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PLANNING AND DEVELOPMENT ACT 2005

**ASHBURTON NORTH
STRATEGIC INDUSTRIAL AREA**

**IMPROVEMENT
SCHEME No. 1**

PLANNING AND DEVELOPMENT ACT 2005

ASHBURTON NORTH STRATEGIC INDUSTRIAL AREA

IMPROVEMENT SCHEME No. 1

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PLANNING AND DEVELOPMENT ACT 2005

ASHBURTON NORTH STRATEGIC INDUSTRIAL AREA

IMPROVEMENT SCHEME No. 1

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

PART 1—PRELIMINARY**1. Citation**

This Improvement Scheme is referred to as Improvement Scheme No. 1: Ashburton North Strategic Industrial Area (this Scheme).

2. Commencement

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

3. Notes do not form part of Scheme

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

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

4. Responsibility for Scheme

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

5. Application

This Scheme does not apply in relation to the following—

- (a) Part of the land included in this Scheme is controlled by the Pilbara Ports Authority under the *Port Authorities Act 1999*. The approval of the Commission is not required for port works and port facilities in accordance with clause 36 of this Scheme.
- (b) Part of the land included in this Scheme is covered by the Onslow Solar Salt Agreement. The planning, development and use of land in accordance with and as contemplated by or under the Onslow Solar Salt Agreement does not require application to or the approval of the Commission.

6. Scheme area

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

7. Contents of Scheme

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

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

This Scheme is to be read in conjunction with Improvement Plan No. 41: Ashburton North Strategic Industrial Area and the Improvement Scheme No. 1: Ashburton North Strategic Industrial Area—Scheme Report.

8. Purposes of Scheme

The purposes of this Scheme are to—

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

9. Aims of Scheme

The aims of this Scheme are to—

- (a) create a strategic industrial estate comprising major hydrocarbon processing industries and synergistic services and/or facilities with viable port access;
- (b) ensure the safe and efficient use of land for the long-term industrial development of a strategic industrial area of regional, state and national significance;
- (c) provide an internationally competitive industrial estate that offers a layout designed to facilitate and encourage industry synergies, functional transport links and where possible, the sharing of infrastructure networks and corridors;
- (d) minimise and mitigate adverse impacts on the surrounding land, the terrestrial and marine environment, and the Onslow community; and
- (e) ensure the appropriate separation and layout of land uses through appropriate internal and external buffers to prevent incompatible or conflicting land uses.

10. Relationship with local laws

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

11. Relationship with other local planning schemes

The Shire of Ashburton Local Planning Scheme ceases to have effect on the Improvement Scheme area.

12. Terms used

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

Act means the *Planning and Development Act 2005*;

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

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

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

Ashburton North Strategic Industrial Area means the area shown on the Scheme Map as 'Ashburton North Strategic Industrial Area Boundary';

built heritage conservation means conservation as defined in the *Heritage of Western Australia Act 1990*;

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

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

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

Commission means the Western Australian Planning Commission as established under the provisions of *Western Planning Commission Act 1967*;

cultural heritage significance has meaning given in the *Heritage of Western Australia Act 1990* section 3(1);

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

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

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

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

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

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

Onslow Solar Salt Agreement means the agreement (as varied from time to time) ratified by the *Onslow Solar Salt Agreement Act 1992*;

owner, in relation to land, means—

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

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

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

R-Codes means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

Scheme area means the area to which this Scheme applies;

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

works, in relation to land, means—

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

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

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

13. Land use terms used

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

abattoir means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

agriculture—extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture—intensive or animal husbandry—intensive;

agriculture—intensive means premises used for commercial purposes, including outbuildings and earthworks, associated with any of the following—

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);
- (d) aquaculture;

animal husbandry—intensive means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;

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

concrete batching plant means premises on which cement products or concrete are manufactured;

convenience store means premises—

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

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

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

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

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

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

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

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

industry—hydrocarbon processing means—

- (a) facilities for the processing of hydrocarbons to produce liquefied natural gas, LPG, condensate, and/or other hydrocarbon products (including petrochemicals and other downstream processing or refining), facilities for the storage and export or delivery of such products at variable rates, flare structures and facilities for carbon dioxide treatment or management; and
- (b) any relevant supporting infrastructure and facilities such as wastewater treatment facilities, water supplies, desalination water production facilities, electricity generation plants, concrete batching plants, rock screening facilities, relevant administration buildings, internal access and haul roads, and visitors centre/facilities;

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

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

industry—strategic extraction means land, other than that used for mining operations, or 'industry—extractive', that is used for the limited extraction of basic raw materials and may include facilities for the following purposes—

'activities associated with the extraction of basic raw materials, primarily by way of establishing a borrow pit and including, removal, storage, loading and transport directly associated with or required to facilitate 'industry—hydrocarbon processing' or 'industry' uses within the ANSIA';

