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PLANNING AND DEVELOPMENT ACT 2005

TOWN OF CLAREMONT

**APPROVED LOCAL PLANNING
SCHEME AMENDMENT**

**TOWN PLANNING SCHEME No. 3
AMENDMENT No. 107**

PLANNING AND DEVELOPMENT ACT 2005
APPROVED LOCAL PLANNING SCHEME AMENDMENT
Town of Claremont

Local Planning Scheme No. 3—Amendment No. 107

Ret: 853/2/2/3 Pt 107

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning and Infrastructure approved the Town of Claremont Local Planning Scheme Amendment on 18 May 2008.

P. OLSON, Mayor.
A. KYRON, Chief Executive Officer.

PLANNING AND DEVELOPMENT ACT 2005

TOWN OF CLAREMONT

**LOCAL PLANNING SCHEME No. 3
AMENDMENT No. 107**

The Town of Claremont under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005* hereby amends the above Town Planning Scheme.

1. Amending clause 8 by deleting all that part of the clause after the passage—

“The remaining documents of the Scheme are:”

and substituting the following—

- “(1) The Land Use Map;
- (2) The Scheme Map;
- (3) The Appendices; and
- (4) The Schedules

all of which form part of the Scheme”

2. Amending clause 10 by inserting the following definitions—

‘Commission’ means the Western Australian Planning Commission;

‘Council’ means the Council of the Town;

‘Development Contribution Plan’ means a plan and any necessary accompanying text which—

- (a) identifies all Shared Infrastructure Works required within a Structure Plan Area;
- (b) the cost or estimated cost of Shared Infrastructure Works where the Town considers it reasonable to provide those details; and
- (c) a schedule showing the portion or proportion of the cost payable by each Owner of land in the Structure Plan Area where the Town considers it reasonable to provide those details;

‘Owner’ in and in relation to Division VII means an owner or any co-owner of land in the Development Area or a person or persons authorised to represent an owner;

‘Proposed Structure Plan’ means a structure plan, that has been prepared in accordance with clauses 75F and 75G but has not been approved and adopted;

‘Shared Infrastructure Works’ means any works, lands, services, or other things whatsoever required to be provided for the subdivision or development of land within a Structure Plan Area such as but not limited to the services of administration and supervision, land for any school site, open space, drainage, road works, or any public facility or work whatsoever and the works necessary to adapt or prepare that land in the subdivision or development process;

‘Structure Plan’ means a structure plan that has been adopted by the Town under clause 75J and approved by the Commission under clause 75K;

‘Structure Plan Area’ means an area of land in the Development Zone which is the subject of a Structure Plan or a Proposed Structure Plan;

‘Town’ means the Town of Claremont.

3. Amending clause 13 by inserting the word “Development” after the word Educational” in the list of zones in subclause (1).

4. Amending Table 1—Land Use Table by inserting a new Column under the heading “ZONES” with the zone name at the head of the column and use class permissibility directions set out in the column as follows—

“Development

Use class permissibility to be determined with reference to the designations in the approved Structure Plan.”

5. Inserting after Part 3 Division VI the following—

“DIVISION VII
DEVELOPMENT ZONE

75A Application

This Division applies to the Development Zone.

75B Purposes of Development Zone

- (1) The purposes of the Development Zone are to—
- (a) identify areas requiring comprehensive planning; and
 - (b) coordinate subdivision and development in areas requiring comprehensive planning.
- (2) Schedule 1 describes each Development Zone in detail and sets out any specific purposes and requirements that apply to any Development Zone.

75C Subdivision and Development in Development Zone

- (1) The development of land within a Development Zone is to comply with any provisions relating to the land set out in Schedule 1.
- (2) Where a Structure Plan exists the subdivision and development of land within a Development Zone is to generally be in accordance with any Structure Plan that applies to that land.

75D Structure Plan required

- (1) The Town is not to—
- (a) consider recommending subdivision; or
 - (b) approve development

of land within a Development Zone unless there is a Structure Plan for the Development Zone or for the relevant part of the Development Zone.

- (2) Notwithstanding clause 75D(1), the Town may recommend subdivision or approve the development of land within a Development Zone prior to a Structure Plan coming into effect in relation to that land, if the Town is satisfied that this will not prejudice the specific purposes and requirements of the Development Zone.

75E Preparation of Proposed Structure Plans

- (1) A Proposed Structure Plan may be prepared by—
- (a) the Town; or
 - (b) The Council may require the preparation and presentation to it of a Structure Plan as a prerequisite to—
 - (i) the Council’s support for a proposal to rezone or reclassify land in the district; or
 - (ii) the Council’s support for an application to subdivide or amalgamate lots; or
 - (iii) the Council’s consideration of an application for planning approval.
- (2) A Proposed Structure Plan may be prepared for all of a Development Zone, or for such part of a Development Zone as is designated by the Town.
- (3) The Town or the Commission may, as a condition of adopting or approving a Proposed Structure Plan, require that a more detailed Structure Plan or a Detailed Area Plan be provided in future if the Town or the Commission considers that it will be necessary to provide additional detail to the proposals contained in the Proposed Structure Plan.
- (4) The Town preparing a Structure Plan, or an Owner preparing a Structure Plan with the authorization of the Town, at the same time is to prepare a Development Contribution Plan relating to the Structure Plan Area.

