

SHIRE OF HARVEY & SHIRE OF DARDANUP
JOINT TOWN PLANNING SCHEME NO. 1
(EAST AUSTRALIND/EATON PRECINCT DEVELOPMENT SCHEME)

VERSION 1

DISCLAIMER

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Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

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

RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME

SHIRE OF HARVEY

EAST AUSTRALIND / EATON PRECINCT DEVELOPMENT SCHEME

Resolved that the Shire of Harvey in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended), prepares the above Town Planning Scheme with reference to an area situated partly within the Shire of Harvey and partly within the Shire of Dardanup and enclosed within the inner edge of the dotted boundary of the Scheme Map marked and certified by the Chief Executive Officer.

Dated this 24th day of February, 1998.

Chief Executive Officer
Shire of Harvey

SHIRE OF DARDANUP

EAST AUSTRALIND / EATON PRECINCT DEVELOPMENT SCHEME

Resolved that the Shire of Dardanup in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended), prepares the above Town Planning Scheme with reference to an area situated partly within the Shire of Harvey and partly within the Shire of Dardanup and enclosed within the inner edge of the dotted boundary of the Scheme Map marked and certified by the Chief Executive Officer.

Dated this 15th day of May, 1998.

Chief Executive Officer
Shire of Dardanup

TOWN PLANNING AND DEVELOPMENT ACT 1928

The Shires of Harvey and Dardanup under and by virtue of the powers conferred upon them in that behalf by the Town Planning and Development Act 1928 (as amended) and all other powers enabling them hereby makes the following Joint Shire's Development Scheme.

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1.0 CITATION

1.1 This Development Scheme is cited as the Shire of Harvey and Shire of Dardanup Joint Town Planning Scheme No. 1 (hereinafter called "the Scheme") and shall come into operation on publication of notice of the Minister's final approval thereof in the Government Gazette.

2.0 RESPONSIBLE AUTHORITIES

2.1 The Authorities responsible for enforcing the observance of the Scheme shall be the Shires of Harvey and Dardanup (hereinafter referred to as "the Authorities").

2.2 The Authorities shall form a joint committee consistent with the Local Government Act 1995, with equal representation from the Shire of Harvey and Shire of Dardanup, to assist the Authorities in the administration of the Scheme.

3.0 SCHEME MAP

3.1 The East Australind/Eaton Guided Development Scheme Map shall be referred to as the "Scheme Map" and shall form part of the Scheme. The purpose of the Scheme Map is to identify where scheme works are to be undertaken and the location of indicative land use classifications. The Scheme does not envisage the rezoning or reserving of land.

4.0 SCHEME AREA

4.1 The Scheme shall apply to the land contained within the inner edge of the broken black line as shown on the attached Scheme Area Map and is hereinafter referred to as "the Scheme Area".

5.0 SCHEDULES AND APPENDICES

5.1 Any Schedule or Appendix appended hereto forms part of the Scheme.

6.0 HEADINGS

6.1 The Table of Contents and any heading of clauses or sub clauses are intended for reference only and do not affect the construction of the Scheme.

7.0 INTERPRETATIONS

7.1 Words and expressions used in the Scheme and defined in Schedule One have the meanings assigned to them in Schedule One.

7.2 Words and expressions used in the Scheme but not defined in Schedule One have the meanings assigned to them in and for the purpose of the Act or in any regulations made thereunder.

8.0 GENERAL OBJECTS

8.1 The general objects of the Scheme are -

- a) to make provision for the construction of new roads and/or the upgrading of existing roads within the Scheme Area.
- b) to make provision for the construction of a new bridge over the Collie River including the approaches thereto.
- c) to make provision for the respective rights and obligations of the landowners and of the Authorities.
- d) to improve and secure the amenity health and convenience of the Scheme Area.

- e) to make provision for the equitable sharing and apportionment of the shared costs between the subdividing owners deemed by the Authorities to be necessary to carry out and complete the subdivision of the Scheme Area including the allocation and/or recoupment of administration and interest costs deemed applicable thereto.
 - f) to make provision for any other matters which are necessary or incidental to town planning.
- 8.2 The Scheme does not make provision for how general infrastructure and open space is to be developed. Proposals to make detailed provision for general infrastructure and open space shall be undertaken through an amendment to the Scheme or an amendment to the existing district town planning schemes of the respective Authorities.

