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APPROVED LOCAL PLANNING SCHEME

SHIRE OF COCOS (KEELING) ISLANDS

LOCAL PLANNING SCHEME No. 1

Ref: 853/13/2/1

It is hereby notified for public information, in accordance with Section 87 of the Planning and development Act 2005 that the Minister for Local Government, Territories and Roads approved the Shire of Cocos (Keeling) Islands Local Planning Scheme No. 1 on 29 January 2007, the scheme text of which is published as a Schedule annexed hereto.



R GRANT
SHIRE PRESIDENT



M SIMMS
CHIEF EXECUTIVE OFFICER

SCHEDULE

(The Scheme Text is to be published in full in the Government Gazette including the attached adoption page with the Minister's endorsement)



Shire of Cocos (Keeling) Islands

Town Planning Scheme No. 1
District Zoning Scheme

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Preamble

This Town Planning Scheme of the Shire of Cocos (Keeling) Islands consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the Shire.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning directions for the Council and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for the Local Planning Policies which set out the general policies of the Council on matters within the Scheme.

The Scheme divides the local government district into zones to identify areas for particular uses and development allowed in different zones. There are particular controls included for special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

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SHIRE OF COCOS (KEELING) ISLANDS TOWN PLANNING SCHEME NO. 1 **DISTRICT ZONING SCHEME**

The Shire of Cocos (Keeling) Islands under and by the virtue of the power conferred on it in that behalf by the Western Australian Town Planning and Development Act, 1928 (as amended), hereinafter referred to as “the Act”, hereby makes the following Town Planning Scheme for the purpose laid down by the Act.

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PRELIMINARY

1.1 Citation

This Town Planning Scheme may be cited as the Shire of Cocos (Keeling) Islands Town Planning Scheme No. 1 (hereinafter called “the Scheme”) and shall come into operation on the publication of the notice of the approval of the Minister for Local Government, Territories and Roads, in the Commonwealth Gazette and in the Gazette of the Territory.

1.2 Responsible Authority

1.2.1 The Authority responsible for putting the Scheme into effect, to the extent that the Scheme relates to land not owned by the Commonwealth and with the exception of waterways, is the Cocos (Keeling) Islands’ Council (herein after called “the Council”).

1.2.2 Where land covered by the Scheme is owned by the Commonwealth (hereinafter called “Commonwealth land”) and in respect of waterways, the Commonwealth shall have regard to the provisions of the Scheme in the conduct of its affairs.

1.3 Scheme Area

The Scheme applies to the whole local government area of the Cocos (Keeling) Islands, as identified and contained within the inner edge of the broken black line on the Scheme Map.

1.4 Contents of Scheme

The Scheme comprises:

- (a) This Scheme Text
- (b) The Scheme Map

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

1.5 Purpose of Scheme

The purpose of the Scheme is to:

- (a) set out the Council’s planning aims and intentions for the Scheme Area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme Area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) make provision for the conservation of areas and places of heritage interest;
- (f) set out procedures for assessment and determination of planning applications;
- (g) make provisions for the administration and enforcement of the Scheme;
- (h) address other matters contained within Schedule 1 of the Act.

1.6 The Aims of the Scheme

The aims of the Scheme are:

- (a) to ensure that there is a sufficient supply of services and suitable land for housing, employment, commercial activities, community facilities, recreation and open space;
- (b) to assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments;
- (c) to facilitate a network of open space catering for both active and passive recreation, consistent with the needs of the community;
- (d) to promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities;
- (e) to promote and enhance the environmental values and natural resources of the Scheme Area and to promote ecologically sustainable development and use of waterways and land within the Scheme Area; and
- (f) to safeguard and enhance the character and amenity of the built and natural environment of the Scheme Area.
- (g) To protect public drinking water source areas from water quality and quantity degrading activities.

1.7 Definitions

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

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

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

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

1.8 Relationship with Other Laws

Where a provision of this Scheme is inconsistent with a Local Law the provision of the Scheme shall prevail.

LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme Determination to Conform with Local Planning Strategy

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the Council under the Scheme are to be consistent with the Local Planning Strategy.

2.2 Procedure for Amending a Local Planning Strategy

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

- (a) The Council shall publish a notice once a week for two consecutive weeks in a local newspaper or news sheet circulating within the Scheme Area giving details of where the amendment may be inspected, and in what form and during what period (being not less than 21 days) submissions may be made.
- (b) A copy of the amendment shall be forwarded to the Commission and any other person or organisation which, in the opinion of the Council has a direct interest in the Strategy, for consideration and advice.
- (c) The Council shall review the amendment in the light of any submissions made and advice received and shall then resolve either to finally adopt the amendment with or without modification, or not to proceed with the amendment.
- (d) Following adoption of the amendment the Council shall forward a copy of the amendment to the Commission for its endorsement.
- (e) Following endorsement by the Commission, the Council shall:
 - (i) publish a notice of adoption and endorsement of the amendment once in a newspaper or news sheet circulating within the Scheme Area; and
 - (ii) forward a copy of the amended Strategy to the Commission.
- (f) A copy of the amended Local Planning Strategy is to be kept and made available for public inspection at the offices of the Council and Ministry for Planning.

2.3 Local Planning Policies

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

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

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

2.4 Local Planning Policy not Part of a Scheme

- 2.4.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.
- 2.4.2 A Local Planning Policy is not part of the Scheme and does not bind the Council in respect of any application for planning approval but the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

2.5 Procedures for Making or Amending a Local Planning Policy

- 2.5.1 If the Council resolves to prepare a Local Planning Policy, the Council:
- (a) is to publish a notice of the proposed Policy once a week for two consecutive weeks in a local newspaper or news sheet circulating within the Scheme Area giving details of:
 - (i) where the draft Policy may be inspected;
 - (ii) the subject and nature of the draft Policy; and
 - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
 - (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the Council considers appropriate.
- 2.5.2 After the expiry of the period within which submissions may be made, the Council is to:
- (a) review the proposed Policy in the light of any submissions made; and
 - (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.
- 2.5.3 If the Council resolves to adopt the Policy, the Council is to:
- (a) publish notice of the Policy once in a newspaper or news sheet circulating within the Scheme Area; and
 - (b) if in the opinion of the Council, the Policy affects the interests of the Commission and/or the Commonwealth, forward a copy of the Policy to the Commission and/or Commonwealth.
- 2.5.4 A Policy has effect on publication of a notice under clause 2.5.3(a).
- 2.5.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the Council.
- 2.5.6 Clause 2.5.1 to 2.5.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

2.6 Revocation of a Local Planning Policy

A Local Planning Policy may be revoked by:

- (a) The adoption by the Council of a new Policy under clause 2.5 that is expressed to supersede the existing Local Planning Policy; or
- (b) Publication of a notice of revocation by the Council once a week for two consecutive weeks in a local newspaper or news sheet circulating within the Scheme Area.

RESERVES

3.1 Scheme Reserves

3.1.1 Land and waterways shown as Scheme reserves on the Scheme Map are deemed to be reserved for the purposes as set out on the Scheme Map and are listed hereunder:

(a) Public Purpose -

- C Cemetery
- CW Commonwealth
- CC Civic and Community Centre
- CP Car Park
- FS Fire Station
- H Hospital
- P Police
- S Primary School/High School/Pre-School
- WD Waste Disposal
- PS Pump Station
- WW Waste Water Disposal
- FD Fuel Depot
- M Marina

(b) Parks and Recreation

(c) Nature Conservation and Foreshore Protection

(d) Marine Protection

3.1.2 A person or body shall not use or commence or carry out development on land or within a waterway reserved under this Scheme without first applying for and obtaining the planning approval of the Council or, in respect of Commonwealth land or a waterway, the written approval of the Commonwealth. In determining an application for planning approval the Council shall have regard to:

- (a) the matters set out in clause 10.2;
- (b) the ultimate purpose intended for the reserve.