75F Details of Proposed Structure Plan

- (1) A Proposed Structure Plan is to contain the following details—
- (a) a map showing the area to which the Proposed Structure Plan is to apply;
 - (b) a site analysis map showing the characteristics of the site including—
 - (i) landform, topography and land capability;
 - (ii) conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserves and any environmental policy areas;
 - (iii) hydrogeological conditions, including approximate depth to water table;
 - (iv) sites and features of Aboriginal and European heritage value;
 - (c) a context analysis map of the immediate surrounds to the site including such of the following as the Town requires in any specific case—
 - (i) the pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres;
 - (ii) transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, strategic cycle routes, bus stops and rail stations;
 - (iii) existing and future land use;

- (d) a map showing proposals for such of the following as the Town requires in any specific case—
- (i) the pattern of neighbourhoods around any existing or proposed town and neighbourhood centre;
 - (ii) existing and proposed commercial centres;
 - (iii) arterial routes and neighbourhood connector streets;
 - (iv) the protection of natural features such as water courses and vegetation;
 - (v) major open spaces and parklands;
 - (vi) major public transport routes and facilities;
 - (vii) transportation corridors, public transport network, and cycle and pedestrian networks;
 - (viii) the pattern and disposition of land uses including residential densities and estimates of population;
 - (ix) schools and community facilities;
 - (x) street block layouts;
 - (xi) the street network including street types;
 - (xii) public parklands; and
 - (xiii) urban water management areas;
- (e) a written report to explain the mapping and to address such of the following as the Town requires in any specific case—
- (i) the planning framework for the Structure Plan including any applicable regional or district structure plans, and any policies, strategies and scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;
 - (ii) the site analysis including reference to the matters listed in clause 75F(1)(b) above, and in particular the significance to the conservation, environmental and heritage values of the site;
 - (iii) the context analysis including reference to the matters listed in clause 75F(1)(c) above;
 - (iv) how planning for the Structure Plan Area is to be integrated with the surrounding land;
 - (v) the design rationale for the proposed pattern of subdivision, land use and development;
 - (vi) traffic management and safety;
 - (vii) parkland provision and management;
 - (viii) urban water management;
 - (ix) proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services;
 - (x) the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.

75G (1) The maps referred to in clause 75F are to—

- (a) be drawn to a scale that clearly illustrates the details referred to in clause 75F; and
- (b) include a north point, visual bar scale, key street names and a drawing title and number.

(2) A Proposed Structure Plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the *Residential Design Codes*, and where the Proposed Structure Plan becomes a Structure Plan, the Town is to have due regard to such reserves, zones or *Residential Design Codes* when recommending subdivision or approving development of land within the relevant Structure Plan Area.

(3) Subject to subclause (6), where a Proposed Structure Plan imposes a classification on the land included in it by reference to reserves, zones, or the Residential Design Codes, the Proposed Structure Plan may only be adopted if the Structure Plan Area is listed in Schedule 1 as a Development Contribution Area.

(4) Where a Proposed Structure Plan proposes the provision of infrastructure in the Structure Plan Area, the Proposed Structure Plan may only be adopted by the Town if a Development Contribution Plan has been adopted by the Town in relation to the Structure Plan Area.

(5) A Proposed Structure Plan must be, in the opinion of the Town, consistent with orderly and proper planning.

(6) The Commission may at the request of the Town approve the adoption of a Proposed Structure Plan without the listing of a Development Contribution Area in Schedule 1 as otherwise would be required under subclause (3).

75H Submission to Town and Commission

(1) A Proposed Structure Plan prepared by an Owner is to be submitted to the Town and is to be accepted by the Town for processing under this Part if and only if it complies with clauses 75F

and 75G and other provisions of the Scheme. In the event that a Proposed Structure Plan submitted to the Town does not comply with clauses 75F and 75G or other provisions of the Scheme, the Town shall return the submitted Proposed Structure Plan to the Owner and advise the Owner accordingly.

(2) Within 14 days of preparing or accepting a Proposed Structure Plan which proposes the subdivision of land, the Town is to forward a copy of the Proposed Structure Plan to the Commission.

(3) The Commission is to provide comments to the Town as to whether it is prepared to endorse the Proposed Structure Plan with or without modifications.

(4) The Commission must provide its comments to the Town within 30 days of receiving the Proposed Structure Plan.

75I Advertising of Proposed Structure Plan

(1) Within 60 days of preparing or accepting a Proposed Structure Plan that conforms with clauses 75F and 75G and otherwise complies with the Scheme (or such longer time as may be agreed in writing between the Owner who submitted the Proposed Structure Plan and the Town, the Town is to—

(a) advertise, or require the Owner who submitted the Proposed Structure Plan to advertise the Proposed Structure Plan for public inspection by one or more of the following ways—

(i) notice of the Proposed Structure Plan published in a newspaper circulating in the Scheme Area;

(ii) a sign or signs displaying notice of the Proposed Structure Plan to be erected in a conspicuous place or places in the Development Zone, or part of the Development Zone to which the Proposed Structure Plan applies; and

(b) give notice or require the Owner who submitted the Proposed Structure Plan to give notice, in writing to—

(i) all owners whose land is included in the Proposed Structure Plan;

(ii) all owners and occupiers who, in the opinion of the Town, are likely to be affected by the adoption of the Proposed Structure Plan;

(iii) such public authorities and other persons as the Town nominates.

(2) The advertisement and notice are to—

(a) explain the scope and purpose of the Proposed Structure Plan;

(b) specify when and where the Proposed Structure Plan may be inspected; and

(c) invite submissions to the Town by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

75J Adoption of Proposed Structure Plan

(1) The Town is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to—

(a) adopt the Proposed Structure Plan, with or without modifications; or

(b) refuse to adopt the Proposed Structure Plan and, where the Proposed Structure Plan was submitted to an Owner, give reasons for this to the Owner.

(2) In making a determination under clause 75J(1), the Town is to have due regard to the comments and advice received from the Commission in relation to the Proposed Structure Plan.

(3) If the Commission requires modifications to the Proposed Structure Plan, the Town is to consult with the Commission prior to making a determination under clause 75J(1).

(4) If the Town, after consultation with the Commission, is of the opinion that a modification to the Proposed Structure Plan is substantial the Town may—

(a) readvertise the Proposed Structure Plan; or

(b) require the owner who submitted the Proposed Structure Plan to readvertise the Proposed Structure Plan;

and thereafter, the procedures set out in clause 75I(1) onwards are to apply.

(5) If within the period referred to in clause 75J(1), or such further time as may be agreed in writing between the Owner who submitted the Proposed Structure Plan and the Town, the Town has not made a determination under clause 75J(1), the Town is deemed to have refused to adopt the Proposed Structure Plan.