9.0 POWERS OF THE AUTHORITIES

- 9.1 In the conduct and management of the Scheme the Authorities shall have the following powers:
- a) To enter at all reasonable times and inspect any land within the Scheme Area.
 - b) To make agreements with the owners occupiers purchasers or prospective purchasers of any land or buildings within the Scheme Area.
 - c) To enter into agreements with the Crown and any Department of the State or the affected Local Authorities with reference to carrying out any of the objects or works of the Scheme.
 - d) To engage suitably qualified and experienced professional consultants and contractors as considered necessary to implement the Scheme.
 - e) Subject to clause 10.0 to make variations to the design where necessary to implement the Scheme.
 - f) To exercise any rights and powers vested in the Authorities to borrow or advance money and to charge and redeem interest at the rate charged on the borrowed funds or at the overdraft rate applying at the time in respect to any monies that may be advanced or required by the Authorities to assist with the implementation of the Scheme.
 - g) (To if requested by an owner or owners) call tenders and let contracts for Subdivision on an owner or owners land to facilitate the progressive implementation of the Scheme.
 - h) To resume or otherwise acquire so much of the land within the Scheme Area as is deemed reasonably necessary to achieve the general objects of the Scheme.
 - i) To unless otherwise stated dispose of any land resumed or acquired within the Scheme Area upon any terms and conditions they think fit.
 - j) To extend the time for payment of any monies payable to the Authorities notwithstanding that the time has expired and to secure such payments.
 - k) To transfer any land resumed or acquired by the Authorities in pursuance of the Scheme as compensation or part compensation and to enter into agreements relative to determining and settling compensation.
 - l) To make provision for such of those matters set out in the Act as are necessary or incidental to good effective planning subdivision and development of the Scheme Area.

10.0 SCHEME DESIGN

- 10.1 The location of selected proposed distributor roads and the proposed Collie River Bridge, as identified on the Scheme Map, forms part of the Scheme for the purposes of identifying the nature of scheme works which are subject to a cost sharing arrangement. Any significant alteration to the location of the roads or bridge shall be effected by a structure plan as adopted by Council and endorsed by the Western Australian Planning Commission.
- 10.2 The broad conceptual design on the Scheme Map detailing land use and other roads is indicative and does not form part the Scheme nor does the Scheme envisage to rezone or reserve the land. Any alterations to land use details, shall be a reflection of gazetted amendments to operative district town planning schemes and/or structure plans and approved subdivision plans as endorsed by the Western Australian Planning Commission.
- 10.3 The Western Australian Planning Commission (hereinafter referred to as "the Commission") shall be notified in writing of any proposed alteration or variation to the Scheme Map made pursuant to the provisions of this clause. Such alteration or variation shall not have any effect until approved by the Commission.

11.0 STAGES

- 11.1 The Authorities may divide the Scheme Area into stages they consider appropriate for the progressive subdivision of land the provision of services and the carrying out of works and for the apportionment of the Shared Costs.
- 11.2 If the Scheme is implemented in stages the Scheme Text shall be read and construed as though any necessary modifications to it have been made in order to make the provisions of the Scheme Text applicable to the implementation of the Scheme in stages.

12.0 SUBDIVISION

- 12.1 As and when an owner wishes to subdivide and develop his/her land either alone or in conjunction with another owner or owners they shall submit an application to subdivide to the Commission pursuant to the Act and the Town Planning and Development (Subdivision) Regulations 1999 or pursuant to the Strata Title Act 1985 and the Strata Titles General Regulation 1996.
- 12.2 If any part of the Scheme Area has not been designed such subdivision design plan shall be capable of forming part of the overall plan of subdivision for the Scheme Area as deemed appropriate by the Authorities and the Commission.
- 12.3 The preceding subclauses apply to any subdivision including an application to facilitate the creation of any proposed "super lot" within the Scheme area.
- 12.4 The owner or owners shall be responsible for the costs of preparing the subdivision design plan and the application to subdivide their respective land areas.
- 12.5 Except as may be otherwise provided in the Scheme owners shall be responsible for compliance with any condition imposed on the grant of approval of subdivision and including the terms and provisions of this Scheme and the carrying out of the subdivision works and for the costs of implementing the subdivision.
- 12.6 The Authorities if requested by an owner or owners in writing and if they so agree may undertake to survey construct pave and drain roads and pedestrian accessways within the Scheme Area and generally carry out such subdivision works as is necessary to enable an owner or owners to satisfy the conditions imposed pursuant to sub clause 12.6 at the owners cost.

- 12.7 If an owner shall subdivide his/her land and if he/she or their predecessors in title shall have claimed or shall have been paid compensation by reason of the resumption by the Authorities of the land for a new road or pedestrian accessway within the Scheme Area since gazettal of the Scheme he/she shall before the date of subdivision release the Authorities from the payment of compensation or repay to the Authorities the compensation paid by them to him/her or their predecessors in title as the case may be.

13.0 ACQUISITION OF LAND

- 13.1 If any owner of land within the Scheme does not proceed with the subdivision and development of his/her land in accordance with the provisions of the Scheme and his/her failure to do so will in the opinion of the Authorities unduly delay or impede the completion of the Scheme or the subdivision or development of part of the Scheme Area the Authorities may resume or otherwise acquire so much of that owners land as is reasonably necessary to enable the subdivision of the Scheme Area to proceed or be carried out.
- 13.2 In the event that the Authorities resume or acquire portion of an owners land pursuant to sub clause 13.1 they shall have all the powers of an owner in the subdivision and disposal of the land resumed or otherwise acquired in achieving the objectives of the Scheme.