3.1.3 In the case of land reserved for the purposes of a public authority, the Council is to consult with that authority before determining an application for planning approval.

ZONES AND USE OF LAND

4.1 Classification

4.1.1 The Scheme is classified into the following zones:

- (a) Residential
- (b) Commercial
- (c) Industrial
- (d) General Rural
- (e) Special Use

4.1.2 The zones are delineated and coloured on the Scheme Map according to the legend on the Scheme Map.

4.2 Objectives of the Zones

The objectives of the zones are:

4.2.1 Residential

To provide quality accommodation which is sensitive to the natural environment and local climatic conditions and which meets the distinct cultural needs of the local population of the Islands.

4.2.2 Commercial

- (a) To provide for retail, entertainment and other community oriented uses which meet the needs of the local population, tourists and other visitors to the Islands.
- (b) To encourage high quality buildings which harmonise with the natural environmental setting of the Islands and which incorporate design features which reflect the unique culture of the local resident population.

4.2.3 Industrial

- (a) To allow for industrial uses which do not generate nuisances detrimental to the amenity or the environment of the Islands or the health, welfare and safety of its residents.
- (b) To promote well maintained buildings which are designed to address the street and which are set in pleasant landscaped surrounds.

4.2.4 General Rural

To provide land for shared community use and land which allows for a mix of relatively low intensity uses, including traditional pondoks, research activities and recreational activities, in such a way which ensures the conservation of the natural environment and local resources.

4.2.5 Special Use

- (a) To allow for a mix of compatible land uses which service the needs of the local population, as well as tourists and other visitors to the Islands.
- (b) To ensure future development is of the highest standard and is sensitive to the natural environment and local culture of the Islands' resident population.

4.3 Zoning Table

4.3.1 The Zoning Table (Table 1) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones.

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

4.3.2 Symbols

- (a) The symbols used in the cross-reference in the Zoning Table, and where used elsewhere in the Scheme, have the following meanings:
 - “P” means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme;
 - “D” means that the use is not permitted unless the Council has exercised its discretion by granting planning approval;
 - “A” means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice in accordance with clause 9.4.3;
 - “X” means a use that is not permitted by the Scheme.
- (b) Where in the Zoning Table a particular use is mentioned, it is deemed to be excluded from any use class which by its more general terms would otherwise include such particular use.

- 4.3.3 A change in the use of land from one use to another is permitted if:
- (a) the Council has exercised its discretion by granting planning approval;
 - (b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table and the proposed use complies with the relevant development standards and any requirements of the Scheme;
 - (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
 - (d) the change is to an incidental use that does not change the predominant use of the land.

4.4 Interpretation of the Zoning Table

- 4.4.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.
- 4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Council may:
- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
 - (b) determine that the proposed use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4.3 in considering an application for planning approval; or
 - (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 Special Use Zone

- 4.5.1 Special use zones are set out in Schedule 2 and are in addition to the zones in the Zoning Table.
- 4.5.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 2 and subject to compliance with any conditions set out in Schedule 2 with respect to that land.

4.6 Non-Conforming Use Rights

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

- (a) the continued use of any land or building for the purpose for which it was being lawfully used immediately prior to the Gazettal date of the Scheme; or

- (b) the carrying out of any development on that land for which immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current.

4.7 Extension of Non-Conforming Use

A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the planning approval of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme. All applications for planning approval under this clause will be subject to notice under clause 9.4.3 and Council shall have special regard to the impact of the proposed erection, alteration or extension of the building on the preservation of the amenity of the locality.

4.8 Change of Non-Conforming Use

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

4.9 Discontinuance of Non-Conforming Use

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

4.10 Termination of Non-Conforming Use

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

4.11 Destruction of Non-Conforming Use

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

Table 1 – Zoning Table

USE CLASSES	Residential	Commercial	Industrial	General Rural
Ancillary Accommodation	D	X	X	X
Animal Husbandry	X	X	X	D
Animal Care Facility	X	X	D	D
Aquaculture	X	X	D	D
Bank	X	P	D	X
Bar	X	D	X	X
Camping Grounds	X	D	X	D
Car Park	X	D	D	D
Caretaker's Dwelling	D	D	D	D
Civic Use	A	P	A	D
Club Premises	A	D	X	D
Communications Antennae – Commercial	A	D	D	D
Cultural Facility	A	P	A	D
Educational Establishment	A	D	X	X
Fuel Depot	X	X	D	X
Grouped Dwelling	D	X	X	X
Guest House	D	D	X	X
Health Centre	A	P	X	X
Home Occupation	P	X	X	X
Hospital	A	D	X	X
Hotel	X	D	X	X
Industry – Extractive	X	X	X	A
Industry – General	X	X	D	X
Industry – Hazardous	X	X	X	X
Industry – Light	X	X	P	X
Industry – Noxious	X	X	X	X
Industry – Service	X	D	P	X
Lodging House	D	D	X	X
Motor Vehicle Repair	X	X	P	X
Motor Vehicle Wrecking	X	X	P	X
Office	X	P	P	A
Pondok	X	X	X	D
Public Utility	D	D	D	D
Public Worship – Mosque/Church	A	D	D	D

Table 1 – Zoning Table Continued

USE CLASSES	Residential	Commercial	Industrial	General Rural
Recreation and Leisure	D	D	X	D
Restaurant / Café	X	P	X	A
Rural Production	X	X	X	D
Salvage Yard	X	X	D	X
Service Station	X	D	P	X
Serviced Apartment	D	D	X	X
Shop	X	P	D	X
Single House	P	D	X	X
Social/Community Facility	D	D	X	D
Studio	A	D	P	X
Take-away Food Outlet	X	P	D	X
Tourist Facility	A	P	X	D
Warehouse	X	D	P	A

GENERAL DEVELOPMENT REQUIREMENTS

5.1 Compliance with Development Standard and Requirements

Any development of land is to comply with the provisions of the Scheme.

5.2 Residential Design Codes

- 5.2.1 For the purpose of this Scheme “Residential Design Codes” means the Residential Design Codes set out in Appendix 2 to the Commission’s Statement of Planning Policy No. 3.1, together with any amendments thereto.
- 5.2.2 A copy of the Residential Design Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.
- 5.2.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes shall conform to the provisions of those Codes.

5.3 Special Application of Residential Design Codes

- 5.3.1 Within the Residential zone on West and Home Islands the R15 residential density code shall apply.
- 5.3.2 Within the Residential zone on Home and West Islands, the minimum setbacks prescribed in Table 1 of the Residential Design Codes may be varied at the discretion of the Council provided:
- (a) the variation is consistent with the orderly and proper planning of the locality and would in the opinion of Council either maintain or enhance the appearance of the streetscape; and
 - (b) the variation will not have any adverse affect upon the occupiers or inhabitants of the locality or upon the future development of the locality.
- 5.3.2 Within the Residential zone on Home Island, the minimum total of the site required for open space shall be 20 per cent.
- 5.3.3 Within the Residential zone on Home Island, the car parking requirements outlined in the Residential Design Codes shall not apply as there is limited requirement for private vehicles. However, the Council may where appropriate require the provision of parking for trailered boats and four wheeled motorbikes as part of any new residential development.
- 5.3.5 Within the Residential zone on West Island, car parking provisions shall be based on one car parking space per dwelling.