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

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

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

office means premises used for administration, clerical, technical, professional or similar business activities;

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

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

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

storage means premises used for the storage of goods, equipment, plant or materials;

supply base means a premise used to accommodate the logistical processes of hydrocarbon industries. A supply base may include large laydown areas, storage, warehouses, and a range of support buildings, infrastructure and amenities with port access;

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

trade display means premises used for the display of trade goods and equipment for the purpose of advertisement;

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

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

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

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

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

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

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

warehouse means premises used for the purposes of storage, display or the sale by wholesale of goods;

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

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

PART 2—PLANNING FRAMEWORK

14. Improvement Scheme policies

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

(2) An Improvement Scheme policy—

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

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

(4) The Commission may amend or repeal an Improvement Scheme policy.

(5) In making a determination on development applications under this Scheme the Commission must have regard to each relevant Improvement Scheme policy to the extent that the policy is consistent with this Scheme.

15. Procedure for making Improvement Scheme policy

(1) If the Commission resolves to prepare an Improvement Scheme policy the Commission must advertise the proposed policy as follows—

- (a) publish a notice of the proposed policy in a newspaper circulating in the Shire of Ashburton, giving details of—
 - (i) the subject and nature of the proposed policy; and
 - (ii) the objectives of the proposed policy; and
 - (iii) where the proposed policy may be inspected; and

- (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
 - (b) give notice of the proposed policy in any other way and carry out any other consultation the Commission considers appropriate.
- (2) The period for making submissions in relation to an Improvement Scheme policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the Commission must—
- (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to—
 - (i) proceed with the policy with or without modification; or
 - (ii) not to proceed with the policy.
- (4) If the Commission resolves to proceed with the policy, the Commission must publish notice of the policy in a newspaper circulating in the Shire of Ashburton.
- (5) A policy has effect on publication of a notice under sub-clause (4).
- (6) The Commission—
- (a) must ensure that an up to-date copy of each Improvement Scheme policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the Commission; and
 - (b) may publish a copy of each of those Improvement Scheme policies on the website of the Commission.

16. Procedure for amending Improvement Scheme policy

- (1) Clause 15, with any necessary changes, applies to the amendment to an Improvement Scheme policy.
- (2) Despite subclause (1), the Commission may make an amendment to an Improvement Scheme policy without advertising the amendment if, in the opinion of the Commission, the amendment is a minor amendment.

17. Revocation of Improvement Scheme policy

An Improvement Scheme policy may be revoked—

- (1) by a subsequent Improvement Scheme policy that—
- (a) is prepared in accordance with this Part; and
 - (b) expressly revokes the Improvement Scheme policy.
- (2) by a notice of revocation—
- (a) prepared by the Commission; and
 - (b) published in a newspaper circulating in the Shire of Ashburton.

PART 3—ZONES AND USE OF LAND

18. Zones

- (1) Zones are shown on the Scheme map according to the legend on the Scheme Map.
- (2) The objectives of each zone are set out below.

19. Strategic Industry zone

The objective of the Strategic Industry zone is to provide for the establishment of hydrocarbon processing industries including downstream processing industries and uses incidental to hydrocarbon processing.

20. General Industry zone

The objective of the General Industry zone is to provide for a wide range of general industrial uses.

21. Infrastructure zone

The objective of the Infrastructure zone is to provide for the establishment and unimpeded use of common user infrastructure, access and transport corridors, and utility services.

22. Workforce Accommodation zone

The objective of the Workforce Accommodation zone is to provide for the accommodation of workers engaged in developments within the Ashburton North Strategic Industrial Area.

23. Industry Protection zone

The objective of the Industry Protection zone is to protect the industrial amenity of the Ashburton North Strategic Industrial Area from encroachment of uses that are not compatible with hydrocarbon processing and related activities, and to ensure sensitive uses are not adversely affected by those processing and related activities.

24. Zoning table

The zoning table for this Scheme is as follows—

Table 1—Zoning Table

Zones	Strategic Industry	General Industry	Infrastructure	Workforce Accommodation	Industry Protection
Use Classes					
abattoir	X	X	X	X	X
agriculture—extensive	X	X	X	X	D
agriculture—intensive	X	X	X	X	X
civic use	X	D	X	X	X
convenience store	X	D	X	X	X
fuel depot	I	P	X	X	X
harbour and marine facilities	A	A	X	X	X
industry	X	P	X	X	X
industry—extractive	X	D	X	X	X
industry—hydrocarbon processing	P	X	X	X	X
industry—light	X	D	X	X	X
industry—noxious	I	A	X	X	X
industry—strategic extraction	X	X	X	X	D
motor vehicle repair	I	P	X	X	X
motor vehicle wash	I	P	X	X	X
office	I	I	X	X	X
resource recovery center	I	A	X	X	X
service station	X	D	X	X	X
storage	I	P	X	X	D
supply base	P	X	X	X	X
telecommunications infrastructure	I	D	P	I	A
trade display	X	P	X	X	X
trade supplies	X	P	X	X	X
transport depot	I	P	X	X	X
transport overnight facility	X	I	X	X	X
utility—private	I	D	P	P	D
utility—public	I	P	P	P	D
warehouse	I	P	X	X	X
workforce accommodation	X	X	X	D	X

