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— PART 2 —

AGRICULTURE AND FOOD

AG401*

BEEKEEPERS ACT 1963
STOCK DISEASES (REGULATIONS) ACT 1968
STOCK (IDENTIFICATION AND MOVEMENT) ACT 1970
 APPOINTMENTS

Department of Agriculture and Food,
 SOUTH PERTH WA 6151.

The Governor is pleased to appoint the following as Inspectors pursuant to—

Section 5 of the *Beekeepers Act 1963*—

Peter Dodge
 Adam Troy Hunter
 Ian McBride Main

Section 8 (1) of the *Stock Diseases (Regulations) Act 1968*; and
 Section 37 of the *Stock (Identification and Movement) Act 1970*—

Ian McBride Main

TERRY REDMAN MLA, Minister for Agriculture and Food.

HOUSING AND WORKS

HW401*

COUNTRY HOUSING ACT 1998
 STANDARD RATE OF INTEREST

Notice is hereby given, in accordance with Section 40 of the *Country Housing Act 1998* that the standard rate of interest to apply for assistance provided under this act is 6.10% effective January 12, 2009.

JUSTICE

JU401*

ELECTORAL ACT 1907
 PETITION

In the Court of Disputed Returns.

In the matter of the election of a member of the Legislative Council for the Agricultural Region

The Petition of Anthony James Fels of Nelson location 12224 Lower Blackwood Road Orchid Valley 6395 whose name is subscribed.

- 1 The declaration of election of Ms Mia Davies is void by virtue of the issues raised and on the record of the Parliament of WA in relation to her disqualification to be a member of the Legislature by breach of s38(c) and 37(1)(a) of the Constitution Acts Amendment Act 1899 and/or her ineligibility to be a candidate by breach of s28(3) of the Election Regulations 1996.
- 2 The result for the Agriculture Region be voided due to multiple breaches of the Electoral Act 1907 including but not limited to breaches of s146G & s146H, and associated breaches of the Electoral Regulations 1996. This has irretrievably tainted the result for the Agricultural Region.

- 3 The deputy Returning Officer for the Central Wheatbelt District—Mr Martin Morris was based in Merredin, however the ballots from approximately 20 of the polling booths in that district were transported to Northam while he was not in attendance. Some of these sealed packages were taken out of the sealed ballot boxes and opened without his knowledge, and without scrutineers being present. This is all in breach of the transparency, supervision and security requirements of the Act and Regulations.
- 4 Multiple breaches of the Electoral Act 1907 occurred in at least 10 of the Polling booths within the Central Wheatbelt district including Avonvale, Bakers Hill, Cunderdin, Grass Valley, Jennacubine, Meckering, Northam Primary School, Northam Memorial Hall, Wundowie and Wyalkatchem (“the Northam Booths”) whereby the number of tainted ballots (5,405) could have affected the result of the election.
- 5 Approximately 5,405 ballot papers from these ‘Northam Booths’ were for an extended period of time (1-2 days) after the close of poll and prior to the official count, not in sealed ballot boxes nor in sealed packages as required under the Act; and were not presented to the Returning Officer with summary count lists at the official count when they arrived in Perth 2 days later.
- 6 Scrutineers were not present at the time these ballot papers were removed from the sealed packages sometime after election night and before the official count began in Fremantle.
- 7 The original count lists from these ‘Northam Booths’ did not accompany the ballot papers, and also were not in sealed packages or in sealed ballot boxes as required under the Electoral Act 1907 prior to the official count. These original count lists have never been provided. Thus, the number of ballot papers issued and the number of valid votes cast at the Northam Booths cannot be verified in accordance with the Electoral Act 1907 and its Regulations.
- 8 When these 5,405 ballot papers from the ‘Northam Booths’ ultimately arrived at the Fremantle central counting centre in opened packages they also did not have with them the original count lists from the informal count. This is contrary to the requirements of s146G of the Electoral Act 1907.
- 9 The count lists that were ultimately presented to scrutineers were not the original count lists, and did not arrive in sealed packages inside sealed ballot boxes as required under the Electoral Act 1907.
- 10 No audit was undertaken of the unused ballot papers for some, and possibly all of these 10 ‘Northam Booths’. Again this is contrary to the requirements of s146G of the Electoral Act 1907.
- 11 The unused ballot papers were also not placed into sealed packages, and were not counted until 1 week after the election,—after these breaches of the Electoral Act 1907 had been discovered by scrutineers for other candidates, and complaints subsequently made directly to the Electoral Commissioner—Mr Warwick Gately.
- 12 The Assistant Returning Officer at the Merredin Courthouse polling centre, Martin Morris, removed the election material that the petitioner had correctly displayed on Election Day within the requirements of the Electoral Act 1907, disadvantaging the petitioner.
- 13 The result of Early votes at the Merredin Courthouse booth was noticeably different to the result from the previous election when the candidate Fels achieved (as a Liberal candidate in 2005) 860 of the 1,065 Early Votes.
- 14 The variation to the results of these Early votes at the Merredin polling booth from 2005 to 2008 would indicate an error in the count in 2005 or in 2008,—most likely due to a formulation error in the computer count in 2005.
- 15 The electronic count produced a different distribution of votes and overall result to that which was anticipated by scrutineers at the official (manual) count. Although the computer is able to generate a faster result, it cannot be relied upon on its own, and a subsequent full manual count should be undertaken to confirm accuracy and detect any errors that could accumulate in the program as may have contributed to the 2005 result with the Early votes in Merredin,
- 16 See attachment marked ‘Annexure A’ “Chronology”.
- 17 That further and better particulars be provided when information in response from the Western Australian Electoral Commission can be provided.