5.4 Variations to Site and Development Requirements

- 5.4.1 Except for development in respect of which the Residential Design Codes apply, if a development is subject of an application for planning approval and does not comply with a standard prescribed by the Scheme the Council may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.
- 5.4.2 In considering an application for planning approval under this clause, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration of the variation, the Council is to:
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4.3; and
 - (b) have regard to any expressed views prior to making its determination to grant the variation.
- 5.4.3 The power conferred by this clause may only be exercised if the Council is satisfied that:
- (a) approval of the development would be appropriate having regard to the criteria set out in clause 10.2; and
 - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality; and
 - (c) the non-compliance will not have any effect upon the occupiers or users of the development or the inhabitants of the locality upon the likely future development of the locality.

5.5 Environmental Conditions

- 5.5.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject, are incorporated into the Scheme by Schedule 3 of the Scheme.
- 5.5.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.

5.6 Commercial Zone

5.6.1 Site and Development Requirements

The following site and development requirements shall apply within the Commercial zone with the exception of residential development, which subject to clauses 5.2 and 5.3, shall be in accordance with the provisions of the Residential Design Codes:

(a) Building Design -

Buildings shall be well maintained and demonstrate attractive and practical designs, including:

- (i) inviting facades which address the street and public spaces;
- (ii) climate control features, including sheltered pedestrian walkways and wide eaves;
- (iii) use of a variety of building materials
- (iv) use of building materials and designs which harmonise with the natural setting;
- (v) incorporation of design features that reflect the cultural background of the Island residents and where appropriate reflect and complement existing designs in or adjacent to heritage precincts; and
- (vi) incorporate water sensitive urban design best management practices.

(b) Building Height, Site Coverage and Setbacks -

Buildings, including ancillary buildings, shall:

- (i) be limited to a maximum height of two storeys;
- (ii) not cover a total of more than 60% of the area of any lot; and
- (iii) be setback to be compatible with existing development within the locality.

(c) Access -

Development within the Commercial zone shall provide:

- (i) focal points for public meeting areas;
- (ii) pedestrian links and cycleways;
- (iii) access and loading/unloading areas for service vehicles; and
- (iv) sufficient car parking areas.

(d) Storage Space -

Council will:

- (i) require provision for internal storage space in the design of all developments; and
- (ii) prohibit the use of external open space for storage.

5.6.2 Special Planning Application Requirements -

Council may require the following information to accompany applications for development or change of use in the Commercial zone:

- (a) a detailed landscaping plan;
- (b) strategies acceptable to Council for ensuring the conservation and protection of groundwater supplies from pollution and salinisation; and
- (c) a foreshore management plan where development would be located adjacent to or within the Nature Conservation and Foreshore Protection reserve.

5.7 Industrial Zone

5.7.1 Site and Development Standards

The following site and development requirements shall apply within the Industrial zone:

(a) Building Quality and Design -

Buildings shall be well maintained and demonstrate attractive and practical designs, including:

- (i) facades which address streets/public spaces including windows and front doors which are visible from streets/public spaces;
- (ii) the incorporation of a variation of quality building materials; and
- (iii) incorporate water sensitive urban design best management practices.

(b) Building Height, Setbacks and Site Coverage -

Buildings, including ancillary buildings, shall:

- (i) be limited to a maximum height of two storeys;
- (ii) not cover an aggregate area of more than 75% of any lot; and
- (iii) be setback 9.0 metres from the front boundary and 5.0 metres from one side boundary.

(c) Access and Landscaping-

- (i) Provision for vehicle access, car parking, loading and unloading and turning areas shall be provided to Council's satisfaction.
- (ii) All buildings shall be set in well maintained, attractive garden surrounds which complement the existing vegetation and the environmental and climatic conditions of the Islands.
- (iii) The front building setback area shall be used for no purpose other than vehicular and pedestrian circulation, parking and landscaping.

(d) Environmental Considerations -

- (i) All buildings shall be set in well maintained, attractive garden. No use or development of land within the Industrial zone shall cause, in the opinion of the Council, nuisance or annoyance by way of noise or other emissions beyond the site on which it is conducted.
- (ii) All waste water to be disposed in a manner that does not contaminate ground water.
- (iii) Council will not support proposals for new industrial development unless waste water can be treated and disposed of in a manner that does not pose a risk to groundwater sources.

(e) Storage -

All areas used for outdoor storage must, as far as practicable, be screened from adjoining development and streets and roofed/covered to the satisfaction of Council.

5.7.2 Special Planning Application Requirements

Council may require the following information to accompany applications for development or change of use in the Industrial zone:

- (a) a detailed landscaping plan;
- (b) strategies acceptable to Council for ensuring the conservation and protection of groundwater supplies from pollution and salinisation; and
- (c) a foreshore management plan where development would be located adjacent to or within the Nature Conservation and Foreshore Protection reserve.

5.8 General Rural

5.8.1 Site and Development Standards

The following site and development requirements shall apply within the General Rural zone:

(a) Building Design –

All buildings developed within the General Rural zone shall harmonise with the natural setting, be cognisant of the climate and incorporate design features which reflect the cultural background of the Islanders.

(b) Environmental Considerations –

No use or development of land within the General Rural zone shall cause, in the opinion of the Council, any adverse impact on the groundwater catchment, soil stability and existing vegetation.

5.8.2 Special Planning Application Requirements –

(a) Applications for development of land or change of use within the General Rural zone should demonstrate to the satisfaction of Council the following:

- (i) where applicable the maintenance of public access to the foreshore;
- (ii) availability of required infrastructure and services; and
- (iii) availability of road access.

(b) Council may require that applications for development or change of use of land be accompanied by:

- (i) a detailed landscaping plan;

- (ii) strategies acceptable to Council for ensuring the conservation and protection of groundwater supplies from pollution and salinisation; and
- (iii) a foreshore management plan where development would be located adjacent to the Nature Conservation and Foreshore Protection reserve.

5.9 Development in Vicinity of the Airport

Council may apply special building height limitations in the vicinity of the Airport so that:

- (a) development alongside the runway can be contained beneath a theoretical line commencing at the edge of the airfield and inclining upwards at a gradient of 1:7;
- (b) development off the ends of the runway can be contained beneath a theoretical line commencing at the ends of the airfield and inclining upwards at a gradient of 1:20.

5.10 Vehicle Parking

- 5.10.1 Any person who construct or substantially reconstructs, alters or adds to a building or changes the use of any land or building may be required by Council to make provision for car parking.
- 5.10.2 The number of car parking spaces provided in respect of any particular site shall be determined by Council, having regard to the nature of the use, the known or likely volume of goods, materials or people moving to and from the site and the existing or proposed parking facilities nearby.
- 5.10.2 The layout of car parking spaces shall be in accordance with Schedule 4 of this Scheme.

5.11 Water Licensing

- 5.11.1 Any development (including abstraction bores and water galleries) that will result in the use of the islands' groundwater resources must be referred to the relevant Federal Minister for approval and licensing pursuant to the requirements of the *Rights in Water and Irrigation Act 1914 (WA) (CKI)*.

5.12 Foreshore Protection

- 5.12.1 Notwithstanding the nominal width of the "Foreshore and Nature Conservation" reserve shown on the Scheme Maps, the Council will have regard to the Coastal Management Plan when considering development and land use proposals on or adjacent to the coastal foreshore.

- 5.12.2 When approving such proposals the Council may: require development to be set back an appropriate distance from the foreshore; specify a minimum finished floor level for any habitable buildings; and where appropriate require the ceding free of cost of a foreshore reserve.
- 5.12.3 Where appropriate, the Council may require a proponent to undertake a site-specific assessment to determine appropriate setbacks and foreshore reserve widths for the development.