25. Interpreting zoning table

(1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

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

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

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

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

A means that the use is not permitted unless the Commission has exercised its discretion by granting development approval after giving special notice in accordance with clause 40; and

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

Note—

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

2. *For works on land that do not require development approval see clause 36.*

3. *In considering a D or A use, the Commission will have regard to the matters set out in clause 43.*

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

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

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

(b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 40 before considering an application for development approval for the use of the land; or

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

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

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

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

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

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

(8) The use of land in accordance with and as contemplated by or under the Onslow Solar Salt Agreement is permitted.

26. Additional uses

(1) Table 2 sets out—

(a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and

(b) the conditions that apply to that additional use.

Table 2—Specific additional uses for zoned land in Scheme area

No.	Description of land	Additional use	Conditions
1	Part Lot 500 on Deposited Plan 69197 Volume 2750 Folio 209 (as defined on the Scheme map)	Workforce accommodation	<ol style="list-style-type: none"> The additional use is to be considered permitted (P) under this Scheme. The workforce accommodation use shall cease operation on a date no later than 31 December 2018. Within 6 months of the operation ceasing, the facility is to be decommissioned in line with a Decommissioning Plan prepared to the satisfaction of the Commission.

(2) Despite anything contained in the zoning table, land that is specified in Table 2 may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

27. Special Use zone

(1) Table 3 sets out—

- (a) Special Use zones for specified land that are in addition to the zones in the zoning table;
- (b) the classes of special use that are permissible in that zone; and
- (c) the conditions that apply in respect of the special uses.

Table 3—Special Use zones in Scheme area

No.	Description of land	Special use	Conditions
1	Lot 1577 (on Deposited Plan 72843) (as defined on the Scheme map)	Permitted (P) uses include— (i) motor vehicle repair (ii) motor vehicle wash (iii) office (iv) storage (v) telecommunications infrastructure (vi) transport depot (vii) transport—overnight facility (viii) utility—private (ix) utility—public (x) warehouse Discretionary (D) uses include— (i) Workforce accommodation (ii) Industry—noxious	1. Industry—noxious shall be determined by the Commission following the receipt of the advice of agencies responsible for administering the <i>Environmental Protection Act 1986</i> . 2. Uses other than workforce accommodation, shall be located within a maximum distance of 1000 meters from the southern boundary of the western General Industrial Area. 3. Workforce accommodation uses shall be setback a minimum distance of 1000 meters from the southern boundary of the western General Industrial Area. 4. Development and use of land within 1000 meters from the southern boundary of the western General Industry Area shall not affect the amenity and safety of the workforce accommodation use and, shall not constrain development within the Infrastructure zone and General Industry zone.

(2) A person must not use any land, or any structure or buildings on land, in a Special Use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

Note: Special Use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

28. Non-conforming uses

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

- (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
- (b) the carrying out of development on land if—
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.

(2) Subclause (1) does not apply if—

- (a) the non-conforming use of the land is discontinued; and
- (b) a period of 6 months, or a longer period approved by the Commission, has elapsed since the discontinuance of the non-conforming use.

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

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

29. Changes to non-conforming use

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

- (a) alter or extend a non-conforming use of land; or
- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
- (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
- (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.

(2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 40.

(3) The Commission may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the Commission, the proposed use—

- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) is closer to the intended purpose of the zone in which the land is situated.

30. Register of non-conforming uses

(1) The Commission may prepare a register of land within the Scheme area that is being used for a non-conforming use.

(2) A register prepared by the Commission must set out the following—

- (a) a description of each area of land that is being used for a non-conforming use;
- (b) a description of any building on the land;
- (c) a description of the non-conforming use; and
- (d) the date on which any discontinuance of the non-conforming use is noted.

(3) If the Commission prepares a register under subclause (1) the Commission must—

- (a) ensure that the register is kept up-to-date; and
- (b) make a copy of the register available for public inspection during business hours at the offices of the Commission; and
- (c) publish a copy of the register on the website of the Commission.

(4) An entry in the register in relation to the land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

31. Variations to site and development requirements

(1) In this clause site and development requirements means requirements relating to works that are set out in this Part.

(2) The Commission may approve an application for a development approval that does not comply with an additional site and development requirements.