14.0 DISPOSAL OF LAND

- 14.1 In the case of land resumed or acquired for the purpose of a road reserve the Authorities shall upon completion of the resumption or acquisition take such steps as are necessary to dedicate the land as a public road.
- 14.2 In the case of land resumed or acquired for the purpose of a reserve for pedestrian accessway right of way water supply sewerage drainage recreation or community facility site the Authorities shall upon completion of the resumption or acquisition transfer or vest the land free of cost in the Crown or the Authorities concerned for the purpose for which it is to be reserved or set aside.
- 14.3 In the case of land resumed or acquired which will form part of proposed new lots within the Scheme Area the Authorities may either -
- i) transfer the land resumed or acquired to the adjoining owner upon receipt of the compensatable value of the land resumed or acquired and including all costs incurred in determining and settling any compensation payment including land resumption and transfer costs; or
 - ii) exchange part of the land resumed or acquired with land of the adjoining owner so that the Authorities and adjoining owner each possess areas capable of creating a new subdivided lot or lots. Such exchange shall be based on the value of the land exchanged being at least equal to the value of the land resumed including all costs incurred in determining and settling any compensation payment including land resumption and transfer costs.
- 14.4 Any new subdivided lots owned by the Authorities as a result of them implementing the provisions of sub clause 14.3 may be disposed of by the Authorities as they think fit.

15.0 CLOSURE OF ROADS

- 15.1 Surveyed roads and rights of way within the Scheme Area which are shown on the Scheme Map as roads to be closed (if any) shall be closed as the subdivision and development of the land proceeds and as such roads are no longer required.
- 15.2 All costs associated with the realignment and closure of distributor roads, as identified under the Scheme as scheme works, shall be dealt with as shared costs. The future use, land tenure and ownership of closed road reserves shall be determined

consistent with the Land Administration Act and Town Planning and Development Act.

16.0 SHARED COSTS

- 16.1 The costs or estimated costs of the following items are the Shared Costs:
- a) The Costs of preparation and administration of the Scheme including an amount to reimburse the Authorities for all overhead and management costs as may be incurred in the preparation and implementation of the Scheme and including all legal costs planning costs base mapping costs and the preparation of all maps and plans payments to planning and engineering consultants surveyors and other professional consultants payments to Scheme managers and valuation costs. The engineering consultants fees are included as part of a maximum 3 percent design and supervision fees, as prescribed under the Local Government Act, relative to the cost of construction of the respective scheme works, and, if required, engineering consultancy costs which exceed the 3 percent design and supervision fee are also applicable to this item.
 - b) All costs associated with the establishment of selected distributor road reserves and construction of associated works, and including road closure action where required, as prescribed under Shared Costs in 'Schedule Two – Distributor Roads and Cost Apportionment of the Scheme for the respective Shires.
 - c) All costs associated with the establishment of a two-lane bridge over the Collie River, including a single dual use path.
 - d) All interest accruing from time to time on monies borrowed or advanced by the Authorities for the purposes of the Scheme.
 - e) The cost (if any) of securing Professional Indemnity Insurance relative to the implementation of the Scheme.
 - f) All other costs and expenses which the Authorities incur or are required to meet in order to implement and complete the Scheme.
 - g) Any sum necessary to reimburse an owner any excess value pursuant to clause 17.9 excluding interest.
- 16.2 The owners apportionment of shared costs is determined in accordance with Schedules Two to Five inclusive, and Sub-clauses 16.3 to 16.5 inclusive.
- 16.3 An owners apportionment of shared costs associated with the construction of the Collie River Bridge and associated administration costs, as referred to in Sub-clause 16.1, shall be equated to the proportion of the net subdividable area of the owner's land holding divided by the whole of the whole of the net subdividable area in the Scheme Area, except that a weighting factor of 2 shall apply over the proposed lots consisting of the proposed district shopping centre, mixed business/service commercial and tavern/fast food outlet development sites.
- 16.4 The owners apportionment of shared costs as for the establishment of district distributor roads reserves and associated administrative costs, as prescribed under Schedule Two of the Scheme, is equated to the proportion of the net subdividable area of the land holding to the whole of the net subdividable area either the East Australind or Eaton Precincts of the respective Shires, depending on the location of the owner's land holding.
- 16.5 The owners apportionment of all other administration costs, i.e. excluding those costs referred to in Sub-clause 16.3 and 16.4, shall be equated to the proportion of the net subdividable area of the land holding to the whole of the net subdividable area of the Scheme Area.

