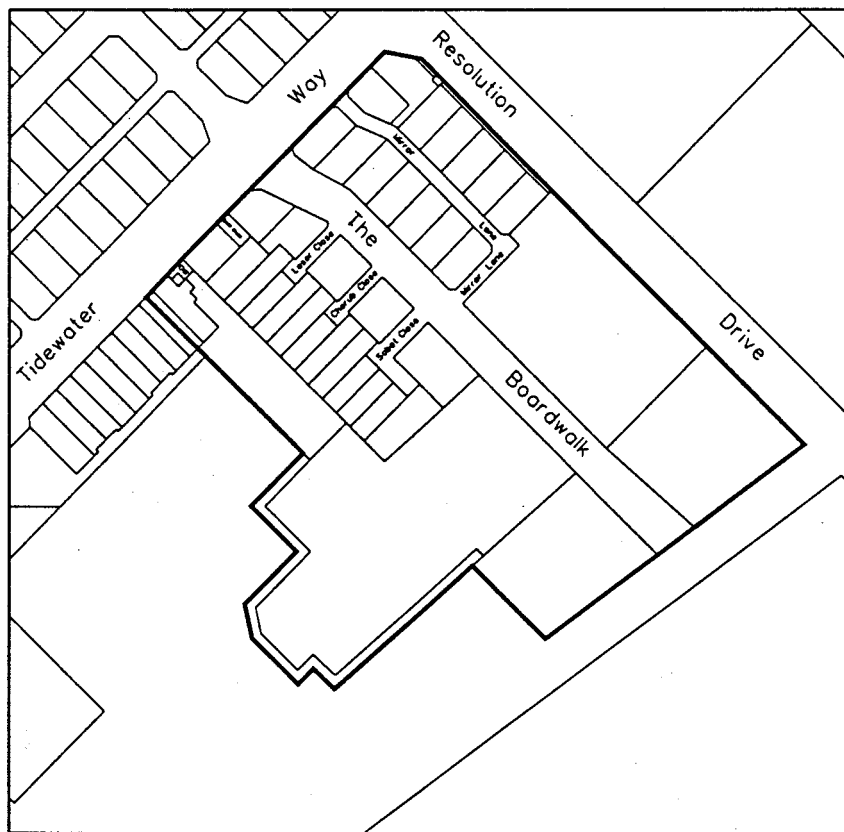
- Art Gallery
- Consulting Rooms
- Office
- Studio

When considering applications for the establishment of the above uses the following matters shall be taken into consideration—

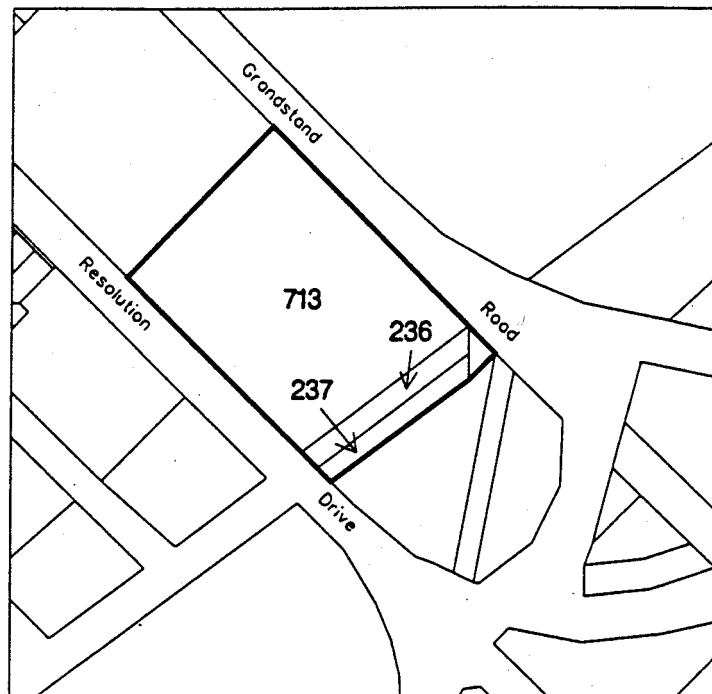
- (a) The need to limit vehicular access to premises, particularly Abernethy Road by the provision of reciprocal rights of carriageway.
- (b) The desirability of retaining some residential development in order to achieve a mix of residential and office use.
- (c) The desirability and practicability of converting existing residences to offices in preference to pursuing total redevelopment.
- (d) The standards that shall apply to such uses which standards shall generally be in accordance with the relevant provisions of Scheme No.11.
- (e) The need for Council to invoke clause 6.2.3. of the Scheme thereby requiring notice of proposed developments or initial changes of use to be advertised.