75K Endorsement by Commission

(1) If the Proposed Structure Plan proposes subdivision of land, then within 7 days of making its determination under clause 75J(1), the Town is to forward the Proposed Structure Plan to the Commission for its endorsement.

(2) As soon as practicable after receiving the Proposed Structure Plan, the Commission is to determine whether to endorse the Proposed Structure Plan.

(3) The Commission is to notify the Town of its determination under clause 75K(2).

75L Notification of Structure Plan

As soon as practicable after adopting a Proposed Structure Plan under clause 75J and if clause 75K applies, as soon as practical after being notified of the Commission's decision under clause 75K(3), the Town is to forward a copy of the Structure Plan to—

- (a) any public authority or person that the Town thinks fit; and
- (b) where the Structure Plan was submitted by an Owner, to the Owner.

75M Operation of Structure Plan

(1) A Structure Plan comes into effect—

- (a) where the Structure Plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 75K; or
- (b) on the day on which it is adopted by the Town under clause 75J in all other cases.

(2) If a provision of a Structure Plan is inconsistent with the provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.

75N Inspection of Structure Plan

The Structure Plan and the Commission's notification under clause 75K(3) is to be kept at the Town's administrative offices, and is to be made available for inspection by any member of the public during office hours.

75O Variation to Structure Plan

(1) The Town may vary a Structure Plan—

- (a) by resolution if, in the opinion of the Town, the variation does not materially alter the intent of the Structure Plan;
- (b) otherwise, in accordance with the procedures set out in clause 75F onwards.

(2) If the Town varies a structure plan by resolution, and the variation does not propose the subdivision of land, the Town is to forward a copy of the variation to the Commission within 10 days of making the resolution.

(3) If the Town varies a structure plan by resolution, and the variation proposes the subdivision of land, the Town is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.

(4) As soon as practicable after receiving the copy of the variation referred to in clause (3), the Commission is to determine whether to endorse the proposed variation.

(5) The Commission is to notify the Town of its determination under clause (4).

(6) A variation to a Structure Plan by resolution comes into effect—

- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause (4); or
- (b) on the day on which the Town resolves to make the variation under clause (1)(a).

75P Detailed Area Plan

75P(1) Where a Structure Plan has already been adopted in relation to a Structure Planning Area by the Town pursuant to clause 75J and, where the Structure Plan proposes the subdivision of land, endorsed by the Commission pursuant to clause 75K—

- (i) The Town when considering a development proposal, or the Commission when considering a subdivision proposal, may by notice in writing, request an Owner to prepare and submit to the Town or the Commission as the case requires, a Detailed Area Plan in relation to a Structure Planning Area within the time specified in the notice, to assist in the consideration process; or
- (ii) An Owner may at any time prepare and submit to the Town a Detailed Area Plan in relation to a Structure Planning Area.

Where the Town under item (i) requests a Detailed Area Plan to assist in the consideration of a development application, the time for determining the application before there is a deemed refusal under the provisions of this Scheme shall be extended by the time specified in the notice requesting the Detailed Area Plan.

75P (2) The preparation and submission of a Detailed Area Plan may be required by the Town or the Commission as a condition of adoption or approval of a Proposed Structure Plan.

75P (3) A Detailed Area Plan is intended to enhance, elaborate or expand the details or provisions contained in a Structure Plan for a particular lot or lots and may include details as to—

- (a) building envelopes;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, finished site levels and drainage;

- (i) protection of sites of heritage, conservation or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the Town.

75P(4) When a proposed Detailed Area Plan is prepared under clause 75P(1), the Town is to—

- (a) advertise, or require the Owner who submitted the proposed Detailed Area Plan to advertise, the proposed Detailed Area Plan for public inspection by one or more of the following ways—
 - (i) notice of the proposed Detailed Area Plan published in a newspaper circulating in the Scheme area;
 - (ii) a sign or signs displaying notice of the proposed Detailed Area Plan to be erected in a conspicuous place or places in the Structure Planning Area, or the part of the Structure Planning Area to which the proposed Detailed Area Plan applies; and
- (b) give notice or require the Owner who submitted the proposed Detailed Area Plan to give notice, in writing to—
 - (i) all Owners whose land is included in the proposed Detailed Area Plan;
 - (ii) all Owners and occupiers who, in the opinion of the Town, are likely to be affected by the adoption of the proposed Detailed Area Plan; and
 - (iii) such public authorities and other persons as the Town nominates.

75P(5) The advertisement and notice are to—

- (a) explain the scope and purpose of the proposed Detailed Area Plan;
- (b) specify when and where the proposed Detailed Area Plan may be inspected; and
- (c) invite submissions to the Town by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

75P(6) The Town is to consider all submissions received and—

- (a) approve the Detailed Area Plan with or without conditions; or
- (b) refuse to approve the Detailed Area Plan and, where the proposed Detailed Area Plan was submitted by an Owner, give reasons for this to the Owner.

(7) If within 60 days of receiving a Detailed Area Plan prepared under clause 75P(1)(b), or such longer period as may be agreed in writing between the Owner and the Town, the Town has not made one of the determinations referred to in clause 75P(5), the Town is deemed to have refused to approve the Detailed Area Plan.

(8) Once approved by the Town, the Detailed Area Plan constitutes a variation of the Structure Plan applicable to the area the subject of the Detailed Area Plan and has effect as such.

(9) The Town may vary a Detailed Area Plan in accordance with the procedures set out in clause 75P onwards provided such variations do not prejudice the intention of any related Structure Plan.

75Q Applications for Review (Appeals)

75Q(1) An Owner who has submitted a Proposed Structure Plan under clause 75H(1) may apply to review, under Part 14 of the Act—

- (a) any failure of the Town to advertise, or require the Owner to advertise, a Proposed Structure Plan within the required time period under clause 75I(1); or
- (b) any determination of the Town—
 - (i) to refuse to adopt a Proposed Structure Plan (including a deemed refusal); or
 - (ii) to require modifications to a Proposed Structure Plan that are unacceptable to that Owner.