17.0 PAYMENT OF THE SHARED COSTS

- 17.1 Each owner of land shall prior to endorsement of the final approval of the Commission to the subdivision of his/her land shall pay to the Authorities the owners proportion of the Shared Costs calculated on the nett area of the super lot or the land area being subdivided.
- 17.2 If a super lot subdivision is supported by the Commission, the Commission will determine how to ensure prospective purchasers are made aware that subsequent subdivision proposals will be required to pay the proportion of Shared Costs as determined by the Scheme. The costs associated with implementing the binding arrangement shall be fully paid by the subdivider.
- 17.3 The Authorities may from time to time apportion the Shared Costs or any part thereof between different stages of development in the ratio that the nett subdividable area of the land in each stage of development bears to the whole of the nett subdividable area of land in the Scheme Area or in such other manner as the Authorities consider is fair and equitable.
- 17.4 The Authorities may accept the transfer to them of subdivided serviced lots or other land within the Scheme Area in satisfaction or partial satisfaction of an owners liability to pay his/her proportion of the Shared Costs.
- 17.5 If after the expiration of Twenty (20) years from the date the Scheme comes into force or any extension of that period as agreed between the Authorities an owner has not carried out and completed the subdivision of his/her land nor paid his/her proportion of the Shared Costs pursuant to clause 19.0 the Authorities may serve written notice on such owner requesting payment of the owners proportion of the Shared Costs within ninety (90) days of the service of such notice.
- 17.6 If an owner fails to make the payment or enter into any arrangement that is acceptable to the Authorities for payment of the owners proportion of the Shared Costs the Authorities may recover such costs including interest thereon until the date of payment from the person in default as a simple contract debt in a court of civil jurisdiction competent to deal with the amount of the claim.
- 17.7 Any expenses incurred by the Authorities in recovering an owners proportion of the Shared Costs shall be a charge to that owner.
- 17.8 If an item of the Shared Costs as referred in clause 16.0 hereof is performed and/or carried out by a subdividing owner or owners and that subdividing owner or owners are entitled to reimbursement for any portion of the Shared Cost items that have been performed and/or carried out in excess of that owner or owners required proportion of the Shared Cost item or items such owner or owners shall be entitled to reimbursement of the excess value by the Scheme.
- 17.9 Any reimbursement payable to an owner or owners as referred in sub clause 16.1i) hereof may be postponed by the Authorities until sufficient monies have been paid to the Scheme in respect of the item or items on which reimbursement of the excess value is payable.

18.0 ESTIMATE OF SHARED COSTS

- 18.1 If any of the items of the Shared Costs have not been paid nor ascertained at the date of the subdivision of a parcel of land the Authorities may estimate the cost of such items. The engineering consultants fees are included as part of a maximum 3 percent design and supervision fees, as prescribed under the Local Government Act, relative to the cost of construction of the respective scheme works, and, if required, engineering consultancy costs which exceed the 3 percent design and supervision fee are also applicable to the item.

- 18.2 The Shared Costs including any estimated costs shall be revised annually during the month of June in each year and once adopted by the Authorities shall apply during the subsequent twelve (12) month period effective from the first day of July in each year.
- 18.3 A schedule of the Shared Costs shall be established as soon as practicable following gazettal of the Scheme and such Schedule including subsequent revisions as referred in sub clause 18.2 shall be maintained and be made available for perusal by the owners during normal business hours.
- 18.4 Payment of an estimate by an owner discharges the owners liability in respect of the item of Shared Costs for which the estimate was made.
- 18.5 If an estimate is greater than the amount paid or incurred by the Authorities it shall refund the difference to the owner. If after six (6) years the Authorities are unable to trace an owner entitled to receive a refund they shall expend the amount thereof for the benefit of the Scheme Area.
- 18.6 If the Authorities commission the carrying out of any of the Shared Cost works referred in clause 16.0 they shall cause tenders to be called so as to ensure the best reputable contract price is obtained. The Authorities may submit a tender (or fixed contract price) for such of the works they have a capacity to perform but the Authorities shall not award any contract or portion thereof to the Authorities or either of them unless it is deemed by the Authorities to be in the best interests of the Scheme to do so.

19.0 COLLECTION AND ALLOCATION OF THE SHARED COSTS BETWEEN AUTHORITIES

- 19.1 Each authority in whose municipal boundary subdivision is carried out pursuant to the provisions of this Scheme shall be responsible for collecting the relevant proportion of the Shared Costs as detailed in clause 18.0 hereof.
- 19.2 The Authority collecting the Shared Costs as referred in sub clause 19.1 shall upon receipt of such payment in respect of the items referred in sub clause 16.1 (a and e) deposit the amount paid into a Joint Scheme Account established by the Authorities for the purposes of the Scheme. In respect of the balance items referred in sub clause 16.1 the payments received by each authority shall be deposited into a separate Scheme Account established by each authority for the purposes of the Scheme.
- 19.3 Signatories to the Joint Scheme Account shall constitute a Councillor/Officer nominated from time to time by each Authority that is party to this Scheme. All withdrawal/payment and/or transfer of any monies into an interest bearing deposit from the Joint Scheme Account shall be signed by one nominated representative of each of the Authorities.
- 19.4 The Shared Costs collected by the Authorities shall be used and applied to offset the cost of the works and/or land acquisition costs as detailed in clause 16.0 hereof in the proportion to which the Shared Costs were collected. If the final value of the Shared Cost items is more than the value of the Shared Costs collected, the shortfall shall be paid by the Authorities. If the value collected is greater than the final value of the Shared Cost items the excess shall be applied toward further improvements within the Scheme Area.
- 19.5 The monies paid and/or received into the Joint Scheme Account including interest earned on such monies in respect to sub clause 16.1 (a and e) shall be used by the Authorities for the express purpose for which such payments/monies were collected.
- 19.6 If after 60% of the Scheme Area has been subdivided and/or developed the Authorities elect to proceed with the bridge construction works and use loan funds to finance the balance cost of such works the Authorities shall be entitled to recover such loan interest and bank charges cost from the remaining owners that have yet to subdivide their land at the time such loan funds were established as a Shared Cost.