(3) An approval under subclause (2) may be unconditional or subject to any conditions the Commission considers appropriate.

(4) If the Commission is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the Commission must—

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 40; and
- (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.

(5) The Commission may only approve an application for development approval under this clause if the Commission is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the matters that the Commission is to have regard to in considering an application for development approval as set out in clause 43; and
- (b) the non-compliance with the additional site and development requirements will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

32. Variations to Improvement Scheme provisions for heritage purposes

(1) The Commission may vary any site or development requirement specified in this Scheme to—

- (a) facilitate the built heritage conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the heritage list; or
- (b) enhance or preserve heritage values in a heritage area.

(2) A variation under subclause (1) may be unconditional or subject to any conditions the Commission considers appropriate.

(3) If the Commission is of the opinion that the variation of site and development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the Commission must—

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 40; and
- (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

33. Car Parking

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

PART 5—GUIDE PLAN**34. Purpose and requirements**

- (1) The purpose of the Guide Plan is to—
- (a) provide further delineation of planned activities within the Scheme area;
 - (b) identify criteria and considerations to be addressed by proponents in preparing applications for development approval; and
 - (c) provide guidance for the assessment and determination of applications for development approval.
- (2) Development should generally be in accordance with the Guide Plan set out at Appendix 1.
- (3) A departure from or alteration to the Guide Plan may be permitted if the Commission considers the proposed departure or alteration to be minor in nature and it will not prejudice the future development of the Scheme area having regard for the objectives of the applicable zone.

PART 6—REQUIREMENT FOR DEVELOPMENT APPROVAL**35. Requirement for development approval**

A person must not commence or carry out any works on, or use, land that is zoned in the Scheme area unless—

- (a) the person has obtained the development approval of the Commission under Part 7; or
- (b) the development is of a type referred to in clause 36.

Note: Development includes the erection, placement and display of advertisements.

36. Development for which development approval not required

- (1) Development approval of the Commission is not required for the following works—
- (a) the carrying out of internal building work which does not materially affect the external appearance of the building unless the development is located in a place that is—
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iii) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.
 - (b) the demolition of any building or structure except where the building or structure is—
 - (i) located in a place that is entered in the Register of Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iii) the subject of a heritage Agreement entered into under the *Heritage of Western Australian Act 1990* section 29.
 - (c) temporary works which are in existence for less than 48 hours, or a longer period agreed by the Commission, in any 12 month period;
 - (d) the temporary erection or installation of an advertisement if—
 - (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
 - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and
 - (iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;
 - (e) the erection or installation of an advertisement of a class approved in writing by the Commission;
 - (f) development on land that is designated as a 'P' use in the Infrastructure zone;
 - (g) port works and port facilities undertaken, constructed or provided on land controlled by the Pilbara Ports Authority;
 - (h) any other development specified in writing by the Commission;
 - (i) the carrying out of any other works specified in an Improvement Scheme Policy that applies to the development as works that do not require development approval;
 - (j) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval.

Note: The Planning and Development Act 2005 section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.

- (2) Despite subclause (1), development approval may be required for certain works carried out—
- (a) on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

37. Development approval of the Commission is not required for the following uses—

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

PART 7—APPLICATIONS FOR DEVELOPMENT APPROVAL**38. Form of application**

(1) An application for development approval must be—

- (a) made in the form of the “Application for Development Approval” set out in clause 62(1); and
- (b) signed by the owner of the land on which the proposed development is to be located; and
- (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
- (d) accompanied by the plans and information specified in clause 39.

(2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following—

- (a) a person who is referred to in the definition of *owner* in respect of freehold land in clause 12;
- (b) a strata company that is authorised by a management statement registered under the *Strata Titles Act 1985* section 5C to make an application for development approval in respect of the land;
- (c) a person who is authorised under another written law to make an application for development approval in respect of the land;
- (d) an agent of a person referred to in paragraph (a).

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

(3) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the “Additional Information for Development Approval for Advertisements” set out in clause 62(2).

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

39. Accompanying material

(1) An application for development approval must be accompanied by—

- (a) a plan or plans in a form approved by the Commission showing the following—
 - (i) the location of the site including road names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
 - (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
 - (iv) the structures and environmental features that are proposed to be removed;
 - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area; and
 - (x) the nature and extent of any open space and landscaping proposed for the site;

and;

- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and

- (c) a report on any specialist studies in respect of the development that the Commission requires the applicant to undertake such as site surveys or traffic, heritage, environmental and engineering; and
 - (d) the following information if the application is for workforce accommodation—
 - (i) the length of time a workforce accommodation proposal should be approved;
 - (ii) appropriate setbacks from existing and proposed industrial development;
 - (iii) intended strategies to manage the economic and social impact of the proposal on Onslow; and
 - (iv) intended strategies to manage the health and wellbeing of workers; and
 - (e) demonstration of due regard having been given to the Guide Plan; and
 - (f) any other plan or information that the Commission reasonably requires.
- (2) The Commission may waive or vary a requirement set out in subclause (1).