75Q(2) An Owner who has submitted a Detailed Area Plan in accordance with clause 75P may apply to review, in accordance with Part 14 of the Act, any discretionary decision made by the Town under clause 75P.

75R Expiry of Structure Plans

75R(1) Subject to clause 75R(2), a Structure Plan expires upon the expiration of 5 years from the date of endorsement by the Commission in the case of a Structure Plan that proposes the subdivision of land, but otherwise upon the expiration of 5 years from the date of adoption of the Structure Plan by the Town.

75R(2) The term of a Structure Plan may be extended for a further period of up to 5 years if the Town so decides, and in the case of a Structure Plan that proposes the subdivision of land, if the Commission endorses such extension.

75S DEVELOPMENT CONTRIBUTION AREAS

75S.1 Development Contribution Areas are shown on the Scheme Map as DCA with a number and included in Schedule 1.

75S.2 In respect of a Development Contribution Area shown on the Scheme Map, the provisions applying to the Development Contribution Area apply in addition to the provisions applying to the Development Zone and any general provisions of the Scheme.

75S.3 Interpretation

In Part 75S, unless the context otherwise requires—

- “Cost Contribution” means the contribution to the cost of Infrastructure Costs payable by an Owner under this Part and pursuant to an applicable Development Contribution Plan;
- “Credit” means the amount of excess Cost Contribution which has been made either in money or works including land, over and above the amount of Cost Contribution for which an Owner is liable at any particular time;
- “Estimated Lot Yield” means at any particular time, the total potential number of lots including freehold title, survey strata and strata lots, which are capable of being produced from the land within the Development Contribution Area that remains to be subdivided or developed and which is calculated in accordance with the methods specified in 75S.8;
- “General Infrastructure Works” means the works stipulated in clause 75S.10(2);
- “Infrastructure” means services and facilities in respect of which, in accordance with the Commission’s policy, it is reasonable for Owners to make a Cost Contribution;
- “Infrastructure Costs” means the costs of Infrastructure Works;
- “Infrastructure Works” means the works necessary for the provision of Infrastructure as referred to in clause 75S.10;
- “Infrastructure Cost Schedule” means a table appurtenant to a Development Contribution Plan, which contains the itemised estimates of Infrastructure Costs, as periodically reviewed under this Part;
- “Modified Code Number” means the R-Code number applying to land within a Development Contribution Area reduced to reflect the fact that certain areas are excluded from the land area calculations pursuant to the clause headed ‘Calculation of Deductions from Development Contribution Area’. The Modified Code Number is intended to indicate the number of residential dwellings per hectare that are capable of being produced in the Development Contribution Area if all developable land was developed for residential purposes consistently with the applicable R-coding under the Scheme;
- “Nominal Contribution” means a Cost Contribution in respect of an area of land specified by the Town for exclusive use by a private educational establishment, which is set at a lesser rate than the Cost Contribution that would apply for residential subdivision and development, in acknowledgement that private educational establishments contribute betterment to the Development Contribution Area by virtue of the services provided to the community and that a full Cost Contribution may act as a disincentive to the provision of such services.
- “Owner” means an owner or co-owner of land that is located within a Development Contribution Area;
- “Potential Lots” means the total number of lots, including freehold title, survey strata and strata lots, a particular parcel of land, which has been identified for group housing, aged persons housing, office, shop, showroom, place of worship or other commercial or non-residential uses approved in writing by the Town, is capable of producing, if subdivided or developed to the maximum capacity permitted under the Scheme as calculated in accordance with the methods specified in clause 75S.8.
- “Preliminary Contribution Payment” means a payment made by an Owner pursuant to a condition of subdivision or development approval or a notice served upon an Owner by the Town, prior to the adoption of the Infrastructure Cost Schedule under a Development Contribution Plan by the Town.
- “Specified Infrastructure Works” are works, in addition to General Infrastructure Works, that are specified by the Town as required to be undertaken within a Cost Contribution Area, the cost of which shall be shared between Owners within that area in accordance with clause 75S.10(1).

75S.4 Purpose

The purpose of having Development Contribution Areas is to—

- (a) provide for the equitable sharing of Infrastructure Costs between Owners in a Development Contribution Area;
- (b) ensure that Cost Contributions are reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and
- (c) coordinate the timely provision of Infrastructure within the Development Contribution Area.

75S.5 Development Contribution Plan Prerequisite to Subdivision and Development

75S.5(1) A Development Contribution Plan shall be prepared for each Development Contribution Area.

75S.5(2) Where a Development Contribution Area is prescribed in Schedule 1 of the Scheme, all Owners within that Development Contribution Area are required to make a Cost Contribution in accordance with the provisions of this Part and the applicable Development Contribution Plan.

75S.5(3) A Development Contribution Plan is intended to be incorporated in Schedule 1 as part of the Scheme, but effect may be given prior to such incorporation if that will facilitate the equitable sharing of Infrastructure Costs.

75S.5(4) Subject to clause 75S.5(6), the Town is not to support subdivision or approve development of land within a Development Contribution Area until—

- (a) Development Contribution Plan is in effect; and
- (b) the Owner who has applied for a subdivision or development approval has made arrangements in accordance with clause 75S.19 for the payment of the Owner's Cost Contribution.

75S.5(5) Clause 75S.5(4) does not apply to the development of a single house or outbuildings associated with a single house on a lot which has not been subdivided since the coming into operation of this Part.

75S.5(6) Notwithstanding clause 75S.5(4), where a Development Contribution Plan is not in effect, the Town may support subdivision or approve development where the Owner has made other arrangements satisfactory to the Town with respect to the Owner's contribution towards the provision of Infrastructure Costs in the Development Contribution Area.

75S.6 General Principles and Content of Development Contribution Plan

75S.6(1) A Development Contribution Plan made in respect of any Development Contribution Area is to be prepared in accordance with the following principles—

- (a) it is to provide for Cost Contributions to only the amount of such Infrastructure Costs as fairly and reasonably relate to, and are reasonably required as a result of, the subdivision and development of land in the Development Contribution Area;
- (b) it is to provide for Cost Contributions in accordance with the provisions of this Part 75S;
- (c) matters requiring land contribution, such as public open space, are to be treated as the cost of Infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent;
- (d) Cost Contributions are to be based upon the proportion that the area of that Owner's land bears to the total area of land within the Development Contribution Area for which Cost Contributions have yet to be made;
- (e) the Cost Contribution is to take into account the highest and best uses attainable for the Owner's land; and
- (f) the value of Infrastructure Costs shall be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the Town.