- 19.7 The timing of the construction of the distributor roads, which are subject to scheme works under this Scheme, shall be determined by the respective Authorities, subject to sufficient funds being obtained, the need to provide the level of road service commensurate with traffic demand and the extent of subdivision works.

20.0 LAND OWNED BY THE AUTHORITIES

- 20.1 All or any of the land now owned or subsequently acquired by the Authorities within or near the Scheme Area may be used by the Authorities for any purpose appropriate to the Scheme (and the Authorities have all the powers of an owner in respect thereof) and if the purpose is one for which an owner is required to make land available or for which land may be acquired by the Authorities hereunder the Authorities shall be compensated for the value of the land so used.

21.0 VARIATION TO SCHEME PRECEDENCE

- 21.1 If the Authorities have in anticipation of the coming into operation of the Scheme entered into an agreement with an owner of land within the Scheme Area the provisions of the Scheme prevail if there is any conflict or inconsistency between the terms of the agreement and the Scheme.
- 21.2 The current district town planning schemes – ie the Shire of Harvey District Town Planning Scheme No 1 and the Shire of Dardanup District Town Planning Scheme No 3 shall not be revoked and will administer matters relating to zoning, development control and land use planning. Where a provision of this Scheme is inconsistent with the respective district town planning schemes of the Shires, i.e. in relation to the cost sharing arrangements proposed for the distributor roads and bridge which are the subject to scheme works, this Scheme prevails.

22.0 SERVICE OF NOTICES

- 22.1 Any notice to be served or given to an owner pursuant to the Scheme may be sufficiently served if sent to such owner by registered post addressed to him/her at their last address appearing in the rate book of the Authorities and a notice so sent shall be deemed to have been served on the day on which it would in the ordinary course of post reach the address to which it was sent.

23.0 VALUATIONS

- 23.1 Where it is necessary to ascertain the value of any land for the purpose of the Scheme the value shall be determined by the Valuer General or at the option of the Authorities by a disinterested and competent valuer being a fellow or associate of the Australian Institute of Valuers appointed or approved by the Authorities.
- 23.2 When it becomes necessary to make a valuation by reason of an application for consent to a subdivision the person making the application shall pay the costs of the valuation.
- 23.3 Unless part 10 of the Land administration Act 1997 applies, Clause 23.4 applies if it is necessary to ascertain the Value of any land for the purpose of acquisition for a public purpose.
- 23.4 "Value" means the fair nett expectance value inclusive of subdivisional profit from and in respect of the sale of the vacant land in its optimum subdivided form:
- (i) on the basis that there are no buildings, fences or other improvements of a like nature on the land;
 - (ii) on the assumption that any rezoning necessary for the purpose of the development has come into force; and

- (iii) taking into account the added value of all other improvements on or appurtenant to the land.
- 23.5 If an owner objects to the value of his/her land determined in accordance with the provisions hereof he/she may give notice in writing of the objection to the Authorities within thirty (30) days after having been informed of the value or a revised value.
- 23.6 If the valuer does not agree to change the value to a value acceptable to the owner the value shall be determined by arbitration in accordance with the provisions of clause 24.0.
- 23.7 If a valuation made by a valuer is changed as a result of an objection the valuer may reconsider the values placed on other land and make such revaluation as he considers just and equitable and the Authorities shall forthwith notify other owners affected by any such change in value.

24.0 ARBITRATION

- 24.1 Any dispute or difference which by the terms of the Scheme may be determined by arbitration may be referred to the arbitration of a single arbitrator in the manner provided by the Commercial Arbitration Act 1985 or any statutory modification thereof for the time being in force and if the parties fail to agree upon a single arbitrator he may be nominated by -
- a) the President for the time being of the Western Australian division of the Australian Institute of Valuers if the dispute concerns a question of valuation of land; or
 - b) the President for the time being of the Law Society of Western Australia in any other case.

25.0 APPEAL

- 25.1 An owner of land within the Scheme Area aggrieved by a decision of the Council in respect of the exercise of a discretionary power, may appeal in accordance with Part V of the Act. If an owner commences an appeal under this sub clause in respect of any matter, the commencement of the Appeal precludes the right to refer the matter to Arbitration in accordance with the provisions of the preceding sub clause.

26.0 CLAIMS FOR COMPENSATION

- 26.1 The time within which an owner may make a claim for compensation pursuant to Section 11 of the Act is six (6) months after the date when notice of the approval of this Scheme is published or within six (6) months of the event or action giving rise to such claim in the manner prescribed by the regulations made under the Act.