40. Advertising applications

- (1) An application for development approval must be advertised under this clause if the proposed development—
- (a) relates to the extension of a non-conforming use; or
 - (b) relates to a use if—
 - (i) the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and
 - (ii) the Commission determines that the use may be consistent with the objective of that zone and that notice of the application should be given;
- or
- (c) does not comply with a requirement of this Scheme; or
 - (d) is of a type that this Scheme requires to be advertised.
- (2) The Commission may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the Commission is satisfied that the departure from the requirements of this Scheme is of a minor nature.
- (3) The Commission may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways—
- (a) by giving notice of the proposed use or development to nearby owners and occupiers who, in the opinion of the Commission are likely to be affected by the granting of development approval, including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day the notice is given to the person;
 - (b) by publishing a notice of the proposed use or development in a newspaper circulating in the Shire of Ashburton area including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day the notice is published;
 - (c) by publishing a notice of the proposed use or development by electronic means in a form approved by the Commission including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day the notice is published;
 - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day the sign is erected including on each sign a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (4) Notice referred to in subclause (3) must be in the form of the “Notice of Public Advertisement of Planning Proposal” set out in clause 62(3) unless the Commission specifies otherwise.
- (5) If an application for development approval is advertised under this clause, the Commission—
- (a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the Commission; and
 - (b) may publish the application and the material accompanying it on the website of the Commission.

41. Subsequent Approval of Development

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

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

PART 8—PROCEDURE FOR DEALING WITH APPLICATIONS FOR DEVELOPMENT APPROVAL

42. Consultation with other authorities

- (1) When, in the opinion of the Commission, an application for development approval may affect any other statutory, public or planning authority, the Commission is to provide a copy of the application to the authority for objections and recommendations.

(2) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the Commission allows, provide to the Commission a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.

(3) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (2), the Commission may determine that the authority is to be taken to have no objections or recommendations to make.

43. Matters to be considered by Commission

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

- (a) the aims and provisions of this Scheme, including the provisions of the Guide Plan;
- (b) the requirements of orderly and proper planning including any proposed amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the Commission is seriously considering adopting or approving;
- (c) any approved State Planning Policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any Improvement Scheme Policy for the Scheme area;
- (h) any report of the review of this Scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- (i) the built heritage conservation of any place that is of cultural significance;
- (j) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (k) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (l) the amenity of the locality including the following—
 - (i) environmental impacts of the development;
 - (ii) character of the locality;
 - (iii) social impacts of the development;
- (m) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or water resource;
- (n) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (o) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (p) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (q) the adequacy of—
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, maneuvering and parking of vehicles;
- (r) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) the availability and adequacy for the development of public utility services and storage, management and collection of waste;
- (t) the terms of the Onslow Solar Salt Agreement and any activities in accordance with and as contemplated by or under that agreement;
- (u) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (v) the history of the site where the development is to be located;
- (w) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (x) any submissions received on the application;
- (y) the comments or submissions received from any authority consulted under clause 42; and
- (z) any other planning consideration the Commission considers appropriate.

44. Determination of applications

- (1) The Commission must not determine an application for development approval until the later of—
 - (a) if the application is advertised under clause 40—the end of each period for making submissions to the Commission specified in a notice referred to in clause 40(3); and
 - (b) if a copy of the application has been provided to a statutory, public or planning authority under clause 42—the end of each period for providing a memorandum to the Commission referred to in clause 42(2).
- (2) The Commission may determine an application for development approval by—
 - (a) granting development approval without conditions; or
 - (b) granting development approval with conditions; or
 - (c) refusing to grant development approval.
- (3) The Commission shall only grant approval for workforce accommodation for a specific period.

45. Form and date of determination

- (1) As soon as practicable after determining an application for development approval, the Commission must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 62(4).
- (2) The determination has effect on the day on which the Commission makes a decision.

46. Commencement of development under development approval

If development approval is granted under clause 44—

- (a) the development must be substantially commenced—
 - (i) if no period is specified in the approval—within the period of 2 years commencing on the date on which the determination is made; or if a period is specified in the approval—within that period; or
 - (ii) in either case—within a longer period approved by the Commission on an application made under clause 38(1)(a);
- and
- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

47. Temporary development approval

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

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

48. Scope of development approval

Development approval may be granted—

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

49. Approval subject to later approval of details

- (1) The Commission may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the Commission before the developer commences the development.
- (2) The Commission may only impose a condition referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not substantially change the development approved.