75S.6(2) A Development Contribution Plan is to specify—

- (a) the Development Contribution Area to which the Development Contribution Plan applies;
- (b) the Infrastructure Costs to be funded through the Development Contribution Plan;
- (c) the method of determining the Cost Contribution of each Owner in a manner consistent with the provisions of this Part 75S;
- (d) the priority and timing for the provision of Infrastructure.
- (e) the period during which it is to operate, which period may be extended with the approval of the Commission at the request of the Town.
- (f) the Specified Infrastructure Works that are to be undertaken within the Development Contribution Area as required by clause 75S.10.(3).

75S.7 Calculation of Deductions from Development Contribution Area

For the purposes of clause 75S.6(1)(d), the following areas are to be excluded from the land area calculations of both the total land area in the Development Contribution Area and the Owners land—

- (a) roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;
- (b) existing public open space;
- (c) government primary and secondary schools, existing and proposed;
- (d) sites nominated by the relevant Structure Plan for exclusive use of private educational establishments and which have also been approved by the Town for a Nominal Contribution;
- (e) drainage reserves;
- (f) public utility sites;
- (g) community purpose sites; and
- (h) land required for Infrastructure Works.

75S.8 Calculation and Apportionment of Infrastructure Costs and Cost Contributions

75S.8(1) The Town will, for the purposes of apportioning Infrastructure Costs to Owners, make an estimate of the lot yield for the Development Contribution Area called the 'Estimated Lot Yield'. This will be calculated by determining the number of hectares in the Development Contribution Area, excluding those land uses stipulated in clause 75S.7 and multiplying that area by the Modified Code Number.

75S.8(2) The contribution to be made by each owner of land within the Development Contribution Area to the implementation of the Infrastructure Works shall be a Cost Contribution, based on a Cost Contribution per lot which is to be calculated by the Town in the following manner—

- (a) The Cost Contribution per lot is determined by first deriving the Net Infrastructure Costs according to the following formula—

$$(i) A - B = C$$

Where—

A = gross cost of Infrastructure Works being the total of fixed actual and estimated future costs, which will be based on costs estimated no more than 12 months in advance. Such estimates shall be based on an average for each Infrastructure work cost and recognise all factors affecting the development of the relevant Development Contribution Area and associated constraints the Town will encounter in the provision of the Infrastructure Works. This shall include (but not be limited to) variable market conditions and the nexus between the time frame of development and provision of Infrastructure Works.

B = payments made to date by owners of land who subdivide or develop land within the Development Contribution Area calculated on the basis of whichever is the lesser of—

- (1) the lots produced at the rate of the Modified Code Number of lots per hectare for the Area equivalent of the land holding of an owner; or
- (2) the actual number of lots produced by the landholding of an owner;

C = Infrastructure Costs;

and then dividing the Infrastructure Costs by the subdivision potential of the balance of the Development Contribution Area remaining unsubdivided, excluding those land uses in clause 75S.7 and in accordance with the following formula—

$$(ii) C \div D = E$$

Where—

D = the number of lots to be produced to achieve the Modified Code Number of lots per hectare for the area equivalent of the unsubdivided balance area of the Development Contribution Area, excluding those land uses in clause 75S.7;

E = the Cost Contribution per lot.

- (b) The Cost Contribution payable by each owner of land in the Development Contribution Area is calculated by multiplying the number of freehold, survey strata and strata lots produced from the owner's land by the Cost Contribution per lot.
- (c) Cost Contributions shall not be payable for land that is used for government school sites, public open space and any other public purpose land uses approved by the Town for exclusion from the Cost Contributions.

75S.8(3) Determination of Potential Lots to which the Cost Contribution per lot Applies.

In addition to the number of lots on which the Cost Contribution payable by each Owner pursuant to the cost sharing arrangement included in clause 75S.8(2) is assessed, a further Cost Contribution per lot shall be payable on the potential lots/dwellings capable of being produced, assessed in accordance with the following provisions—

- (a) where land is identified by the Town as having potential or the capability of being developed for grouped housing or aged persons development, the Cost Contribution per lot will be charged on the basis that the lot has residential subdivision potential at the time that lot is created. This shall be calculated by the Town by multiplying the total land area expressed in hectares by the Modified Code Number, to derive the notional number of dwellings the land has potential for or is capable of producing;
- (b) where the Town is satisfied that an area of land is intended to be developed as a private educational establishment and the Town considers it appropriate in the circumstances, the Cost Contribution may be charged a Nominal Contribution as per clause 75S.9;
- (c) where land has been identified by the Town to be used for a place of worship, commercial, office, shop, showroom or any other non-residential use, the Cost Contribution will be calculated by multiplying the Cost Contribution per lot by the Modified Code Number;
- (d) where a subdivision is proposed for land on which a dwelling exists and a smaller lot is created to contain the dwelling, the lot containing the dwelling ("the existing house lot") will be subject to a Cost Contribution per lot based on clause 75S.8(3)(a). If, however, the owner of such land can demonstrate that the size of the existing house lot is required to accommodate the dwelling, landscaping and other outbuildings associated with that dwelling and that the actual development potential of that lot may not exist without substantial cost and redevelopment, then the Town may, at its discretion, reduce the Cost Contribution per lot payable for the existing house lot provided any future subdivision or development of the existing house lot will incur further contributions as outlined in clauses 75S.8(2) and 75S.8(3)(a) to (c);
- (e) where a subdivision of the kind contemplated in clause 75S.8(3)(d) is proposed, the Town may impose on the balance of the lot excluding the existing house lot ("the

remaining land”) a Cost Contribution per lot on the development potential of that lot as prescribed in clause 75S.8(3)(a). The Town may reduce or defer such payment if—

- (i) the Owner of such a lot can demonstrate that the subdivision was primarily carried out to create the existing house lot and to effect the sale of the remaining land; and
- (ii) the size of the remaining land is such that it will be developed in stages or will be further subdivided.