3. Within the Residential R20/R100B zone detailed below Council may approve the following additional uses—

- Shop
- Office
- Restaurant



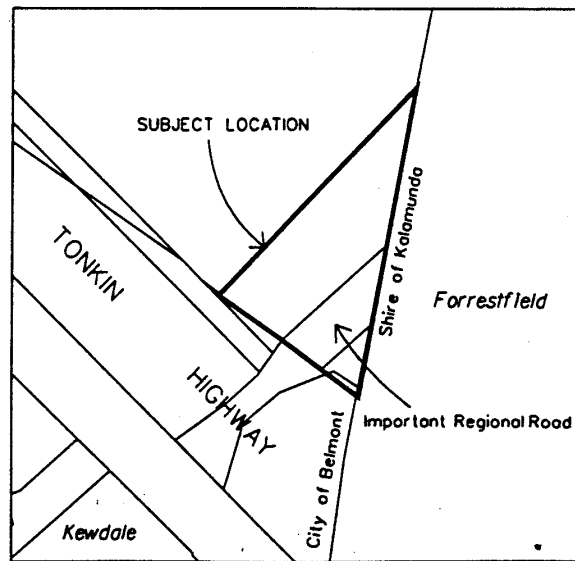
4. Within the Mixed Use Zone detailed below Council may approve a shop as an additional use.



5. Within that portion of the Forrestfield Marshalling Yard Office Park and Service Commercial Site detailed below, Council may approve the following additional uses.

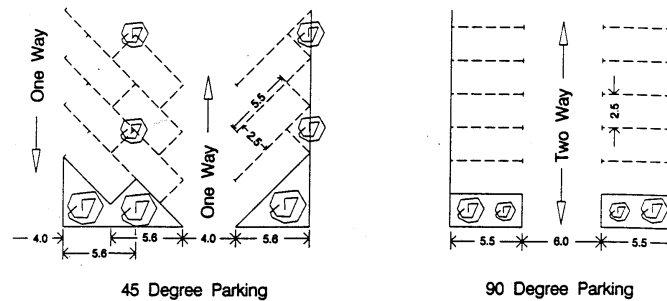
- Fast food / Take away;
- Consulting room—Group;
- Restaurant;
- Service station;
- Shop, provided that the Gross Leaseable Area set aside for the purposes of Shop other than Fast Food does not exceed 500m<sup>2</sup> in total; and
- Tavern.





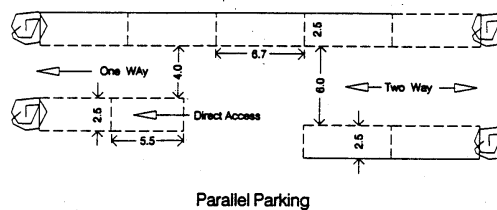
SCHEDULE NO. 3—CAR PARKING LAYOUT

## CAR PARKING LAYOUTS

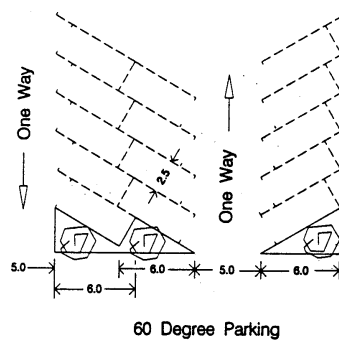


45 Degree Parking

90 Degree Parking



Parallel Parking



60 Degree Parking

## NOTES:

STANDARD BAY SIZE = 5.5m x 2.5m

PARALLEL BAY SIZE = 6.7m x 2.5m

AISLE WIDTHS AS SHOWN

(Council may require greater aisle widths depending on frequency of use)