5.13 Building Height Restriction

- 5.13.1 A maximum building height limit of 9 metres shall be applied for residential dwellings in the vicinity of the airport and its approaches, and Council may refer such proposals to the appropriate statutory authority.

SPECIAL CONTROL AREAS

6.1 Operation of Special Control Areas

6.1.1 The following Special Control Area/s apply to the Scheme Area and are delineated on the Scheme Map according to the legend on the Scheme Map:

- Water Lens

6.1.2 The special provisions applying to this Special Control Area shall apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

6.1.3 The objectives of the Special Control Area are:

- (a) to avoid development that will unacceptably diminish the quality and supply of groundwater provided by the groundwater lenses and unacceptably modify the ecosystem; and
- (b) to ensure development and subdivision does not cause pollution to the groundwater lenses or result in increased groundwater salinity.

6.1.4 The special provisions outlined below shall apply to the Special Control Area.

- (a) The Council will not support proposals for zoning, subdivision or development of land within the Special Control Area which in its opinion would result in:
 - (i) unacceptable risk of pollution to the groundwater;
 - (ii) the water balance being modified to the detriment of the environment; or
 - (iii) diminished water resources to the detriment of public water supplies.
- (b) In considering proposals for the zoning, subdivision or development of land within the Special Control Area the Council:
 - (i) will have regard to any adopted water resource management plan or strategy;
 - (ii) must consult with relevant public authorities; and
 - (iii) must request from the proponent a water resource impact or management statement to demonstrate that there would be no unacceptable risk from the proposed zoning, subdivision or development to the quality or quantity of groundwater resources contained within the water lenses.

HERITAGE PROTECTION

7.1 Places Affected by the Australian Heritage Commission Act 1975

- 7.1.1 Those Places listed on the Register of the National Estate under the Australian Heritage Commission Act 1975 are listed at Schedule 5 of this Scheme.
- 7.1.2 In respect of a place so listed, a person or body shall not without the special approval of the Council, or in relation to Commonwealth land, of the Commonwealth, carry out any development or work, including but not limited to, the clearing of land, removal of trees and erecting, demolishing or altering of any building or structure.
- 7.1.3 The Council will, in considering an application for special approval, follow the procedures and act in accordance with the provisions of the Australian Heritage Commission Act 1975.
- 7.1.4 Notwithstanding any existing assessment on record, Council may require a heritage assessment to be carried out prior to the approval of any development proposal affecting a place listed under Schedule 5 of this Scheme.

7.2 Local Heritage List

- 7.2.1 The Council may establish and maintain a Heritage List to identify those places within the Scheme Area in addition to those places listed under Schedule 5 of this Scheme which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme. This List shall include the location details and a description of each place and the reasons for its entry.
- 7.2.2 In considering a proposal to include a place on the Heritage List the Council shall:
- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under Clause 7.2.1 and the reasons for the proposed entry;
 - (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
 - (c) carry out such other consultations as it thinks fit; and
 - (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.
- 7.2.3 Where a place is included on the Heritage List, the Council is to give regard to the Commission, and the owner and occupier of the place.
- 7.2.4 The Council is to keep a copy of the Heritage List with the Scheme documents for public inspection.
- 7.2.5 The Council may remove or modify the entry of a place on the Heritage List by following the procedures set out under clause 7.2.2.

7.3 Designation of a Heritage Area

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

7.3.2 The Council is to:

- (a) adopt for each Heritage Area a Local Planning Policy which is to comprise:
 - (i) a map showing the boundaries of the Heritage Area;
 - (ii) a record of places of heritage significance; and
 - (iii) objectives and guidelines for the conservation of the Heritage Area; and
- (b) keep a copy of the Local Planning Policy for any designated Heritage Area with the Scheme documents for public inspection.

7.3.3 If the Council proposes to designate an area as a Heritage Area, the Council is to:

- (a) notify in writing each owner of the land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the Heritage Area;
- (b) advertise the proposal by:
 - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper or news sheet circulating in the Scheme Area;
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) such other methods as the Council considers appropriate to ensure widespread notice of the proposal; and
- (c) carry out such other consultation as the Council considers appropriate.

7.3.4 Notice of the proposal under 7.3.3(b) is to specify:

- (a) the area subject of the proposed designation;
- (b) where the proposed Local Planning Policy which will apply to the proposed Heritage Area may be inspected; and
- (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.

7.3.5 After the expiry of the period within which submissions may be made, the Council is to:

- (a) review the proposed designation in light of any submissions made; and

- (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.

7.3.6 If the Council resolved to adopt the designation, the Council is to forward a copy of the designation to the Commission and each owner of land affected by the designation.

7.3.7 The Council may modify or revoke a designation of a Heritage Area.

7.3.8 Clauses 7.3.3 to 7.3.6 apply, with any necessary changes, to the amendment of a designation of a Heritage Area.

7.4 Heritage Assessment

Despite any existing assessment on record, the Council may require a heritage assessment to be carried out prior to the approval of any development proposed in a Heritage Area or in respect of a heritage place listed on the Heritage List.

7.5 Variations to Scheme Provisions for a Heritage Place or Heritage Area

Where desirable to:

- (a) facilitate the conservation of a heritage place listed in the Heritage List under clause 7.2.1; or
- (b) enhance or preserve heritage values in a Heritage Area designated under clause 7.3.1;

the Council may vary any site or development requirements specified in the Scheme or the Residential Design Codes following the procedures set out in clause 5.4.

DEVELOPMENT OF LAND

8.1 Requirement for Approval to Commence Development

Subject to clause 8.2, a person or body shall not commence or carry out development of:

- (a) any land zoned under the Scheme without first applying for and obtaining the planning approval of the Council; and
- (b) any reserved land or waterway within the Scheme Area without first applying for and obtaining the planning approval of the Council or, in respect of Commonwealth land, the written approval of the Commonwealth.

8.2 Development

For the purpose of the Scheme, “development” shall have the meaning given to it in the Act and:

- (a) shall include -
 - (i) commencement, carrying out or change of use of land;
 - (ii) any physical alteration of land including the erection or alteration of a building or a structure which would have an effect on the amenity of the locality;
 - (iii) any excavation of land not in conjunction with the erection or alteration of a building or structure;
 - (iv) the provision of infrastructure and activities by a telecommunications carrier exempt from low impact facilities as defined in the Low Impact Facilities Declaration 1997 and in any Statement of Planning Policy of the Commission.
- (b) shall exclude -
 - (i) the carrying out of building or other works which affect only the interior of the building or which do not materially affect the external appearance of the building unless the building is located in a place listed under Schedule 5, or, on the Heritage List under clause 7.2, or, within a Heritage Area under clause 7.3 of this Scheme.
 - (ii) the demolition of any building or structure unless that building or structure is located in a place listed under Schedule 5, or, on the Heritage List under clause 7.2, or, within a Heritage Area under clause 7.3 of this Scheme.
 - (iii) any building or other works undertaken by the Council in connection with the maintenance or improvement of a public street or for any public utility;
 - (iv) a home occupation;

- (v) the use of land in a reserve, where such land is held by the Council or a public authority:
 - for the purpose for which the land is reserved in the Scheme; and
 - for any purpose for which the land may be lawfully used by that authority.
- (vi) the carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services.

8.3 Application for Approval of Use

8.3.1 For the purpose of this Scheme the commencement, carrying out or change of a use on land shall be a development notwithstanding that it does not involve the carrying out of any building or other works but the Council may impose such conditions as are deemed necessary to upgrade a premises and ensure the use complies with any relevant development standards and requirements of the Scheme.

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

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

8.4 Unauthorised Existing Developments

8.4.1 The Council may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

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

APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of Application

Any application for planning approval shall be made on or in accordance with the form prescribed in Schedule 6 of this Scheme and shall be signed by the owner(s) and accompanied by such plans and other information as is required under the Scheme.