75S.9 Nominal Contributions

75S.9(1) A Nominal Contribution may be approved by the Town for a specified area of land to be used exclusively for private educational establishments, at a rate of 10% of the full value of the educational establishment development approval and the Nominal Contribution will be required as a condition of development or subdivision approval.

75S.9(2) Where a change of land use occurs for land for which previous development had been subject to a Nominal Contribution, an additional Cost Contribution will be required to bring the total Cost Contributions for that land at the date the liability for the additional Cost Contribution falls due, up to the equivalent rate for the new land use on the basis of the Cost Contribution per lot specified in clause 75S.8.

75S.9(3) Where a Cost Contribution has been paid by an Owner and the Town subsequently approves a Nominal Contribution for a specified area of the land for which the Cost Contribution has been paid, the difference between the paid Cost Contribution and the subsequent Nominal Contribution shall be deemed a credit to that Owner.

75S.10 Infrastructure Works

75S.10(1) The categories of General Infrastructure Works and Specified Infrastructure Works described in sub-clauses 75S.10(2) and 75S.10(3) respectively below comprise the Infrastructure Works which shall be shared by the Owners located with the Development Contribution Area.

75S.10(2) General Infrastructure Works

- (a) All costs incurred by the Town associated with the preparation, processing and gazettal of the Development Contribution Plans and provisions under this Scheme, including but not limited to any environmental assessment as required by the Department of Environmental (DEP) and Environmental Protection Authority (EPA).
- (b) The acquisition of land, including associated infrastructure and structures, for the roads, intersections, sewerage pumping station(s), and community facilities.
- (c) Any compensation paid or payable for or in respect of the provision of any of the Infrastructure works or facilities referred to in this Part 75S, or in the administration of this Part 75S in relation to the applicable Development Contribution Plan.
- (d) Any consulting fees associated with designing and undertaking of the Infrastructure Works, including but not limited to surveying, engineering, planning, environmental, project management and landscaping.
- (e) The provision or upgrading of any road in the Development Contribution Area, including but not limited to land acquisition, earthworks, shared paths, cycleways, footpaths, road widening, traffic management devices, landscaping, the formation, preparation, priming and sealing of the road and the provision of kerbing, drainage, service ducts, intersection treatments and lighting and costs associated with the relocation of existing services in connection with the road or in the road reserve.
- (f) Any environmental remediation or improvement including the removal of any contaminant and peat associated with the Specified Infrastructure Works stipulated in the Development Contribution Plan.
- (g) All costs incurred by Council associated with the preparation, administration and management of the Development Contribution Plan including but not limited to bank charges, audit fees, office and sundry costs, legal expenses, valuation fees, reviews of land values and costs, caveat and conveyancing fees, quotes and certification of estimated costs, Council staff salaries including a Co-ordinator/Manager of the Development Contribution Plan, any interest costs incurred by Council in respect to loan funds required to provide timely implementation of any of the listed Common Infrastructure works or related costs, any claims for injurious affection and the costs of establishing any required system to facilitate the administration and the ongoing management of Development Contribution Plan along with the specific requirements of the Scheme pertaining thereto.

75S.10(3) Specified Infrastructure Works

A Development Contribution Plan shall stipulate Specified Infrastructure Works required within the Development Contribution Area.

75S.11 Credits for Infrastructure Works

Where a Credit is recorded in respect to any Owner it may be used as payment of any future Cost Contribution required from that Owner or the Owner may apply for reimbursement, which shall be paid out without any interest payment, when the Town deems sufficient funds have accumulated to cover any such claims and the outstanding infrastructure Works costs are estimated to be fully recoverable from the anticipated future subdivision and development, notwithstanding that where several subdividers have accumulated a Credit, the Town may satisfy refunds in staged payments in proportion to the Credit amounts held by each subdivider.

75S.12 Provision of Land for Infrastructure Works

Where the Infrastructure Cost Schedule includes a land component for Infrastructure Works on the relevant lot for which a Cost Contribution or Nominal Contribution is due, an Owner shall cede to the Crown or transfer to the Town the required land for the Infrastructure Works at the first stage of subdivision and/or development for that particular landholding or by prior agreement at an alternative date agreed by the Town. If the value of the land determined in accordance with clause 75S.17 exceeds the total Cost Contribution for that Owner, the excess value shall be attributed as a credit to the Owner.

75S.13 Overdue Cost Contributions

Any overdue Cost Contribution to Infrastructure Works shall be a liquidated debt due to the Town by the Owner of such land and may be recovered by the Town in a court of competent civil jurisdiction.

75S.14 Prefunding of Infrastructure Works

75S.14(1) An Owner of land within the Development Contribution Area may, with the prior approval of the Town, undertake implementation of any of the Infrastructure Works referred to in clause 75S.10. Where an Owner wishes to undertake implementation of Infrastructure Works, with the exception of land required for Infrastructure Works, the owner shall, before commencing to carry out such works, first lodge a formal claim for the cost of the Infrastructure Works with the Town, which reserves the right to review and accept or reject the claim, and to permit or prevent the Owner from carrying out the works until such time as the Owner's claim has been agreed. The Town will endeavour to respond to an Owner's claim within sixty (60) days.

75S.14(2) If the Town agrees that an Owner can pre-fund the infrastructure Works, the Owner shall at all times maintain proper and itemised records of all relevant expenditure, including receipts and invoices and provide copies of the same to the Town on request. Where the cost of carrying out such works exceeds the amount of the claim originally agreed to by the Town, the Town may accept or reject the additional cost or any part thereof.

75S.14(3) Where the Town accepts a claim for a credit or an entitlement to re-imburement for the carrying out of the implementation of Infrastructure Works, the Town shall record the extent of the claim and if necessary adjust the Development Contribution Plan accordingly.