Whereupon your petitioner prays that it may be determined

- 1 That by s162(1)(d) of the Electoral Act 1907 Ms Mia Davies who was returned as elected was not duly elected and cannot be remedied by s39 of the Constitution Acts Amendment Act 1899 because she is not a Member of the Legislature as defined by s5 of that Act; and also she is not a member as defined by s6 of the Constitution Act 1889.
- 2 That this Court disregards the motions of the Legislative Council of 3 December 2008 and of the Legislative Assembly of 4 December 2008 whereby Ms Mia Davies cannot be given relief under s39 of the Constitution Acts Amendment Act 1899 because she is not a member as defined by s5 of that Act, and also by s6 of the Constitution Act 1889.
- 3 That the election for the Agricultural Region of 6 September 2008 be declared absolutely void under s162(1)(f) of the Electoral Act 1907; and that a new election be held under s172(1)(c) of the Electoral Act 1907.
- 4 That the election be recounted manually.

- 5 Notwithstanding any of the above, that the results of the writ returned on 27 October 2008 be disregarded and that the election be recounted, with the approximately 5,405 tainted ballots from the Northam booths,—that were subjected to multiple breaches of the Electoral Act 1907,—being declared void and therefore excluded from the official count.
- 6 Such further matters that may be amended by leave of the Court when further and better particulars have been provided to the petitioner.

Hon ANTHONY FELLS MLC, Member for the Agriculture Region.

MARINE/MARITIME

MX401*

WESTERN AUSTRALIAN MARINE ACT 1982

EXEMPTION NOTICE (WAMA—2008/00573)

Exemption of Commercial Tender Vessels from Compliance with Part II (Survey Manning and Operation of Commercial Vessels) of the *Western Australian Marine Act 1982*

Equipment in relation to a ship, is defined in the Act as including every thing or article belonging to or to be used in connection with, or necessary for the navigation and safety of, the ship and, includes among other matters, boats.

Tender vessels are part of the equipment of a surveyed commercial ship or vessel (the “Parent Vessel”).

The Exemption

I, David Harrod acting pursuant to an instrument of delegation dated 28 January 2005 grant the following exemption under section 115A(1) of the *Western Australian Marine Act 1982* (“the Act”).

I exempt Commercial Tender vessels (vessels) from compliance with the requirements of Part II (Survey Manning and Operation of Commercial Vessels) of the Act while those vessels are being used only as a “Pleasure Vessel” as defined under Part VI section 98 of the Act. This exemption only operates when the use of the vessel is not being made allowed or authorised in the course of any business or in connection with any commercial transaction.