9.2 Accompanying Material

Unless the Council waives any particular requirement every application for planning approval is to be accompanied by:

- (a) a plan or plans to a scale of not less than 1:200 showing:
 - (i) street names, lot number(s), 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 and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (ii) the proposed use of the site, including any existing building to be retained and proposed buildings to be erected on the site;
 - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (iv) the location, number, dimensions and layout of all car parking spaces and loading/unloading areas intended to be provided;
 - (v) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
 - (vi) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building intended to be retained;
- (c) any specialist studies that Council may require the applicant to undertake in support of the application such as heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the Council may reasonably require to enable the application to be determined.

9.3 Additional Material for Heritage Matters

Where an application relates to a place entered under Schedule 5, or, on the Heritage List under clause 7.2, or, within a Heritage Area under clause 7.3 of this Scheme, the Council may require an applicant to provide one or more of the following to assist the Council in its determination of the application:

- (a) street elevations drawn to a scale of not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council exempts the applicant from the requirement or any part of it, the finishes of the existing development on the subject lot and on each lot immediately adjoining the subject lot.

9.4 Advertising of Applications

9.4.1 Where an application is made for planning approval to commence a use or carry out a development which involves a use which is:

- (a) an 'A' use as referred to in clause 4.3.2; or
- (b) a use not listed in the Zoning Table,

the Council is not to grant approval to that application unless notice is given in accordance with clause 9.4.3.

9.4.2 Despite clause 9.4.1, where an application is made for a purpose other than a purpose referred to in that clause, the Council may require notice to be given in accordance with clause 9.4.3.

9.4.3 Where the Council is required or decides to give notice of an application for planning approval the Council shall cause one or more of the following to be carried out:

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

9.4.4 The notice referred to in clause 9.4.3 (a) and (b) shall be in the form contained in Schedule 7 with such modifications as considered appropriate by the Council.

- 9.4.5 In the event that the Council undertakes responsibility for any notice or advertising pursuant to clause 9.4.3 then the Council may require that any expenses incurred by the Council be advanced or reimbursed by the applicant to the Council, whether or not the application is approved.
- 9.4.6 After the expiration of the specified period from serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the Council is to consider and determine the application.

PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with Other Authorities

- 10.1.1 In considering an application for planning approval the Council may consult with any other statutory, public or planning authority it considers appropriate.
- 10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Council is to consult that authority before making its determination.
- 10.1.3 The Council shall refer all planning applications to Commonwealth's nominated Utilities Services Manager for assessment and comment prior to Council's approval.

10.2 Matters to be considered by the Council

The Council in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development of the land the subject of the application:

- (a) the aims and provisions of this Scheme and the Local Planning Strategy;
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any approved Environmental Protection Policy under the Environmental Protection Act 1986;
- (e) any other policy or strategy of the Commission or any planning policy adopted by the Government of the State of Western Australia;
- (f) any Local Planning Policy adopted by the Council under the provisions of clause 2.5, any heritage policy statement for a designated Heritage Area adopted under clause 7.3, and any other plan or guideline adopted by the Council under the Scheme.
- (g) the conservation of any heritage place entered under Schedule 5 or on the Heritage List under clause 7.2 of this Scheme;
- (h) the compatibility of a use or development with its setting;
- (i) any social issues that have an effect on the amenity of the locality;
- (j) the cultural significance of any place or area affected by the development;
- (k) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (l) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, fire or any other risk;
- (m) the preservation of the amenity of the locality;
- (n) the relationship of the proposal to development on adjoining land or on other land in the locality;

- (o) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (p) whether public utility services are available and adequate for the proposal;
- (q) whether adequate provision has been made for access by people with disabilities;
- (r) whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- (s) whether the proposal is likely to cause erosion or land degradation;
- (t) the potential loss of any community service or benefit resulting from the planning approval;
- (u) any relevant submissions received on the application;
- (v) the comments or submissions received from any authority consulted under clause 10.1;
- (w) any other planning consideration the Council considers relevant; and
- (x) The Water and Rivers Commission's Water Quality Protection Note – Land Use Compatibility in Public Drinking Water Source Areas.

10.3 Determining Applications

In determining an application for planning approval the Council may:

- (a) grant its approval with or without conditions; or
- (b) refuse to grant its approval.

10.4 Form and Date of Determination

10.4.1 As soon as practicable after making a determination in relation to the application, the Council is to convey its determination to the applicant in the form prescribed in Schedule 8 and the date of determination is to be the date given in the notice of the Council's determination.

10.4.2 Where the Council refuses an application for planning approval the Council is to give reasons for its refusal.

10.5 Term of Planning Approval

Where the Council grants planning approval for the development of land:

- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.

10.6 Temporary Planning Approval

- 10.6.1 Where the Council grants planning approval for a use or development, the Council may impose a condition limiting the time for which the approval is granted.
- 10.6.2 Unless otherwise stipulated by the Council the site approved for a temporary development or use shall be restored to the condition existing at the time when the approval was given, unless a further approval has been sought and obtained.

10.7 Scope of Planning Approval

Planning approval may be granted:

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

10.8 Approval Subject to Later Approval of Details

- 10.8.1 Where an application is for a development that includes the carrying out of any building or works, the Council may grant approval subject to matters requiring the subsequent planning approval of the Council. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, or such other matters as the Council thinks fit.
- 10.8.2 In respect of an approval requiring subsequent planning approval, the Council may require such further details as it thinks fit prior to considering the application.
- 10.8.3 Where the Council has granted approval subject to matters requiring the later planning approval of the Council, an application for approval of those matters must be made not later than the expiration of two years beginning with the date of the first approval, or such other period as specified in the approval.

10.9 Deemed Refusal

- 10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused where a decision in respect of that application is not posted, given or otherwise conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.
- 10.9.2 An application for planning approval which is subject of a notice under clause 9.4 shall be deemed refused where a decision in respect of that application is not posted, given or otherwise conveyed to the applicant by the Council within 90 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

10.9.3 Notwithstanding that the application for planning approval may be deemed to have been refused, the Council may issue a decision in respect of the application at any time after the expiry of the 60 or 90 day period specified in clauses 10.9.1 and 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

10.10 Appeals

An applicant aggrieved by a decision of the Council in respect of the exercise of a discretionary power under the Scheme may appeal in accordance with Part V of the Act.

ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the Council

11.1.1 The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers:

- (a) the Council may enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme;
- (b) the Council may acquire any land or buildings within the Scheme Area pursuant to the provisions of the Scheme or the Act; and
- (c) the Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

11.1.2 An officer authorised by the Council, may at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

11.2 Delegation of Powers

11.2.1 The Council may, either generally or in a particular case or particular class of case or cases, by resolution passed by an absolute majority of Council, delegate to a committee or the Chief Executive Officer of the Council, any power conferred or duly imposed on the Council under this Scheme, other than this power of delegation. The performance of a function by a delegate shall be deemed to be the performance of the function by the Council in all circumstances where the Council is able to delegate its powers.

11.2.2 The Chief Executive Officer may delegate to any employee of the Council the exercise of any of the Chief Executive Officer's powers or the discharge of any of the Chief Executive Officer's duties under clause 11.2.1.

11.2.3 A delegation of authority made by the Council pursuant to clause 11.2.1 shall have effect for a period of 12 months following the resolution, unless the Council stipulates a lesser or greater period in the resolution.

11.2.4 A delegation of authority made pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.

11.3 Persons Must Comply with Provisions of Scheme

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

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

11.3.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.