27.0 REVOCATION OF THE SCHEME

- 27.1 The Scheme is intended to be revoked shall in any event with the exception of this clause cease to have any force in law when -
- i) the subdivision and development of the Scheme Area has reached a stage where all the applicable Scheme Works and payment of the Shared Costs embodied in clause 18.0 have been fully and completely settled.
 - ii) all surplus monies and/or serviced lots (if any) have been expended and/or allocated pursuant to the provisions of the Scheme.
 - iii) all resumption and/or acquisition and transfer of any land pursuant to the provisions of the Scheme have been finalised and settled.
 - iv) all compensation payments have been finalised and settled.

- v) all accounts have been settled and/or monies or payments required to be made to implement and complete the Scheme have been made.
- vi) the final Scheme Accounts and Financial Statements of the Scheme have been audited and confirmed by the Auditor to reflect a true and fair position of the financial affairs of the Scheme.
- vii) the Auditors Report has been received by the Authorities and a majority of the subdividing owners within the Scheme Area.
- viii) the Minister for Planning and Infrastructure has been formally advised that the provisions of clause 27.0 (items (i) to (vii) inclusive) have been complied with in every respect as certified by the respective Authorities Chief Executive Officers.

EAST AUSTRALIND (SHIRE OF HARVEY) / EATON (SHIRE OF DARDANUP) SCHEME AREA

SCHEDULE ONE INTERPRETATIONS

(A) In this Scheme unless the context otherwise requires -

"Act"	means the Town Planning and Development Act 1928 as amended.
"Authorities"	means the Shires of Harvey and Dardanup either jointly or separately as deemed applicable.
"Clause"	means a clause of the Scheme.
"Community Facility Site Land"	means the land coloured orange on the Scheme Map.
"Distributor Roads"	means the distributor roads as detailed in Schedule Two and shown coloured red (district distributor) or blue (local distributor) on the Scheme Map and shall include the following scheme works - <ol style="list-style-type: none">The survey of the boundaries of the distributor road and the provision of the land for such road.All required clearing levelling grading and other earthworks.The required construction and paving of the carriageway or carriageways as determined under Schedule Two.All necessary drainage works.The provision of kerbing.Provision of a median strip.The construction and paving of a dual use path on one side of the road and a footpath on the other side and grade separated pedestrian crossings.The provision and erection of street name signs, street lighting and landscaping.Intersection channelisation works including approaches to the Collie River Bridge.Land value for the acquisition of the road reserve.The improvement widening and upgrading of any existing roads that are shown on the Scheme Map to become designated distributor roads and where applicable incorporating the costs referred in (a - k) inclusive hereof.
"Gross Subdividable Area"	means the total area of land the subject of a subdivision application.

"Joint Scheme Account"	means a separate account established at a bank nominated by the Authorities for the specific purposes of the Scheme.
"Lot"	Same meaning as in the Town Planning and Development Act 1928 (as amended), and the Strata Titles Act 1985 (as amended).
"Nett Subdividable Area"	means the area of land the subject of subdivision excluding land to be used for public open space, community facilities sites, wetlands and waterways protected by Environmental Protection Act Policy and Floodway land that is deemed unsubdividable by the Authorities and school sites.
"POS Land"	means the land coloured dark green on the Scheme Map.
"Precincts"	The "East Australind Precinct" constitutes that part of the Scheme Area that is located NORTH of the Collie River and the "Eaton Precinct" constitutes that part of the Scheme Area that is located SOUTH of the Collie River. The dividing boundary of the East Australind Precinct and the Eaton Precinct coincides with the Local Government jurisdiction boundary.
"Public Open Space Trust Fund"	means the fund established for the purpose described in sub clause 16.13.1 hereof.
"Scheme"	means this Joint Development Scheme.
"Scheme Area"	means the area defined in clause 4.0.
"Shared Costs"	means the costs described in clause 18.0.
"Sub Clause"	means a sub clause of the clause in which the term is used.
"Subdivision"	means the creation of lots, pursuant to the Town Planning and Development Act 1928 (as amended), and the Strata Titles Act 1985 (as amended).
"Super Lot"	means a large lot, which is normally at least 10 hectares in area, created by subdivision for further subdivision.
(B)	Unless otherwise provided herein or unless the context otherwise requires words and expressions not defined in (A) above have the meanings respectively assigned to them by the Act or by Appendix D to the Town Planning Regulations 1967.
(C)	Headings are for reference purposes only and shall not affect the construction of this Scheme Text.

EAST AUSTRALIND (SHIRE OF HARVEY) / EATON (SHIRE OF DARDANUP) SCHEME AREA

SCHEDULE TWO

SCHEDULE OF DISTRIBUTOR ROADS AND COST APPORTIONMENT

1 Kingston Drive

Provide land for a 25 metre road reserve to facilitate construction of 2 single carriageways separated by a central median, where such road extends north of Clifton Close.

2 Kingston Drive

Provide the land for a 30 metre road reserve to facilitate provision of 2 single carriageways separated by a central median south from Clifton Close to the Collie River. The extended road width land between Paris Road and Ditchingham Place to be provided on the western side of Kingston Drive.