Conditions

This exemption is subject to the following conditions—

1. This exemption only applies to tender vessels that are nominated on and form part of the survey report that is used for the commercial Parent Vessel as part of its current survey requirements.
2. Every vessel that this exemption applies while being used in a recreational capacity (Pleasure Vessel) **must** only be operated within **two (2) nautical miles** of the commercial Parent Vessel at all times.
3. Every vessel that this exemption applies to, must, while being used in a recreational capacity, comply with the same safety equipment and requirements that would apply if the vessel was a Pleasure Vessel under section 98 of the Act. It must adhere to the legislative requirements that apply to Pleasure Vessels relating to safety equipment and the requirement for the master of the vessel to have Recreational Skippers Ticket (RST) qualifications pursuant to Regulations 51-52 and 47C of the *Navigable Waters Regulations 1958*.
4. Every vessel that this exemption applies to must be marked with the words “Tender To” followed by the commercial Parent vessel name that is specific to the commercial Parent vessel. These letters and numbers are to be black, not less than 50 millimetres in height and 12 millimetres in width with a white surround not less than 7 millimetres and to be positioned immediately forward of the transom on each side of the vessel.
5. When the vessel is being operated as a commercial tender in conjunction with its Parent Vessel in a the course of a commercial transaction or business then it must operate in accordance with the guidelines in the Department’s Information Sheet titled “Vessels used as a Tender to a Surveyed Commercial Vessel—Operation and Requirements”.

This instrument is called WAMA—2008/00573

DAVID HARROD, General Manager Marine Safety.

Dated this 15th day of January 2009.

PLANNING AND INFRASTRUCTURE

PI101*

CORRECTION

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

Town Planning Scheme No. 3—Amendment No. 110

It is hereby notified for public information, that the notice under the above Amendment No. 110 published at page 48 of the *Government Gazette* No. 3 dated 9 January 2009, contained an error which is now corrected by as follows—

For the words—

A full copy of the amendment documentation can be viewed at the Council Offices, 308 Stirling Highway, Claremont.

Read—

1. Amending subclause 31A(4)(b) by inserting after the word “required” the following words—
“in respect of non residential development.”
2. Amending subclause 31A(4)(b)(i) by deleting the fourth bullet point and substituting the following new bullet point—
 - The surplus car bays created via the relaxation of 5% or up to 15% is to benefit the residential component of the development.

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

PI401*

PLANNING AND DEVELOPMENT ACT 2005
APPROVED LOCAL PLANNING SCHEME AMENDMENT
City of Swan

Local Planning Scheme No. 17—Amendment No. 13

Ref: 853/2/21/16 Pt 13

It is hereby notified for public information, in accordance with Section 87 of the *Town Planning and Development Act 2005* that the Minister for Planning approved the City of Swan Local Planning Scheme Amendment on 15 December 2008 for the purpose of—

Inserting in the Scheme Text the following Clause and sub-clauses after sub-clause 5A.1.16.2—

“5A.1.17 Structure Plans and Other Instruments Adopted or Initiated Under Previous Scheme

- 5A.1.17.1 Where, pursuant to the requirements of the former City of Swan Town Planning Scheme No. 9 (District Zoning Scheme) (the “previous scheme”), a Structure Plan, Outline Development Plan, Subdivision Guide Plan, Development Plan, Detailed Area Plan or any similar instrument (a “planning instrument”) had been adopted and was operative at the date of gazettal of this Scheme, the planning instrument shall continue to have effect and may be amended or revoked as if it were a Structure Plan under this Scheme.
- 5A.1.17.2 Where under the previous scheme the process of adopting a planning instrument had been commenced but was not complete at the date of gazettal of this Scheme, the steps in the process undertaken pursuant to the previous scheme shall be effective as if those steps were undertaken pursuant to this Scheme, and the remaining step or steps in the process necessary for the adoption of the planning instrument may be completed pursuant to this Scheme, as if the planning instrument were a Structure Plan under this Scheme.”