75S.14(4) Where an Owner seeks a credit for a contribution to Infrastructure Works (whether by the provision of land or the construction of any works) against his Cost Contribution liability and the Town has previously agreed to the carrying out of such works by that Owner on that basis, then the credit to be given to the Owner will be calculated on the basis of the cost agreed by the Town under clauses 75S.14(1) and 75S.14(2).

75S.14(5) Notwithstanding clause 75S.14(4) above, where an Owner has pre-funded Infrastructure Works and the credit allowed by the Town exceeds the Cost Contribution of the Owner under the applicable Development Contribution Plan, the Owner should be refunded the excess after the Town has received sufficient contributions from other Owners in that Development Contribution Area towards meeting the anticipated Infrastructure Costs and having regard to the priority of Infrastructure Works.

75S.15 Ability to Raise Loans to Undertake Infrastructure Works

The Town may raise loans for the purpose of providing the finance necessary for the implementation of Infrastructure Works at a timing and order of prioritisation determined by the Town with any interest or charges incurred in raising loans or carrying out such work deemed to be an Infrastructure Cost.

75S.16 Infrastructure Cost Schedule

75S.16(1) Within 90 days of the Gazettal date of a Development Contribution Plan, the Town is to distribute an Infrastructure Cost Schedule to all Owners in the Development Contribution Area.

75S.16(2) The Infrastructure Cost Schedule sets out in detail the calculation of the Cost Contribution for each Owner in the Development Contribution Area.

75S.16(3) The Infrastructure Cost Apportionment Schedule is appurtenant to and does not form part of the Scheme.

75S.17 Valuation

75S.17(1) Unless Part 10 of the *Land Administration Act 1997* applies, this clause applies if it is necessary to ascertain the Value of any land for the purposes of this Part 75S.

75S.17(2) In clause 75S.17—

“Value” means the capital sum which an unencumbered estate in fee simple of the land might reasonably be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require—

- (i) on the basis that there are no buildings, fences or other improvements of a like nature on the land;
- (ii) on the assumption that any rezoning necessary for the purpose of the development and to which the land may reasonably be made subject has come into force; and
- (iii) taking into account the added value of all other improvements on or appurtenant to the land.

“Valuer” means a licensed valuer agreed by the Town and the Owner, or where the Town and the Owner are unable to reach agreement, a valuer nominated by the President for the time being of the Western Australian Division of the Australian Property Institute.

75S.17(3) If an Owner objects to a valuation made by the Valuer, the Owner may give notice to the Town requesting a review of the amount of the Value, at the Owner’s expense, within 28 days after being informed of the Value.

75S.17(4) If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined—

- (a) by any method agreed between the Town and the Owner; or
- (b) if the Town and the Owner cannot agree, by arbitration in accordance with the *Commercial Arbitration Act 1985*.

75S.17(5) At the request of the Town or the Owner, the Value placed upon the land of an Owner may be revised from time to time by a Valuer. Where such a revision is undertaken, the Valuer may—

- (a) reconsider the Values placed on other land in the Development Contribution Area; and
- (b) make such revisions as considered just and equitable to those Values if the Valuer considers this is necessary as a result of a re-valuation made under clause 75S.17(3).

75S.17(6) The date of valuation for the purposes of this Part is the date that the Owner’s liability to pay the Owner’s Cost Contribution to the Town arises under clause 75S.18, or such other date as is agreed between the Town and the Owner.

75S.18 Liability for Cost Contributions

75S.18(1) An Owner is required to make a Cost Contribution in accordance with the provisions of this Part and the applicable Development Contribution Plan.

75S.18(2) An Owner’s liability to pay the Owner’s Cost Contribution to the Town arises on the earlier of—

- (a) the Town advising the Owner that is prepared to confirm to the Commission that conditions of subdivision approval supervised by the Town and imposed on an application to subdivide or amalgamate the Owner’s land within the Development Contribution Area have been complied with;
- (b) the Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the Owner’s land within the Development Contribution Area;
- (c) the commencement of any development including any new or extended use on the Owner’s land within the Development Contribution Area;
- (d) the time of applying to the Town or Commission for approval of any development including any new or extended use on the Owner’s land within the Development Contribution Area; or
- (e) the Town, with the approval of the Commission, having given notice in writing to the Owner calling upon the Owner to pay the Cost Contribution and the time for payment stipulated in that notice having expired.

75S.18(3) Notwithstanding clause 75S.18(2), an Owner’s liability to pay the Owner’s Cost Contribution does not arise if the Owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided since the Gazettal of the Development Contribution Plan.

75S.19 Payment of Cost Contribution

75S.19(1) The Owner, with the agreement of the Town, is to pay the Owner’s Cost Contribution by—

- (a) cheque or cash;
- (b) transferring to the Town or a public authority land in satisfaction of the Cost Contribution;
- (c) some other method acceptable to the Town; or
- (d) any combination of these methods.

by an Owner of the Cost Contribution, including a Cost Contribution based upon estimated costs, constitutes full and final discharge of the Owner’s liability under the Development Contribution Plan.

75S.20 Cost Contributions based on Estimates

75S.20(1) Where an Infrastructure Cost Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the Town—

- (a) in the case of land to be acquired, in accordance with clause 75S.17;
- (b) in all other cases, in accordance with the best and latest information available to the Town,

until the expenditure on the relevant item of Infrastructure Costs has occurred.

75S.20(2) Where requested in writing by an Owner, the Town is to have such estimated costs independently certified by an appropriate qualified person and must provide such independent certification to an Owner where requested to do so.

75S.20(3) Where any Cost Contribution has been calculated on the basis of an estimated cost, the Town—

- (a) is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or final expenditure; or
- (b) may accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the Owner accordingly.

75S.20(4) Where an Owner's Cost Contribution is adjusted under clause 75S.20(3), the Town, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.

75S.21 Revision of Cost Contributions, Estimated Lot Yields and Areas Capable of Being Developed

75S.21(1) The Town shall from time to time review Cost Contributions and the Infrastructure Cost Schedule associated with a Development Contribution Plan provided such reviews are conducted at least on an annual basis.