11.4 Compensation

11.4.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Section 11(1) of the Act:

- (a) in any case, within six months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the Town Planning Regulations 1967; or
- (b) where the land has been reserved for a public purpose and:
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
 - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose;

no later than six months after the application is refused or granted.

11.4.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for the injurious affection more than once under clause 11.4.1.

11.5 Purchasing or Taking of Land

11.5.1 If, where compensation for injurious affection is claimed pursuant to clause 11.4, the Council may, at its option, elect to acquire the land so affected instead of paying compensation.

- 11.5.2 Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.
- 11.5.3 Where the Council elects to acquire land as provided in clause 11.5.1, if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land as determined in accordance with clause 11.5.4.
- 11.5.4 The value of the land referred to in clause 11.5.3 shall be the value thereof on the date that the Council elects to acquire the land and that value shall be determined:
- (a) by arbitration in accordance with the Commercial Arbitration Act 1985; or
 - (b) by some other method agreed upon by the Council and the owner of the land,
- and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.
- 11.5.5 The Council may deal with or dispose of land acquired for a local reserve upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the purpose for which it is reserved.

11.6 Notice for Removal of Certain Buildings

- 11.6.1 Pursuant to Section 10 of the Act, 28 days written notice is hereby prescribed as the notice to be given for the removal of certain buildings.
- 11.6.2 The Council may recover expenses under Section 10(2) of the Act in a court of competent jurisdiction.

SCHEDULES

- SCHEDULE 1 - DEFINITIONS
- SCHEDULE 2 - SPECIAL USE ZONES
- SCHEDULE 3 - ENVIRONMENTAL CONDITIONS
- SCHEDULE 4 - CAR PARKING LAYOUTS
- SCHEDULE 5 - PLACES AFFECTED BY THE AUSTRALIAN HERITAGE COMMISSION ACT 1975
- SCHEDULE 6 - FORM OF APPLICATION FOR PLANNING APPROVAL
- SCHEDULE 7 - NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL
- SCHEDULE 8 - NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

Schedule 1 - Definitions

absolute majority:	has the same meaning given to the term in the Local Government Act 1995;
Act:	means the Western Australian Town Planning and Development Act 1928;
advertising:	means the publication, display or presentation of any advertisement;
amenity:	means the quality and the conditions and characteristics of a locality which contribute to its pleasantness and harmony and its better enjoyment;
ancillary accommodation:	has the same meaning given to it in the Residential Design Codes;
animal husbandry:	means any land or buildings used for the breeding, keeping, rearing or fattening of domestic animals, livestock, poultry or bees;
animal care facility:	means the use of premises for the caring, boarding, breeding of domestic or household animals and may include the use of premises for veterinary purposes;
aquaculture:	means the keeping, breeding, hatching or culturing of fish and crustaceans;
bank:	means any land or building used for banking purposes;
bar:	means the use of premises for the sale of liquor to members of the public for consumption on and off the premises subject to the issue of the required licences under the relevant legislation;
building:	has the same meaning given to it in the Residential Design Codes;
camping grounds:	means the use of land, which is open to the public, for overnight accommodation in tents and other temporary shelter and includes ancillary amenity buildings;
car park:	means any land or building used primarily for parking cars whether open to the public or not;
caretaker's dwelling:	means a building or portion of a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site;
civic use:	means land or buildings used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose;
club premises:	means any land or buildings used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Licensing Act 1988 or not and which building or premises are not otherwise classified under the provisions of the Scheme;
Commission:	means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985;

Schedule 1 Continued

Commonwealth land:	means land or waterways owned and administered by the Commonwealth Government;
communications antennae-commercial:	means any mast, antennae, aerial, satellite dish, infrastructure of a telecommunications network, and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communications where its vertical or horizontal dimensions exceed one metre;
Council:	means the executive body of the Shire of Cocos (Keeling) Islands;
cultural facility:	Means land or building used for a library, museum, exhibiting of art and craft or like purpose;
curtilage:	in relation to a dwelling means the yard of the dwelling, or an area in the immediate vicinity of the dwelling on the same lot used for purposes ancillary to the dwelling. The curtilage shall not include the area located between the street frontage of the lot and the dwelling thereon except with the special approval of the Council. The term has a like meaning in relation to land around buildings other than dwellings;
development:	has the same meaning given to it in and for the purposes of the Act;
educational establishment:	means a school, college, university, technical institute, academy or other educational centre of a like kind, but does not include a reformatory;
facade:	means the exposed faces of a building towards roads or public open space or the frontal outward appearance of the building where it does not face a road or public open space;
fuel depot:	means any land or building used for the storage and sale in bulk of solid or liquid gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final users' vehicle of such fuel from the premises;
grouped dwelling:	shall have the same meaning as that given to it for the purposes of the Residential Design Codes;
guest house:	means the use of premises for a commercial accommodation establishment compatible in character and scale with residential housing;
health centre:	means any building used for medical care and treatment (including diagnosis, preventative care and counselling) of predominantly out-patients and may include a medical or dental clinic, a maternal and child welfare clinic, a nursing service and other professional or paramedical health care services;
home occupation:	means a business or activity carried out within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that: <ul style="list-style-type: none"> (a) entails the conduct of a business, office, a workshop only, and does not entail the retail sale or display of goods of any nature; (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood; (c) does not employ persons other than members of the occupier's family;

Schedule 1 Continued

home occupation (continued):	<p>(d) does not generally occupy a floor area of more than 30 square metres;</p> <p>(e) does not require the provision of any public utility service other than those normally provided in the Residential zone;</p> <p>(f) does not alter the general residential character of the locality and is, in the opinion of the Council, compatible with residential use of the area;</p>
hospital:	means a building in which persons are received and lodged for medical treatment or care and includes a maternity hospital;
hotel:	means any land or buildings providing refreshments and accommodation for the public the subject of or proposed to be the subject of a hotel licence granted under the provisions of the Liquor Licensing Act 1988 and may incorporate a betting agency operated in accordance with the Totalisator Agency Betting Board Act 1960, but does not include a motel, tavern or boarding house the subject of a limited hotel licence or other licence granted under the Liquor Licensing Act;
industry - extractive: (or extractive industry)	<p>means an industry which involves:</p> <p>(a) the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals, or similar substance from the land, and also includes the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products;</p> <p>(b) the production of salt by the evaporation of salt water;</p>
industry - general: (or general industry)	means an industry other than an extractive, hazardous, light, noxious, rural or service industry;
industry - hazardous: (or hazardous industry)	means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries;
industry - light: (or light industry)	<p>means an industry;</p> <p>(a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and</p> <p>(b) the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services;</p>
industry - noxious: (or noxious industry)	means an industry which is subject to licensing as "Prescribed Premises" under the Environmental Protection Act 1986 (as amended);
industry - service: (or service industry)	means a light industry carried out on land or in buildings which may have a retail shop front and from which goods manufactured on the premises may be sold; or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced;