C. ZANNINO, Mayor.
M. J. FOLEY, Chief Executive Officer.

PI501*

PLANNING AND DEVELOPMENT ACT 2005
METROPOLITAN REGION SCHEME AMENDMENT 1160/41
HELENA VALLEY PRECINCT

Call for Public Submissions

The Western Australian Planning Commission (WAPC) intends to amend the Metropolitan Region Scheme (MRS) for land in the local government of Mundaring and is seeking public comment.

The planning objective of this amendment is to rezone approximately 29.65 ha of land from the rural zone to the urban zone which will allow for future residential development of the subject land, following a local scheme amendment, local structure planning and subdivision approval.

Display locations

The plans showing the proposed change and the WAPC's amendment report which explains the proposal, will be available for public inspection from Tuesday 25 November 2008 to Friday 13 March 2009 at each of the following places—

- Western Australian Planning Commission
Wellington Street, Perth
- City of Perth
- City of Fremantle
- City of Swan
- Shire of Mundaring
- J S Battye Library
Level 3, Alexander Library Building
Perth Cultural Centre

Documents are also available from the WAPC's website www.wapc.wa.gov.au.

Submissions

Any person who desires to make a submission to support, object or provide comment on any part of the proposed amendment should do so on a form 41. This submission form is available from the display locations, the amendment report and the internet.

Submissions must be lodged with the: Secretary, Western Australian Planning Commission, 469 Wellington Street, PERTH WA 6000; on or before 5.00pm **Friday, 13 March 2009**.

Late submissions will not be considered.

WAYNE WINCHESTER, Acting Secretary,
Western Australian Planning Commission.

PI502*

PLANNING AND DEVELOPMENT ACT 2005
METROPOLITAN REGION SCHEME AMENDMENT 1162/41
CLAREMONT NORTH EAST PRECINCT

Call for Public Submissions

The Western Australian Planning Commission (WAPC) intends to amend the Metropolitan Region Scheme (MRS) for land in the local government of Claremont and is seeking public comment.

The planning objective of this amendment is to rezone approximately 9.4 ha of land surrounding the Claremont Football Club Oval from the parks and recreation (restricted public access) reservation to primarily an urban zone and removes the other regional road roads reservation from Shenton Road and Claremont Crescent. Minor rationalisation of the northern portion of the railways reservation is also proposed.

Display locations

The plans showing the proposed change and the WAPC's amendment report which explains the proposal, will be available for public inspection from Tuesday 20 January 2009 to Friday 24 April 2009 at each of the following places—

- Western Australian Planning Commission
Wellington Street, Perth
- City of Perth
- City of Fremantle
- Town of Claremont
- Town of Cottesloe
- J S Battye Library
Level 3, Alexander Library Building
Perth Cultural Centre

Documents are also available from the WAPC's website www.wapc.wa.gov.au.

Submissions

Any person who desires to make a submission to support, object or provide comment on any part of the proposed amendment should do so on a form 41. This submission form is available from the display locations, the amendment report and the internet.

Submissions must be lodged with the: Secretary, Western Australian Planning Commission, 469 Wellington Street, PERTH WA 6000; on or before 5.00pm **Friday, 24 April 2009**.

Late submissions will not be considered.

TIM HILLYARD, Acting Secretary,
Western Australian Planning Commission.

DECEASED ESTATES

ZX401

TRUSTEES ACT 1962

DECEASED ESTATES

Notice to Creditors and Claimants

James Aubrey Dunstan, late of Bethel Aged care Hostel, Bethel Way, Albany, Western Australia.

Creditors and other persons having claims (to which Section 63 of the *Trustees Act 1962*, relates) in respect of the estate of the deceased, who died on 16 September 2008, are required by the trustee of the late James Aubrey Dunstan of c/- Haynes Robinson Solicitors of 70-74 Frederick Street, Albany, Western Australia to send particulars of their claims to them within one (1) month from the date of publication of this notice, after which date the trustee may convey or distribute the assets having regard only to the claims of which it then has notice.

Dated this 12th day of January 2009.

HAYNES ROBINSON.

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