50. Time for deciding application for development approval

- (1) The Commission must determine an application for development approval—
 - (a) if the application is advertised under clause 40 or a copy of the application is provided to a statutory, public or planning authority under clause 42— within 90 days of receipt of the application; or
 - (b) otherwise—within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 39; or
 - (c) in either case—within a longer time agreed in writing between the applicant and the Commission.
- (2) If the Commission has not made a determination in the time referred to in subclause (1) the Commission is to be taken to have refused to grant the development approval—
- (3) Despite subclause (2), the Commission may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
- (4) The Commission must give the applicant written notice of its decision to grant or refuse to grant development approval.

51. Review of decisions

(1) In this clause—

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

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

reviewable determination means a determination by the Commission to—

- (a) refuse an application for development approval; or to grant development approval subject to conditions; or
- (b) to refuse to amend or cancel a development approval on an application made under clause 52.

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

52. Amending or cancelling development approval

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

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

(2) An application under subclause (1)—

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

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

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

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

PART 9—BUSHFIRE RISK MANAGEMENT**53. Terms used**

In this Part, unless the contrary intention appears—

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

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

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

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

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

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

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

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

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

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

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

54. Application of Part to development

- (1) This Part does not apply to development unless the development is—
- (a) the construction or use, or construction and use, of a single house or ancillary dwelling on a lot or lots with a total area of 1,100m² or more; or
 - (b) the construction or use, or construction and use, of—
 - (i) a habitable building other than a single house or ancillary dwelling; or
 - (ii) a specified building.
- (2) The requirements in this Part are in addition to any provisions relating to development in a bushfire prone area that apply in a special control area.

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

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

56. Proposed development in a bushfire prone area

- (1) Unless subclause (2) applies, before commencing any development on a development site a person (the developer) must cause to be prepared a bushfire attack level assessment for the development site if the development site—
- (a) is in a bushfire prone area; and
 - (b) has been in a bushfire prone area for a period of at least 4 months.
- (2) A developer is not required under subclause (1) to cause to be prepared a bushfire attack level assessment for a development site if—
- (a) a BAL contour map has been prepared in relation to the development site; or
 - (b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (3) The developer must have development approval to commence any development on the development site if—
- (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL—40 or BAL—Flame Zone; or
 - (b) a bushfire attack level assessment has not been prepared under subclause (1) but a BAL contour map prepared in relation to the development site indicates that the bushfire attack level of the development site is BAL—40 or BAL—Flame Zone; or
 - (c) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (4) Subclause (3) applies—
- (a) in addition to any requirement in this Scheme for development approval to be obtained; and
 - (b) despite any exemption in this Scheme from the requirement to obtain development approval.

57. Matters to be considered for development approval

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

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

58. Transitional provisions for sites in new bushfire prone areas

- (1) In this clause, each of these terms has the meaning given in the *Building Act 2011* section 3—
- building permit*
 - building work*
- (2) In this clause—
- application* means an application under the *Building Act 2011* for a building permit;
 - transitional permit* means a building permit granted in respect of an application to do building work on a development site if—
 - (a) the site was not in a bushfire prone area when the application was made; or
 - (b) the site had been in a bushfire prone area for a period of less than 4 months when the application was made.
- (3) Clause 56 does not apply to the commencement of development to which a transitional permit applies.

PART 10 — ENFORCEMENT AND ADMINISTRATION**59. Powers of Commission**

- (1) For the purposes of implementing this Scheme the Commission may—
- (a) enter into an agreement in respect of a matter relating to this Scheme with any owner, occupier or other person having an interest in land affected by this Scheme; and

- (b) deal with or dispose of any land in the Scheme area which it has acquired in accordance with the *Planning and Development Act 2005* Part 11 Division 4.

60. Entry and Inspection Powers

- (1) The Commission may, by instrument in writing, designate an officer of a public authority as an authorised officer for the purposes of this clause.
- (2) An authorised officer may, for the purpose of monitoring whether this Scheme is being complied with, at any reasonable time and with any assistance reasonably required—
- (i) enter any building or land in the Scheme area; and
 - (ii) inspect the building or land and any thing in or on the building or land.

61. Repair of existing advertisements

- (1) The Commission may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the Commission, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.
- (2) A requirement referred to in subclause (1) must—
- (a) be in the form of a written notice given to the person; an
 - (b) specify the advertisement the subject of the requirement; and
 - (c) set out clear reasons for the requirement; and
 - (d) set out full details of the action or alternative courses of action to be taken by the person; and
 - (e) specify the period, not being a period of less than 60 days from the day the notice is given to the person, within which the requirement must be complied with.
- (3) If the Commission does not know who the owner of an advertisement is, the Commission may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the Commission.
- (4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.
- (5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

PART 11—FORMS REFERRED TO IN THIS SCHEME

62. Forms referred to in this Scheme

- (1) The form of an application for development approval referred to in clause 38(1)(a) is as follows—

Application for development approval

Owner details		
Name:		
ABN (if applicable):		
Address:		Postcode:
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....	.....	.....
Mobile: .....	.....	.....
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to clause 12 of this Scheme.</i>		

Applicant details (if different from owner)		
Name:		
Address:		Postcode:
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....	.....	.....
Mobile: .....	.....	.....