Planting shown is notional

All dimensions are in metres

## SCHEDULE NO. 4—EXEMPTED ADVERTISEMENTS

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
DWELLINGS	One professional name-plate as appropriate	0.2m <sup>2</sup>
HOME OCCUPATION	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
PLACES OF WORSHIP, MEETING HALLS, AND PLACES OF PUBLIC ASSEMBLY	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
CINEMAS, THEATRES, AND DRIVE-IN THEATRES	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m <sup>2</sup>
SHOPS, SHOWROOMS, AND OTHER USES APPROPRIATE TO A SHOPPING AREA	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building, subject to a compliance with the requirements of the Signs Hoarding and Bill Posting by-laws.	Not applicable
INDUSTRIAL AND WAREHOUSE PREMISES	A maximum of four advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building and excluding signs projecting from a building, whether or not those signs are connected to a pole, wall, or other building.	Total area of any such advertisement shall not exceed 5m <sup>2</sup>
	A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup>
SHOWROOM, RACE COURSES, MAJOR RACING TRACKS, SPORTS STADIUMS, MAJOR SPORTING GROUNDS AND COMPLEXES	All signs, provided that in each case the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	Not applicable
PUBLIC PLACES AND RESERVES	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or Council of a municipality, excluding those of a promotional nature constructed or exhibited by or on behalf of any such body; and	Not applicable
	(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway, or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority, or the Council of a municipality; and	Not applicable
	(c) Advertisement signs (illuminated or non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified herein.	Not applicable

SCHEDULE NO. 4—EXEMPTED ADVERTISEMENTS—*continued*

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
RAILWAY PROPERTY AND RESERVES	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m <sup>2</sup> in area
ADVERTISEMENTS WITHIN BUILDINGS	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings	Not applicable
ALL CLASSES OF BUILDING OTHER THAN SINGLE FAMILY DWELLINGS	One advertisement sign containing the name, number, and address of the building, the purpose for which the building is used or the name address of the managing agent thereof..	0.2m <sup>2</sup>
BUILDING CONSTRUCTION SITES (ADVERTISEMENT SIGNS DISPLAYED ONLY FOR THE DURATION OF THE CONSTRUCTION AS FOLLOWS):	(i) <u>Dwellings</u> One advertisement per street frontage containing details of the project and professional consultants and the contractors undertaking the construction work.	2m <sup>2</sup>
	(ii) <u>Multiple dwellings, shops, commercial and industrial projects</u> One sign as for (i) above.	5m <sup>2</sup>
	(iii) <u>Large development/re-development projects</u> involving shopping centres, offices, or other buildings exceeding three stories in height.	5m <sup>2</sup>
	• One sign as for (i) above, and • One additional sign showing the name of the project building.	10m <sup>2</sup>
SALES OF GOODS OR LIVESTOCK	One sign per lot displayed for a period not exceeding three months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
PROPERTY TRANSACTIONS	Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated, as follows:	
	(i) <u>Dwellings</u> One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.	Each sign shall not exceed an area of 2m <sup>2</sup>
	(ii) <u>Multiple dwellings, shops, commercial and industrial properties</u> One sign as for (i) above	Each sign shall not exceed an area of 5m <sup>2</sup>
	(iii) <u>Large properties</u> comprised of shopping centres, buildings in excess of four storeys, and rural properties in excess of 5ha One sign as for (i) above.	Each sign shall not exceed an area of 10m <sup>2</sup>
DISPLAY HOMES	Advertisement signs displayed for the period which homes are on display for public inspection	
	(i) One sign for each dwelling on display	2m <sup>2</sup>
	(ii) In addition to (i) above, one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	5m <sup>2</sup>

## SCHEDULE NO.5—APPLICATION FOR PLANNING APPROVAL.

COUNCIL IS REQUESTED TO FORWARD THE ORIGINAL TO THE MINISTRY FOR PLANNING ONLY WHEN THE APPROVAL OF THE WESTERN AUSTRALIAN PLANNING COMMISSION IS REQUIRED.

## METROPOLITAN REGION SCHEME

Form 1

Office Use Only

Serial No.....

City/Town/Shire of.....

**APPLICATION FOR APPROVAL TO COMMENCE DEVELOPMENT**

Owner of land on which  
development proposed.

Surname .....

Other Names .....

Address in full .....

Postcode.....

Submitted by .....

Address for Correspondence .....

Postcode..... Phone.....

Locality of development (street, suburb, etc.) .....

Titles Office description of land: Lot No. .... Location No. ....

Plan or Diagram ..... Certificate of Title Vol. .... Folio .....

Nearest road junction or intersection .....

Description of proposed development .....

State nature of any existing buildings and/or land use .....

Approximate cost of proposed development \$ .....