3 Kingston Drive - Cost Apportionment

- a) The provision of land for the road reserve and the construction of both carriageways detailed in (1) above to be at the subdividing owners cost.
- b) The provision of land for the road reserve between Clifton Close and Paris Road including construction of the 2 single carriageways shall constitute and be treated as a Shared Cost.
- c) Provision of the land required to widen Kingston Drive to 30 metres between Paris Road and Ditchingham Place to be excised from Crown Reserve 35061 currently vested in the Water Corporation of Western Australia shall be treated as a Shared Cost.
- d) Road construction works between Paris Road and Ditchingham Place consisting of the first two lanes divided by a median strip and other distributor road scheme works on a 30 metre wide road reserve, shall be treated as a Shared Cost and additional road works, if required, consisting of the 3rd and 4th lanes and other associated works shall be treated a Council Cost (Shire of Harvey).
- e) The land acquisition for the road reserve between Ditchingham Place and the Collie River consisting of the first two lanes divided by a median strip and other distributor road scheme works on a 30 metre wide road reserve, shall be treated as a Shared Cost and additional road works, if required, consisting of the 3rd and 4th lanes and other associated works shall be treated a Council Cost (Shire of Harvey).

4 Ditchingham Place

The final alignment for a distributor road linking Paris Road (near the Brunswick River Bridge) and Kingston Drive and a second segment linking Kingston Drive and the Australind Bypass Road, generally in the location of the existing Ditchingham Place road reserve, shall be determined by a structure plan as adopted by the Shire of Harvey and endorsed by the Commission. The western section, as depicted on the 'Scheme Map' and 'Scheme Area Map and Cost Appointment Details', shall be excluded from cost sharing. In relation to the balance of the road, the first road works, consisting of the first two lanes divided by a median strip and other distributor road scheme works on a 30 metre wide road reserve, shall be treated as a Shared Cost. Additional road works, if required, consisting of the 3rd and 4th lanes and other associated works shall be treated as a Council cost (Shire of Harvey). Any road closure/road rationalisation action shall be treated as a Shared Cost.

5 Eaton Drive

The construction of the first carriageway consisting of two lanes (unkerbed), dual use path on one side, grade separated pedestrian crossing and drainage shall be treated as Shared Cost. The construction of the second carriageway including the final stage of the road construction as required for district distributor roads shall be treated partly as a Shared Cost (in accordance with Schedule Five) and the balance as a Council Cost (Shire of Dardanup).

EAST AUSTRALIND (SHIRE OF HARVEY) / EATON (SHIRE OF DARDANUP) SCHEME AREA

SCHEDULE THREE

SCHEDULE OF LOT TITLES – NETT SUBDIVIDABLE AREAS AND SHARED COST APPORTIONMENT

East Australind Precinct (Shire of Harvey)

Owner	Lot No	Nett Subdividable Area (ha)	Percentage of Precinct (%)	Percentage of Whole Scheme Area (%)
Australian Vanguard Ltd	48	168.7334	37.007	22.827
G & J Sawyer	Pt 26	6.2130	1.363	0.841
R I E Partridge	27	6.1894	1.357	0.837
Australian Vanguard	Pt 28	10.5164	2.307	1.423
J & M Piggott (P17883)	Pt 1	3.2000	0.702	0.433
J & M Piggott	Pt 3	41.9000	9.190	5.668
J & M Piggott	Pt 43	16.6519	3.652	2.253
RP & MFW Gartrell	Pt 1	8.4000	1.842	1.136
B Bevan, J & E Bracey, K,T & G Coote, P Price, F Pike	Pt 1	155.5676	34.120	21.046
Riverland Management P/L	2	38.5746	8.460	5.218
Sub Total		455.9463 ha	100%	61.682%

Eaton Precinct (Shire of Dardanup)

Owner	Lot No	Nett Subdividable Area (ha)	Percentage of Precinct (%)	Percentage of Whole Scheme Area (%)
Ardross Estates S A P/L	14	73.9259	26.100	10.001
Ardross Estates S A P/L	Pt 13	82.6113	29.166	11.176
Parkridge Group P/L	3	59.7834	21.107	8.088
Parkridge Group P/L	4	0.3000	0.106	0.041
Parkridge Group P/L	Pt 2	14.0398	4.957	1.899
NTC P/L	150	2.3165	0.818	0.313
Parkridge Group P/L	Pt 1009	1.0361	0.366	0.140
Parkridge Group P/L	Pt 3	21.4600	7.577	2.903
Luca Investments P/L & Newstyle Construction P/L	1003	11.8400	4.180	1.602
Parkridge Group P/L	1004	7.8864	2.784	1.067
Churches of Christ Homes & Community Services P/L	1005	6.5571	2.315	0.887
Churches of Christ Homes & Community Services P/L	1007	1.4844	0.524	0.201
Sub Total		283.2409 ha	100%	38.318%
Grand Total		739.1872 ha		100%