Schedule 1 Continued

land:	shall have the same meaning given to the term in and for the purposes of the Act;
lodging house:	shall have the same meaning as is given to the term in and for the purposes of the Health Act 1911;
lot:	shall have the same meaning as is given to the term in and for the purposes of the Act, and “allotment” has the same meaning;
marina:	means premises at which berths or pens, and services including fuelling, servicing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings appurtenant thereto and all offices and storerooms used in connection therewith;
market:	means any land or buildings used for a fair, a farmers’ or producers’ market or a swap-meet in which the businesses or selling carried on or the entertainment provided is by independent operators or stall-holders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rent;
massage parlour:	means any land or building, part or parts thereof, used or designed to be used primarily for the kneading and rubbing of muscles, joints and other anatomical parts, with hands, in order to stimulate their actions;
motor vehicle repair:	means any land or buildings used for the mechanical repair and overhaul of motor vehicles including tyre recapping, retreading, panel beating, spray painting and chassis reshaping but the term does not include a service station or motor vehicle wrecking;
motor vehicle wrecking:	means any land or building used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts on the same premises;
non-conforming use:	means any use of land or building which was lawful immediately prior to the coming into operation of the Scheme, but is not now in conformity with the provisions of the Scheme;
office:	means a building or part of a building used for the conduct of administration, the practise of a profession, the carrying on of an agency, a post office, bank, building society, insurance office, estate agency, typist or secretarial service, or services of a similar nature, and where not conducted on the site thereof, the administration of or the accounting in connection with a commercial or industrial undertaking;
owner:	in relation to any land includes the Crown and every person who jointly or severally whether at law or in equity: <ul style="list-style-type: none"> (a) is entitled to the land for an estate in fee simple in possession; or (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or (c) is a lessor or licensee from the Crown; or (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits thereof, whether as a beneficial owner, trustee, mortgagee in possession, or otherwise;
place:	means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes –

Schedule 1 Continued

place (continued):	<p>(a) an area of land situated below low water mark on the sea shore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;</p> <p>(b) any works or buildings situated there, their contents relevant to the purposes of the Australian Heritage Commission Act 1975 and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and</p> <p>(c) as much of the land beneath the place as is required for the purposes of its conservation;</p>
pondok:	means a plot of land used by a family of Cocos Islanders for small scale subsistence agricultural activities which may include the raising and breeding of poultry;
public authority:	shall have the same meaning given to it in and for the purposes of the Act;
public utility:	<p>means any work or undertaking constructed or maintained by a public authority or the Council as may be required to provide:</p> <p>(a) water, sewerage, electricity, gas, drainage, communications or other similar services; and</p> <p>(b) civic and municipal uses, including public toilets, rubbish disposal, works depots and associated uses;</p>
recreation and leisure:	means any land or buildings used for recreation, sport or leisure purposes;
reserve:	means any land reserved for a public purpose;
Residential Design Codes:	means the Residential Design Codes, in Schedule No. 2 to the Western Australian Planning Commission's Statement of Planning Policy No. 2.1;
restaurant / café:	means a building wherein food is prepared for sale and consumption on the premises and the expression shall include a licensed restaurant/café;
retail:	means the sale or hire of products, goods or services to the ultimate consumer rather than by wholesale generally in small quantities;
rural production:	<p>means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:</p> <p>(a) the cultivation of plants for fruit, vegetables and other produce; and</p> <p>(b) the sale of produce grown solely on the lot;</p>
salvage yard:	means any land or building used for the storage or sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats;
service station:	means any land or buildings used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking;
serviced apartment:	means an independent living residential unit development for short stay accommodation purposes but does not include a hotel or motel;

Schedule 1 Continued

shop:	means any land or building wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, fast food/take-away outlet or any other premises specifically defined elsewhere in this Scheme;
single house:	means an independently constructed dwelling standing wholly on its own lot created pursuant to the Town Planning and Development Act and used for the purpose of human habitation on a permanent basis by: <ul style="list-style-type: none"> (a) a single person; (b) a single family; or (c) no more than six (6) persons who do not comprise a single family and includes any outbuilding erected within the curtilage;
site coverage:	means that portion of a lot which is covered by buildings or parts of buildings including overhanging or cantilevered parts of buildings;
social/community facility:	means the use of premises for the social welfare of the community and may include: <ul style="list-style-type: none"> (a) meeting rooms, recreation, child-minding (including care and ancillary education), cultural activities, social functions and the like; and (b) a community club for persons sharing like interests, but not including a licensed club;
studio:	means a building or part of a building used as a work-room by a painter, photographer, sculptor or crafts person in the conduct of his/her profession and includes incidental display and sale of things made, decorated or adapted therein;
substantially commenced:	means that work or development the subject of the planning approval has been begun by the performance of some substantial part of that work or development;
take-away food outlet:	means any building used primarily for the sale of food to customers in a form ready to be eaten without further preparation with the intention that the food be eaten off the premises;
tourist facility	
warehouse:	means a building wherein goods are stored and may be offered for sale by wholesale;
wholesale:	means the sale of any goods to any person or persons other than the ultimate consumer of those goods;
zone:	means a portion of the Scheme Area shown on the map by distinctive colouring, patterns, symbols, hatching, or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include reserved land;

Schedule 2 – Special Uses

1. Permitted Uses -

- Site 1 - *Location 205(V) West Island (Former Quarantine Station)* - tourist facility, residential, industry – light/service, office, warehouse.
- Site 2 - *Location 201(V) West Island (Transmitter Site)* – industry – light/service, warehouse, office, residential
- Site 3 - *Location 209(V) West Island (Meteorological Centre)* - recreation and leisure, civic uses
- Site 4 - *Location 202(V), 206(V) and 207(V) West Island (Antennae Site)* - tourist facility, residential, industry – light, industry – service. Approval for any other uses at this site will be at the discretion of the Council.
- Site 5 - *Location 200(V) West Island (Airport and Runway)* – industry – light, industry – service, commercial defence facilities, tourist facility, recreation and leisure
- Site 6 - *Lot 14 Home Island (Oceania House and Surrounds)* – shop, tourist facility, social/community facility, restaurant/café, cultural facility, residential, educational establishment.

2. Special Conditions

Prior to the subdivision and/or development of land zoned ‘Special Use’ the proponent/landowner shall prepare an Outline Development Plan addressing the following matters:

- (a) subdivision layout (if any proposed);
- (b) Heritage assessment to determine the retention or disposal of existing infrastructure and building(s);
- (c) groundwater protection;
- (d) public access to foreshore;
- (e) servicing requirements;
- (f) general size, scale, bulk and design of proposed buildings and structures
- (g) road access;
- (h) conservation of the Nature Conservation and Foreshore Protection reserve;
- (i) with regard to Location 200(V) (Airport and Runway) the maintenance of the runway and ensuring safe approaches to and departures from the runway;
- (j) with regard to Lot 14 the conservation and management of Oceania House and its surrounds; and
- (k) any other matters deemed necessary by the Council.

The Plan shall be advertised locally for a period of not less than 21 days. The Council shall consider any submissions received and may amend, reject or adopt the Plan with or without amendments after consideration of the submissions. After adopting the Plan the Council shall forward a copy of the Plan, together with a summary of the submissions to the Commission for endorsement.