Estimated time of completion .....

Three copies of the Building Plan and Site Plan of the proposal are submitted with this application.

Signed by the owner of the land .....

Date .....

**RECOMMENDATION OF COUNCIL****NOTE:**

Submit original and duplicate together with copies of the plans requested to the office of the Local Authority in whose area the development is proposed.

**ALL DETAILS MUST BE COMPLETED.**

E71721/10/88-10M-A8/715

## SCHEDULE NO.6—NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

## CITY OF BELMONT

## TOWN PLANNING SCHEME NO. 14

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

LAND DESCRIPTION

LOT NO ..... STREET .....

PROPOSAL .....

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

..... 19 .....

.....  
CHIEF EXECUTIVE OFFICER

.....  
DATE

## SCHEDULE NO. 7—DECISION ON APPLICATION FOR PLANNING APPROVAL

## TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

## CITY OF BELMONT

## TOWN PLANNING SCHEME No. 14

The Council having considered the application

Dated .....

Submitted by .....

On behalf of .....

hereby advise that it has decided to—

REFUSE/GRANT APPROVAL — TO COMMENCE DEVELOPMENT  
TO DISPLAY AN ADVERTISEMENT

subject to the following conditions/for the following reasons.

CHIEF EXECUTIVE OFFICER .....

DATE .....

## SCHEDULE NO. 8—CONTROL OF ADVERTISEMENTS

## ADDITIONAL INFORMATION SHEET FOR ADVERTISEMENT APPROVAL

(to be completed in addition to Application for Planning Approval)

Name of Advertiser (if different from owner): .....

Address in full: .....

Description of property upon which advertisement is to be displayed (including full details of its proposed position within that property)

.....

.....

*Details of Proposed Sign*

Height: ..... Width: ..... Depth: .....

Colours to be used: .....

Height above ground level — (to top of advertisement): .....

— (to underside): .....

Materials to be used: .....

Illuminated: Yes/No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: .....

State period of time for which advertisement is required: .....

Details of signs, if any, to be removed if this application is approved—

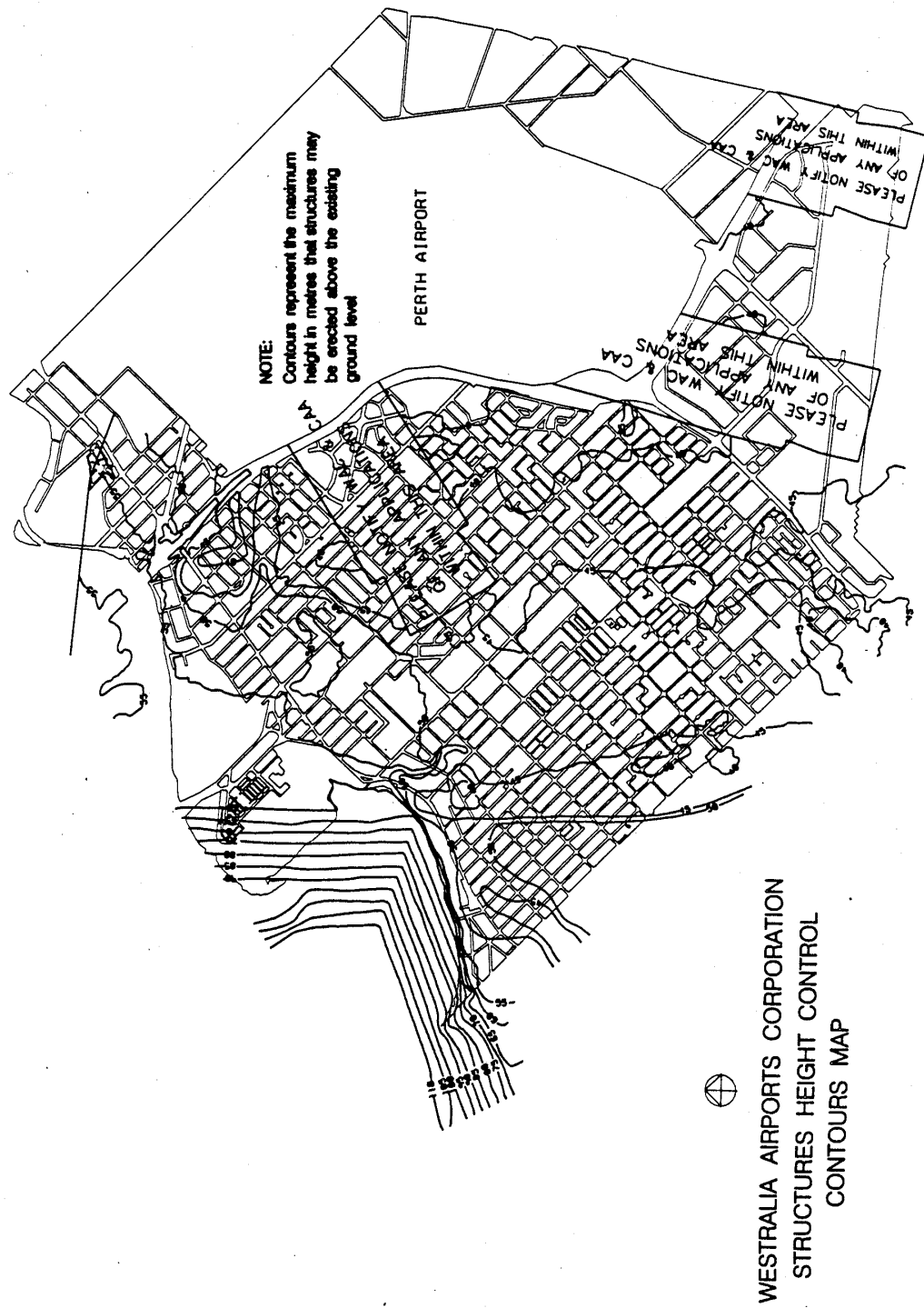
.....