75S.21(2) The Town shall, at the time it reviews Cost Contributions and the Infrastructure Cost Schedule in a Development Contribution Plan, review—

- (a) the Estimated Lot Yield;
- (b) the Cost Contribution per lot;
- (c) the remaining area of the Development Contribution Plan which is capable of being developed;

having regard for the actual lots produced in the Development Contribution Plan since the last review, the remaining Infrastructure works, any amendments to the Structure Plan or Detailed Area Plan as the case may be and any other factors the Town considers relevant.

75S.21(3) When calculating or reviewing Cost Contributions and the Infrastructure Cost Schedule in a Development Contribution Plan, the Town will have regard to the value of the land required for Infrastructure Works and include an amount 10% over and above the Value of such land, to ensure that the Town has or will receive sufficient funds in the relevant Development Contribution Plan account to acquire land for Infrastructure Works, to meet its obligations for appropriate payment to such Owners, and ensure the Infrastructure Works can be completed in a manner that minimises the need for external borrowing. The Town may also apply a further amount above the Value to recognise any compulsory taking of land and/or acquisition of structures.

75S.21(4) The Town, in reviewing the various elements pursuant to subclauses 75S.21(1) and 75S.21(2) above, may revise or amend any of those elements and any Cost Contributions payable by an Owner of land in the Development Contribution Plan and Infrastructure Cost Schedule.

75S.21(5) Following revision or amendment of the elements mentioned in subclauses 75S.21(1) to 75S.21(3) inclusive, the Town shall notify by way of public advertising the outcome of the review advising of the availability of details concerning the review and revisions and inviting comment.

75S.21(6) Following the issue of the invitation pursuant to subclause 75S.21(5), a period of 28 days shall be allowed from the date such advertising commenced for an Owner affected by the review to object to the revision of Cost Contributions and any other finding of the review, other than the assessed Value which shall be dealt with under clause 75S.17. An Owner who lodges an objection under this clause shall submit with the objection supporting evidence from a suitably qualified person in the specific field of the cost revision being objected to and can only object to those elements that have been altered as part of the review. Any objection received by the Town in accordance with this subclause during this period shall be assessed by the Town and if not agreed by the Town, shall be subject to arbitration in accordance with clause 75S.27.

75S.22 Preliminary Contribution Payments

75S.22(1) Where an Owner or former Owner of land in a Development Contribution Area has made a Preliminary Contribution Payment towards their Cost Contribution, then the Preliminary Contribution Payment will be credited towards the Cost Contribution required under this Part 75S.

75S.22(2) Should an Owner's or former Owner's Preliminary Contribution Payment be less than the required Cost Contribution, the Town may seek a further payment from those Owners who have made such Preliminary Contribution Payments, which represents the difference between such Preliminary Contribution Payments and the amount of the Owner's Cost Contribution calculated as if the payment was made at the time Development Contribution Plan was adopted by the Town. Owners shall make the further payment stipulated by the Town within thirty (30) working days of receiving a written request from the Town.

75S.22(3) Should an Owner's or former Owner's Preliminary Contribution Payment be more than the required Cost Contribution, then the Owner is entitled to a credit or refund, which represents the difference between such Preliminary Contribution Payments and the amount of the Owner's Cost Contribution calculated as if the payment was made at the time the Development Contribution Plan was adopted by the Town. If the Owner seeks a refund for the difference, the Town is to endeavour to make such a payment within thirty (30) working days or as soon as the necessary funds are available in the relevant account.

75S.23 Charge on land

75S.23(1) The amount of any Cost Contribution for which an Owner is liable under clause 5A.2.18, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the Town may lodge a caveat, at the Owner's expense, against the Owner's title to that land.

75S.23(2) The Town, at the Owner's expense and subject to such other conditions as the Town thinks fit, is to withdraw a caveat lodged under clause 75S.23(1) to permit a dealing and may then re-lodge the caveat to prevent further dealings.

75S.23(3) If the Cost Contribution is paid in full, and if requested to do so by the Owner, the Town, at the expense of the Owner, is to withdraw any caveat lodged under clause 75S.23(1).

75S.24 Administration of Funds

75S.24(1) The Town is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for Infrastructure Costs within that Development Contribution Area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.

75S.24(2) Interest earned on Cost Contributions credited to a reserve account in accordance with clause 75S.24(1) is to be applied in the Development Contribution Area to which the reserve account relates.

75S.24(3) The Town is to provide to every Owner who has a liability to make a Cost Contribution an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

75S.25 Shortfall or Excess in Cost Contributions

75S.25(1) If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Town may—

- (a) make good the shortfall from its municipal fund;
- (b) enter into agreements with Owners to fund the shortfall; or
- (c) raise loans or borrow from a financial institution,

but nothing in paragraph 75S.25(1)(a) restricts the right or power of the Town to impose a Differential Rate or a Specified Area Rate to a specified Development Contribution Area in that regard.

75S.25(2) If there is an excess in funds available to the Development Contribution Area when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Town is to apply the excess funds for the provision of additional facilities or improvements in that Development Contribution Area.

75S.26 Powers of the Town

The Town in implementing the Development Contribution Plan has the power to—

- (a) acquire any land or buildings within the Scheme area under the provisions of the Act or the *Land Administration Act 1997*; and
- (b) deal with or dispose of any land which it has acquired under the provisions of the Act in accordance with the law and for such purpose may make agreements with other Owners as it considers fit.

75S.27 Arbitration

Subject to clause 75S.17(4), any dispute between an Owner and the Town in connection with the Cost Contribution required to be made by an Owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*. The arbitrator shall be bound by the provisions of Part 75S.2 and the Development Contribution Plan, including the Infrastructure Cost Schedule."

6. Amending the table of Contents to reflect the above amendments.

Dated this 6th day of September 2007.

A. KYRON, Chief Executive Officer.

Adoption

Adopted by resolution of the Council of the Town of Claremont at the ordinary meeting of Council held on the 4th day of September 2007.

P. OLSON, Mayor.
A. KYRON, Chief Executive Officer.