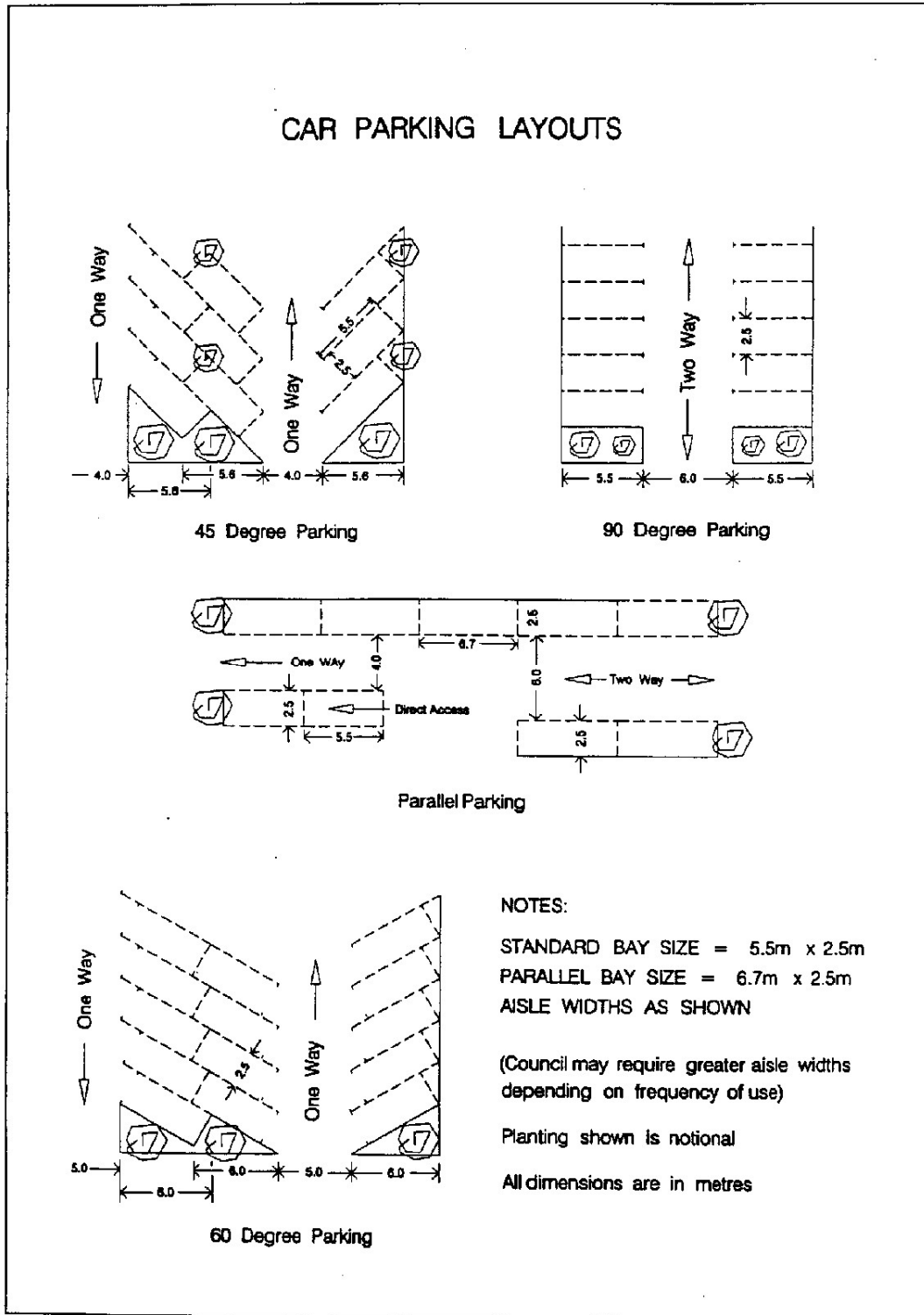
The Plan shall be used as a basis for the subdivision and development of the land. Minor departures from the Plan may be supported by the Council and/or the Commission where it is considered that the proposed departure will not prejudice the progressive subdivision and development of the area.

Schedule 3 – Environmental Conditions

[CL. 5.5]

Amendment No.	Gazettal Date	Environmental Conditions

Schedule 4 - Car Parking Layouts



Schedule 5 - Places Affected by the Australian Heritage Commission Act 1975

The following places are affected by the provisions of the Australian Heritage Commission Act 1975 and are registered on the National Estate:

SITE	LOCATION
Six Inch Guns	Horsburgh Islands
Administrative Building Forecourt	Type 2 House Style, Type 'T' House, Government House Lot 177 Morea Close, West Island, DI House and WI Elevated Houses
Captain Ballard's Grave	Pt Lot 103 Jalan Belakang Pulu, Home Island
Co-op Shop	Lot 227 Jalan Bunga, Home Island
Early Settlers' Graves	Lot 41 Jalan Kipas, Home Island
Home Island Cemetery	Lot 206 Jalan Bunga Melati, Home Island
Home Island Foreshore	Adjacent to Jalan Pantai, Home Island
Home Island Industrial Precinct	Lot 103, 239, 240, 241, 242, 243, 245, 246, 247, 249, 250, 251, 253, 256 Jalan Bunga Melati, Home Island
Oceania House and Surrounds	Lot 14 Corner Jalan Pantai and Jalan Kebun
Former Qantas Huts	Lots 181 and 214 Sydney Highway
RAAF Memorial	Pt Lot 167, West Island Settlement
Slipway and Tank	Direction Island
West Island Housing Precinct	Lots 101 to 127, 129 to 134, 136 to 140, 162, 164, 191, 192, 187 & 221, West Island
West Island Mosque	Alexander Street, West Island
North Keeling Island	North Keeling Island

Schedule 6 - Form of Application for Planning Approval

TOWN PLANNING AND DEVELOPMENT ACT 1928
(AS AMENDED)

**SHIRE OF COCOS (KEELING) ISLANDS
APPLICATION FOR APPROVAL TO COMMENCE DEVELOPMENT**

Office Use Only

Serial No. _____

OWNERS DETAILS

Name: _____

Address: _____

_____ Post Code: _____

Phone: (work) _____ (home) _____ Fax: _____

E-mail address: _____

Contact person: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Note: This application will not proceed without the signature of the landowner(s).

APPLICANT DETAILS

Name: _____

Address: _____

_____ Post Code: _____

Phone: (work) _____ (home) _____ Fax: _____

E-mail address: _____

Contact person for correspondence: _____

Signature: _____ Date: _____

PROPERTY DETAILS

Lot No: _____ House No: _____ Street Name: _____

Island: _____

Existing building/Land use: _____

Description of proposed development and/or land use _____

Approximate cost of development: _____

Estimated time of completion: _____

Schedule 7 - Notice of Public Advertisement of Planning Proposal

**SHIRE OF COCOS (KEELING) ISLANDS
TOWN PLANNING SCHEME NO. 1**

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

LAND DESCRIPTION

LOT NO. _____ STREET _____

PROPOSAL _____

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

CHIEF EXECUTIVE OFFICER

DATE

Schedule 8 - Notice of Determination on Application for Planning Approval

TOWN PLANNING AND DEVELOPMENT ACT 1928
(AS AMENDED)

SHIRE OF COCOS (KEELING) ISLANDS

DECISION ON APPLICATION FOR PLANNING APPROVAL TOWN PLANNING SCHEME NO. 1

The Council having considered the application

Dated _____

Submitted by _____

On behalf of _____

hereby advise that it has decided to:

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

Subject to the following conditions/for the following reasons.

CHIEF EXECUTIVE OFFICER

DATE

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF COCOS (KEELING) ISLANDS
LOCAL PLANNING SCHEME NO. 1

Approved by resolution of the Council of the Shire of Cocos (Keeling) Islands at the meeting of the Council held on the 22 day of FEBRUARY 2006

R GRANT
[Signature]
SHIRE PRESIDENT 22/2/2006
DATE
[Signature]
CHIEF EXECUTIVE OFFICER 22/2/06
DATE
W PRICE

FINAL APPROVAL

1. Adopted by Resolution of the Council of the Shire of Cocos (Keeling) Islands at the Ordinary Meeting of the Council held on 22 day of FEBRUARY 2006

R GRANT
[Signature]
SHIRE PRESIDENT 22/2/2006
DATE
[Signature] W PRICE 22/2/06
CHIEF EXECUTIVE OFFICER DATE



2. Recommended/Submitted for final approval by the Western Australian Planning Commission.

P WOODWARD
[Signature]
DELEGATED UNDER S.16 OF PD ACT 2005 14 DEC 2006
DATE

3. Final approval granted

J LLOYD
[Signature]
MINISTER FOR LOCAL GOVERNMENT, TERRITORIES AND ROADS 29TH JAN 2007
DATE