EAST AUSTRALIND (SHIRE OF HARVEY) / EATON (SHIRE OF DARDANUP) SCHEME AREA

SCHEDULE FOUR

COLLIE RIVER BRIDGE – SCHEDULE OF LOT TITLES AND SHARED COSTS INCLUDING LAND AREAS AFFECTED BY WEIGHTING FACTOR OF 2

Owner	Lot No	Nett Subdividable Area (ha)	Percentage (%)	Land Area Affected by Weighting Factor of 2 (ha) <small>(East Australind District Shopping Centre, Mixed Business/Service Commercial and the Tavern/Fast Food Outlet development).</small>
East Australind (Shire of Harvey)				
Australian Vanguard Ltd	48	168.7334	22.827	
G & J Sawyer	Pt 26	6.2130	0.841	
R I E Partridge	27	6.1894	0.837	
Australian Vanguard	Pt 28	10.5164	1.423	
J & M Piggott (P17883)	Pt 1	3.2000	0.433	
J & M Piggott	Pt 3	41.9000	5.668	
J & M Piggott	Pt 43	16.6519	2.253	
RP & MFW Gartrell	Pt 1	8.4000	1.136	3.2
B Bevan, J & E Bracey, K,T & G Coote, P Price, F Pike	Pt 1	155.5676	21.046	14.9
Riverland Management P/L	2	38.5746	5.218	
Eaton (Shire of Dardanup)				
Ardross Estates S A P/L	14	73.9259	10.001	
Ardross Estates S A P/L	Pt 13	82.6113	11.176	
Parkridge Group P/L	3	59.7834	8.088	
Parkridge Group P/L	4	0.3000	0.041	
Parkridge Group P/L	Pt 2	14.0398	1.899	
NTC P/L	150	2.3165	0.313	
Parkridge Group P/L	Pt 1009	1.0361	0.140	
Parkridge Group P/L	Pt 3	21.4600	2.903	
Luca Investments P/L & Newstyle Construction P/L	1003	11.8400	1.602	
Parkridge Group P/L	1004	7.8864	1.067	
Churches of Christ Homes & Community Services P/L	1005	6.5571	0.887	
Churches of Christ Homes & Community Services P/L	1007	1.4844	0.201	
Total		739.1872 ha	100%	18.1 ha

Note: Weighting factor is to be determined by dividing the total bridge cost (reviewed annually) by the total net subdividable land to ascertain a value per square metre and the latter is multiplied by two. The balance of the cost of the bridge is to be paid by owners of the other titles on a proportionate basis. The owner's proportion to the balance of the Shared Cost is to be equivalent to the owner's net subdividable land area divided by the total net subdividable land area (excluding the abovementioned commercial areas).

EATON PRECINCT (SHIRE OF DARDANUP) SCHEME AREA

SCHEDULE FIVE

EATON DRIVE – SHARED COST APPORTIONMENT AND COUNCIL COSTS ASSOCIATED WITH THE CONSTRUCTION OF THE SECOND CARRIAGEWAY AND BALANCE OF WORKS – SCHEDULE OF LOT TITLES – NETT SUBDIVIDABLE AREAS AND PROPORTIONS.

Owner	Lot No	Nett Subdividable Area (ha)	Percentage of Shared Cost for first carriageway (%)	Percentage of Shared Cost for second carriageway (%)
Ardross Estates S A P/L	14	73.9259	26.100	19.732
Ardross Estates S A P/L	Pt 13	82.6113	29.166	22.049
Parkridge Group P/L	3	59.7834	21.107	15.957
Parkridge Group P/L	4	0.3000	0.106	0.080
Parkridge Group P/L	Pt 2	14.0398	4.957	3.747
NTC P/L	150	2.3165	0.818	0.619
Parkridge Group P/L	Pt 1009	1.0361	0.366	0.276
Parkridge Group P/L	Pt 3	21.4600	7.577	5.728
Luca Investments P/L & Newstyle Construction P/L	1003	11.8400	4.180	3.160
Parkridge Group P/L	1004	7.8864	2.784	2.105
Churches of Christ Homes & Community Services Inc.	1005	6.5571	2.315	1.750
Churches of Christ Homes & Community Services Inc.	1007	1.4844	0.524	0.396
Sub Total		283.2409 ha	100%	
Council (Shire of Dardanup)				24.400
Total				100%

Note: Costs will be calculated retrospectively and revised annually.

ADOPTION

Adopted by resolution of the Council of the Shire of Harvey at the Meeting of the Council held on the 24th day of February 1998.

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

Adopted by resolution of the council of the Shire of Dardanup at the Meeting of the Council held on the 15th day of May 1998.

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for final approval by resolution of the Shire of Harvey at the Ordinary Meeting of Council held on the 14th day of September 2004 and the Common Seal of the Municipality was, pursuant to that resolution, hereunto affixed in the presence of:

Shire President
Shire of Harvey

Chief Executive Officer
Shire of Harvey

Adopted for final approval by resolution of the Shire of Dardanup at the Ordinary Meeting of Council held on the 22nd day of March 2005 and the Common Seal of the Municipality was, pursuant to that resolution, hereunto affixed in the presence of:

Shire President
Shire of Dardanup

Chief Executive Officer
Shire of Dardanup

Recommended/Submitted for Final Approval:

Delegated under s.20 of the WAPC Act 1985

Date

Final Approval granted:

Minister for Planning and Infrastructure

Date