NB. This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed above.

SIGNATURE OF ADVERTISER(S): .....  
(if different from land owners)

DATE: .....

## SCHEDULE NO. 9—STRUCTURES HEIGHT CONTROL CONTOURS MAP



**SCHEDULE NO.10—ENVIRONMENTAL CONDITIONS.**

There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme.

Approved by Resolution of the Council of the City of Belmont at the Ordinary Meeting of Council held on the 10th day of November, 1997.

P. R. PASSERI, Mayor.

Date 22/11/99.

B. GENONI, Chief Executive Officer.

Date 22/11/99.

**FINAL APPROVAL**

1. Adopted by Resolution of the Council of the City of Belmont at the Ordinary Meeting of the Council held on 15th day of March, 1999 and the seal of the Municipality was pursuant to the Resolution hereto in the presence of—

P. R. PASSERI, Mayor.

Date 22/11/99.

B. GENONI, Chief Executive Officer.

Date 22/11/99.

2. Recommended/Submitted for Final Approval by the Western Australian Planning Commission.

R. KOHN, For Chairperson,  
Western Australian Planning Commission.

Date 24/11/99

3. Final Approved granted.

Hon. G. KIERATH, Minister for Planning.

Date 1/12/99.

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**POLICE**

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**PE501****POLICE ACT 1892****POLICE AUCTION**

Under the provisions of the Police Act 1892, unclaimed found and stolen property and bicycles will be sold by public auction at Smith Broughton & Sons, 1 Clayton Street, Midland on Saturday 18th December 1999 at 9.00 a.m.

The Auction is to be conducted by Mr Gary Silcock.

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

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**RACING, GAMING AND LIQUOR**

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**RA401****LIQUOR LICENSING ACT 1988****SUMMARY OF LIQUOR LICENSING APPLICATIONS**

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

App. No.	Applicant	Nature of Application	Last Date for Objections
<b>APPLICATIONS FOR THE GRANT OF A LICENCE</b>			
6440/1999	Samaha Nominees Pty Ltd	Application for the grant of a Producer's licence (wine) in respect of premises situated in Pemberton and known as Phoenicia Wines.	27/12/99
6480/1999	Francesca Bevacqua	Application for the grant of a Restaurant licence in respect of premises situated in Subiaco and known as Caffè Centro.	30/12/99
6580/1999	Shaun Nicholas	Application for the grant of a Restaurant licence in respect of premises situated in Joondalup and known as Krishna Palace Indian Restaurant.	4/1/2000
6620/1999	Loi's Eastern Supermart Pty Ltd	Application for the grant of a Liquor Store licence in respect of premises situated in Northbridge and known as Lion Oriental Foods.	5/1/2000
<b>APPLICATIONS FOR EXTENDED TRADING PERMITS—ONGOING EXTENDED HOURS</b>			
2580/1999	Bename Pty Ltd	Application for the grant of an extended trading permit—ongoing extended hours, in respect of premises situated in Halls Head and known as Halls Head Tavern.	22/12/99
<b>APPLICATIONS FOR APPROVAL TO ALTER/REDEFINE THE LICENCED PREMISE</b>			
103322/99	ALH Group Pty Ltd	Application for approval to alter/redefine the tavern licence in respect of premises situated in Perth and known as Queens Tavern.	16/12/99