Contact person for correspondence:	
The information and plans provided with this application may be made available by the Commission for public viewing in connection with the application.	
Signature:	Date:

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:	Suburb:	
Nearest street intersection:		

Proposed development:
Nature of development: <input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use
Is an exemption from development claimed for part of the development? <input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, is the exemption for: <input type="checkbox"/> Works <input type="checkbox"/> Use
Description of exemption claimed (if relevant):
Description of proposed works and/or land use:
Nature of any existing buildings and/or land use:
Approximate cost of proposed development:
Estimated time of completion:

OFFICE USE ONLY	
Acceptance Officer's initials:	Date received:
Commission reference no:	

(2) The form for providing additional information for development approval for advertisements referred to in clause 38(3) is as follows—

Additional information for development approval for advertisements

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

1. Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:
2. Details of proposed sign:
(a) Type of structure on which advertisement is to be erected (i.e., freestanding, wall mounted, other):
(b) Height: Width: Depth:
(c) Colours to be used:
(d) Height above ground level: to top of advertisement: to underside:
(e) Materials to be used:
Illuminated: Yes/No
If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:
3. Period of time for which advertisement is required:

4. Details of signs (if any) to be removed if this application is approved:

 Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be moved detailed in 4 above.
 Signature of advertiser(s):
 (if different from landowners):
 Date:

(3) The form of a notice of public advertisement of an application for development approval referred to in clause 40(4) is as follows—

Notice of public advertisement of an application of development approval

Planning and Development Act 2005

Western Australian Planning Commission

Notice of public advertisement of an application of development approval

The Western Australian Planning Commission has received an application to use and/or develop land for the following purpose and public comments are invited
 Lot No: Street: Suburb:
 Proposal:.....

 Details of the proposal are available for inspection at the Commission office. Comments on the proposal may be submitted to the Commission in writing on or before the day of
 Signed: Dated:
 For and on behalf of the Western Australian Planning Commission:

(4) The form of notice of determination on an application for development approval referred to in clause 45 is as follows—

Notice of determination on application for development approval

Planning and Development Act 2005

Western Australian Planning Commission

Determination on application for development approval

Location:
 Lot: Plan/Diagram:
 Vol No: Folio No:
 Application Date: Received on:
 Description of proposed development:

 The application for development is:
 Approved subject to the following conditions.
 Refused for the following reason(s)
 Conditions/reasons for refusal:

 Date of determination:
 Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
 Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the Commission having first been sought and obtained.
 Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.
 Signed: Dated:
 for and on behalf of the Western Australian Planning Commission.

Appendix 1—Guide Plan
Improvement Scheme No. 1
ASHBURTON NORTH STRATEGIC INDUSTRIAL AREA
GUIDE PLAN
Contents

- 1.1 Guide Plan purpose
- 1.2 Guide Plan area
- 1.3 Operation
- 1.4 Zone specific requirements

ASHBURTON NORTH STRATEGIC INDUSTRIAL AREA—GUIDE PLAN

1.1 Guide Plan Purpose

The Guide Plan is intended to guide the location of land uses and development in the Improvement Scheme No. 1: Ashburton North Strategic Industrial Area boundary, by outlining the specific requirements to be considered in each zone.

1.2 Guide Plan Area

The Guide Plan area matches the Scheme boundary.

1.3 Operation

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

1.4 Zone Specific Requirements

An application for development approval must be accompanied by the zone specific information set out in section 1.4.1 to 1.4.6. That will require, depending upon the circumstance—

- (a) The inclusion with the application for development approval, the management plans and or documents set out in sections 1.4.1 to 1.4.6 (or amendments thereto); and/or
- (b) Where that documentation is already in place, demonstration as to how the development application complies with those zone specific requirements or management plans.

Where it is justified to the satisfaction of the Commission that the requirements are not relevant to the specific proposal the application is considered exempt from the requirements set out in sections 1.4.1 to 1.4.6.

1.4.1 Strategic Industry Zone

When considering applications for development approval in the Strategic Industry zone the Commission shall have due regard to following management plans and studies (as relevant)—

- (a) Fire Management Plan;
- (b) Mosquito Management Plan;
- (c) Noise and Air Quality;
- (d) Water Management Plan;
- (e) Traffic Impact Assessment;
- (f) Construction Environmental Management Plan;
- (g) Servicing Strategy;
- (h) Acid Sulfate Soil and Dewatering Management Plan;
- (i) Terrestrial Weed Management;
- (j) Marine Turtle Baseline Lighting Survey and Design Guidelines; and
- (k) any other management plans and strategies the Commission considers relevant.

1.4.2 General Industry Zone

When considering applications for development approval in the General Industry zone, the Commission shall have due regard to the following management plans and studies (as relevant)—

- (a) Fire Management Plan;
- (b) Mosquito Management Plan;
- (c) Water Management Plan;
- (d) Construction Environmental Management Plan;
- (e) Servicing Strategy;
- (f) Traffic Impact Assessment; and
- (g) any other management plans and strategies the Commission considers relevant.

1.4.3 Infrastructure Zone

Permitted development within the Infrastructure zone does not require the development approval of the Commission. Where development approval is required, the Commission shall have due regard to any management plans and studies the Commission considers relevant.

1.4.4 Workforce Accommodation Zone

When considering applications for development approval in the Workforce Accommodation zone, the Commission shall have due regard to the following management plans and studies (as relevant)—

- (a) Fire Management Plan;
- (b) Mosquito Management Plan;
- (c) Water Management Plan;
- (d) Traffic Impact Assessment;
- (e) Construction Environmental Management Plan;
- (f) Servicing Strategy; and
- (g) any other management plans and strategies the Commission considers relevant.

Applications are to address the range of considerations associated with workforce accommodation including, but not limited to, the following—

- (a) building locations;
- (b) intended range and scope of land uses;
- (c) movement network;
- (d) arrangements for decommissioning; and
- (e) any other matter the Commission considers relevant.

1.4.5 Industry Protection Zone

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

- (a) whether the proposal is compatible with any existing, proposed or potential future use or development within the Ashburton North Strategic Industrial Area Improvement Scheme;
- (b) established buffers from the Special Use zone and the Workforce Accommodation zone;
- (c) the potential environmental impacts including any advice provided under the *Environmental Protection Act 1986*;
- (d) the terms of the Onslow Solar Salt Agreement and the activities of Onslow Salt in accordance with and as contemplated by or under that agreement;
- (e) the existing, proposed or likely risks, hazards and nuisance (including but not limited to noise, odour and light) associated with development within the Ashburton North Strategic Industrial Area Improvement Scheme;
- (f) the potential impacts of the proposal on the efficient development of the Ashburton North Strategic Industrial Area;
- (g) the activities necessary to support the effective heritage conservation of the Old Onslow townsite; and
- (h) any other matter the Commission considers relevant.

1.4.6 Special Use Zone

When considering applications for development approval in the Special Use zone, the Commission shall have due regard for the following management plans (as relevant)—

- (a) Fire Management Plan;
- (b) Mosquito Management Plan;
- (c) Water Management Plan;
- (d) Traffic Impact Assessment;
- (e) Construction Environmental Management Plan;
- (f) Servicing Strategy; and
- (g) any other management plans and strategies the Commission considers relevant.

1.5 Sites for Future Investigation

Prior to the rezoning and subsequent development of the land identified as sites for future investigation (Ashburton North Strategic Industrial Area Improvement Scheme Report Figure 6) in the Industry Protection Zone within the Ashburton North Strategic Industrial Area boundary, the Commission shall have regard to the outcomes of the following studies (as relevant)—

- (a) Environmental Assessment Report;
- (b) Established buffers from the Special Use zone and the Workforce Accommodation zone;
- (c) Utilities investigations;
- (d) Traffic and transport investigations;
- (e) Hydrology investigations;
- (f) Site investigations (such as geotechnical and acid sulphate soils); and
- (g) Industrial ecology.

WAPC RESOLUTION TO ADVERTISE IMPROVEMENT SCHEME No. 1: ASHBURTON NORTH STRATEGIC INDUSTRIAL AREA

Adopted by resolution Western Australian Planning Commission at the Statutory Planning Committee Meeting held on 8 September 2015.

ERIC LUMSDEN, Chairperson,
Western Australian Planning Commission.

KERRINE BLENKINSOP, Secretary,
Western Australian Planning Commission.

WESTERN AUSTRALIAN PLANNING COMMISSION RESOLUTION TO SUPPORT SCHEME FOR APPROVAL

Western Australian Planning Commission resolved to support approval of Improvement Scheme No. 1: Ashburton North Strategic Industrial Area at the Statutory Planning Committee Meeting held on 26 April 2016.

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

ERIC LUMSDEN, Chairperson,
Western Australian Planning Commission.

KERRINE BLENKINSOP, Secretary,
Western Australian Planning Commission.

Approval Granted—

JOHN DAY, Minister for Planning.
(Chevron Related Matters)

Date: 19 September 2016.