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

G. B. AVES, Director of Liquor Licensing.

## PUBLIC NOTICES

### ZZ101

#### TRUSTEES ACT 1962

##### Notice to Creditors and Claimants

Creditors and other persons having claims (to which Section 63 of the Trustees Act relates) in respect of the Estates of the undermentioned deceased persons are required to send particulars of their claims to me on or before the 11 January 2000 after which date I may convey or distribute the assets, having regard only to the claims of which I then have notice.

Barling, John Kenneth, late of Hamersley Nursing Home, 441 Rokeby Road, Subiaco, formerly of Flat 601A Wandana Flats, 93 Thomas Street, Subiaco, died 16/11/99 (DEC 323947 DL4)

Barry, Inez Ellen, late of Bedingfeld Lodge, 4 Bedingfeld Road, Pinjarra, formerly of 41 Koolgoo Way, Koongamia, died 24/11/99 (DEC 324032 DL4)

Deal, Ethel Lilian Irene, late of Sarah Hardey Nursing Home, 57 Monmouth Street, Mount Lawley, died 2/11/99 (DEC 323949 DC3)

Dibley, Rose Edna, late of 13 San Jacinta Road, Armadale, died 22/11/99 (DEC 323935 DA3)

Edwardes, Daphne Elizabeth, late of RSL Hostel, Gregory Street, Geraldton, died 29/10/99 (DEC 323785 DA3)

Hodgson, Margaret Jane, late of 5 Vagg Street, Bullcreek, formerly of 24 Sandgate Street, South Perth, died 5/11/99 (DEC 323953 DS4)

Hopcroft, Daisy Maud, late of Amaroo Nursing Home, 74 Lissiman Street, Gosnells, died 13/10/99 (DEC 323898 DP3)

Houston, Thelma, late of 8 Earn Place, Hamersley, died 8/11/99 (DEC 323933 DG2)

Jensen, Alice Marquerita, late of 17 Gordon Lodge, RAAFA Memorial Estate, Bullcreek Drive, Bullcreek, died 6/10/99 (DEC 322848 DG2)



Jolley, Dulcie, late of 15 Oakley Road North, Medina, died 23/10/99 (DEC 323880 DS3)  
Jolley, Arthur James, late of 15 Oakley Road North, Medina, died 10/10/99 (DEC 323879 DS3)  
Langley, Jack Bennett, late of 96 Sydenham Road, Doubleview, died 20/10/99 (DEC 323225 DS3)  
Lawrence, Douglas James, late of 138 Landstowne Street, South Perth, died 4/11/99 (DEC 323964 DC4)  
Massey, Dorothy Lavinia, late of St Frances Hostel, 678 North Beach Road, Gwelup, died 26/9/99 (DEC 323932 DG2)  
Murray, Norris Harry, late of St Francis Hostel, Mt Laverna Retirement Village, 678 North Beach Road, Gwelup, died 15/11/99 (DEC 323875 DL4)  
Myers, Thelma Milton, late of Air Force Estate, Bullcreek Drive, Bullcreek, died 13/11/99 (DEC 323738 DG4)  
Nicholls, Lucy Hilda, late of Craigmont Waters, Third Avenue East, Maylands, formerly of 41 Stretton Way, Kenwick, died 28/11/99 (DEC 323996 DL4)  
Staples, Mary Elizabeth, late of Catherine McAuley Nursing Home, 18 Barrett Street, Wembley, died 4/11/99 (DEC 323864 DL2)  
Sulman, Raif, late of 77 Lancaster Street, Dianella, formerly of Craigmont Nursing Home, Third Avenue, Maylands, died 4/10/99 (DEC 323934 DS2)  
Westlake, Percival Leonard, late of 244 Berwick Street, Victoria Park, died 29/10/99 (DEC 323782 DG3)  
Zacharias, Clarence, late of 29 Lena Crescent, Beechboro, died 15/11/99 (DEC 323931 DC2)

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

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**ZZ201****TRUSTEES ACT 1962**

Creditors and other persons having claim (to which Section 63 of the Trustees Act 1962-68 relates) in respect of the undermentioned deceased persons are required to send particulars of their claims to the Executors of care of Butlers, Barristers & Solicitors, 83-85 Stirling Highway, Nedlands WA 6009 by the 14 January 2000 after which date the Trustees may convey or distribute the assets having regard only to the claims of which notice has been given.

Name: Gerrans, Albert Ernest

Address: Late of 107 Lawler Street, Subiaco, Western Australia

Occupation: Retired Civil Servant

Date of Death: 25th August 1999

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**ZZ202****TRUSTEES ACT 1962**

Estate of the late Benedetto Panizza of Trevino Farm, Panizza Road, Southern Cross in the State of Western Australia.

Creditors and other persons having claims (to which Section 63 of the Trustees Act 1962 relates) in respect of the above-named deceased who died on 4 August 1998 are required to send particulars of their claims to the Executors of the Will of the late Benedetto Panizza, care of Phillips Fox, by Monday, 10 January 2000 after which date the Executors may convey or distribute the assets having regard only to claims of which notice has been given.

Mr and Mrs Giovanni and Patricia Panizza

Executors of the Will of the late Benedetto Panizza.

C/- Phillips Fox, Lawyers

PO Box F338

Perth WA 6741

Telephone: 08 9288 6000

REF: RTM:PDT:559688

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**ZZ203****TRUSTEES ACT 1962****NOTICE TO CREDITORS AND CLAIMANTS**

Creditors and other persons having claims (to which Section 63 of the Trustees Act, 1962 relates) in respect of the Estate of the undermentioned deceased persons, are required by Perpetual Trustees W.A. Ltd of 89 St Georges Terrace, Perth, to send particulars of their claims to the Company, by the undermentioned date, after which date the said Company may convey or distribute the assets, having regard only to the claims of which the Company then has notice.

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

Dated this 10th day of December 1999.

KIM MOSEDALE, Senior Manager, Private Clients.

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Timmis, William Guy, Retired Medical Practitioner, died 10/11/99.

Henderson, John Macmillan late of 7/155 Peninsular Road, Maylands WA 6051, Retired Fitter & Turner, died 16/11/99.

Page, Douglas Herbert late of Bert England Lodge, 111 Woodbridge Drive, Rockingham WA 6168, Retired Trades Assistant, died 23/5/99.

Gunn, Clinton Eric late of 12 Brigadoon Place, Cooloongup WA 6168, Technician, died 25/9/99.

Darby, Rex Ormiston late of 6 Hughenden Drive, Thornlie WA 6108, Retired Company Secretary, died 27/10/99.

Critchlow, Ronald late of 4/7 Cambridge Drive, Mandurah WA 6210, Fitter, died 5/10/99.

Buggy, Joseph Aloysius late of Craiglea Park Nursing Home, 38 Alday Street, St James WA 6102, Retired Printer, died 22/8/99.

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**ZZ204****TRUSTEES ACT 1962****NOTICE TO CREDITORS AND CLAIMANTS**

Creditors and other persons having claims in respect of the Estate of the late James Chadder Shovelton who died on the 17th day of July 1999 at Nedlands are requested to send particulars of their claims to the Executor Peter James Michael, c/- Michael, Whyte & Co, Barristers & Solicitors, Level 1, 41-43 Ord Street, West Perth 6005 within one (1) month from the date of this notice after which date the Executor may distribute the assets having regard only to the claims of which they have then had notice and the said Executor shall not be liable to any person of whose claim they have had no notice at any time of administration or distribution.

(Our reference: MHT991492)

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**ZZ401****THE ANGLICAN CHURCH OF AUSTRALIA, CONSTITUTIONAL AMENDMENT**

Notice is hereby given that the Most Reverend Keith Rayner AO, Archbishop of Melbourne, President of the General Synod and Primate of The Anglican Church of Australia has declared, pursuant to section 67(2) of the Constitution and to Rules of the General Synod, that on 1 March, 2000 the following Constitutional amendment shall come into effect and the Constitution on and from that day will be altered accordingly.

1998 No. 16 Constitution Alteration (Composition of General Synod) Canon

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