

CITY OF SUBIACO

SIGNS LOCAL LAW 2004

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Subiaco resolved to make the following local law on the 22nd June 2004.

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PART 1 - PRELIMINARY

1.1 Title

This local law may be referred to as the Signs Local Law 2004.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

1.3 Purpose

The purpose of this local law is to provide for the regulation, control and management of signs within the district.

1.4 Repeal

The City of Subiaco Local Laws Relating to Signs and Advertisements published in the Government Gazette on 14 September 1998 and as amended from time to time is repealed on the commencement date.

1.5 Transitional

A sign which:

- (a) was displayed prior to the commencement date; and
- (b) immediately prior to the commencement date was the subject of a valid licence issued under the local laws repealed by clause 1.4,

is deemed to be the subject of a valid licence issued under this local law on the same terms and conditions as the licence issued under the local laws repealed by clause 1.4, for so long as the sign is not changed, but otherwise the provisions of this local law shall apply to the sign.

1.6 Application

This local law applies throughout the district.

1.7 Definitions

In this local law, unless the context requires otherwise:

"Act" means the *Local Government Act 1995*;

"advertisement" has the meaning given to it in Schedule 1 of the Scheme;

"applicant" means a person who applies for a licence;

"application fee" means the application fee referred to in subclause 3.1(2)(d) and which relates to the lodgement, assessment and determination of an application for a licence, but does not include the licence fee;

"authorized person" means a person authorized by the City under section 9.10 of the Act to perform any of the functions of an authorized person under this local law;

"bill" means:

- (a) any written, printed or illustrated message on paper or a similar material;
- (b) commonly produced in volume for the either or both of the purposes of distribution to persons or for posting or attaching to any structure or thing; and
- (c) where the message advertises or promotes an event, person or thing,

which is not an exempted advertisement;

"City" means the City of Subiaco;

"Council" means the Council of the City;

"commencement date" means the day on which this local law comes into operation;

"display" in relation to a sign, includes the erection, placement, use and maintenance of the sign;

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"display" in relation to a bill, includes the posting, attachment, erection, placement, use and maintenance of the bill;

"district" means the district of the City;

"exempted advertisement" has the meaning given to it in clause 66 of the Scheme;

"land" includes buildings, parts of buildings and other structures and land covered with water;

"licence" means a licence issued under this local law;

"licensee" means the person to whom a licence is issued, transferred or deemed to be transferred and includes the holder of a licence deemed to be issued under this local law;

"licensed sign" means a sign which is the subject of a valid licence;

"local government property " means any thing:

- (a) which belongs to the City;
- (b) of which the City is the management body under the *Land Administration Act 1997*;
- (c) which is an otherwise unvested facility within section 3.53 of the Act;

and includes a thoroughfare;

"person" does not include the City;

"policy" includes a planning policy made under the Scheme;

"portable sign" means a free standing sign which may or may not be permanently attached to a structure or fixed to the ground, and includes a ground based sign, a sandwich board sign and an "A" frame sign;

"Scheme" means the City of Subiaco Town Planning Scheme No 4;

"Scheme Area" means the Scheme area referred to in clause 4 of the Scheme;

"sign" has the same meaning as advertisement;

"thoroughfare" has the meaning given to it in section 1.4 of the Act;

"vehicle" includes:

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden, driven or led,

but excludes:

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath; and
- (d) a pram, stroller or similar device.

PART 2 – SIGNS TO BE LICENSED AND EXCLUSIONS

2.1 Signs to be licensed

A person shall not display a sign on any land unless:

- (a) the sign is the subject of a valid licence; and
- (b) the sign is displayed in accordance with the licence and any terms and conditions set out in, or applying in respect of the licence.

2.2 Exclusions

- (1) Clause 2.1 does not apply to:
 - (a) a sign which is an exempted advertisement under the Scheme; or
 - (b) a sign which is or is to be displayed in the redevelopment area constituted under the *Subiaco Redevelopment Act 1994*, that would be an exempted advertisement under the Scheme if it was displayed in the Scheme Area.
- (2) Where a sign is the subject of a current development approval granted under the Scheme, then the grantee of the development approval is not required to make an application for a licence under clause 3.1, but clause 3.5 shall apply.

PART 3 - APPLICATION FOR LICENCE AND ISSUE OF LICENCE

3.1 Application for licence

- (1) Where a person is required under this local law to obtain or hold a licence to display a sign, that person shall apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law shall:

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- (a) be in the form of the First Schedule;
 - (b) be signed by the applicant and by the owner or occupier of the land where the sign is to be displayed;
 - (c) provide the information required by the form or by any other clause of this local law; and
 - (d) be forwarded to the City together with the application fee.
- (3) The City may refuse to consider or determine an application for a licence which is not in accordance with subclause (2), or any other clause relating to the requirements to be complied with when making an application for a licence.

3.2 Determination of application

- (1) The City may, in respect of an application for a licence:
 - (a) refuse to approve the application; or
 - (b) approve the application on such terms and conditions as it sees fit.
- (2) In determining any application for a licence, the City may have regard to:
 - (a) any policy of the City which applies to signs;
 - (b) the impact of the sign on the quality of the streetscape where it is to be displayed and more generally of the district;
 - (c) whether the size of the sign appropriately relates to the architectural style, design and size of a building on which the sign is to be displayed, and in measuring the size of a sign a polygon shall be taken immediately around the text, graphics or image of the sign and not the entire background, except where the finish or colour of the background differs substantially from the background against which the sign is to be displayed;
 - (d) whether the colour scheme and materials of the sign are compatible with the architectural style and design of a building on which the sign is to be displayed;
 - (e) whether the colour scheme and materials of the sign are compatible with the overall architectural style and design of the area or precinct in which the sign is to be displayed;

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- (f) how many signs are on the land where the sign will be displayed;
 - (g) whether the construction of the sign is sound;
 - (h) whether any insurance should be obtained in relation to the display of the sign; and
 - (i) the matters set out in subclause (3).
- (3) The City may refuse to approve an application for a licence, where:
- (a) the application has not been made in accordance with clause 3.1 or any other clause of this local law, relating to the requirements to be complied with when making an application for a licence;
 - (b) the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the licence is sought;
 - (c) the sign may obstruct the sight lines of a person driving or riding vehicle or a pedestrian;
 - (d) the sign may unreasonably distract persons driving or riding vehicles;
 - (e) the sign may detract from the quality of the streetscape or area where it is to be displayed;
 - (f) the size of the sign does not appropriately relate to the architectural style, design and size of a building on which the sign is to be displayed;
 - (g) the colour scheme and materials of the sign are not compatible with the architectural style and design of a building on which the sign is to be displayed;
 - (h) the colour scheme and materials of the sign are not compatible with the overall architectural style and design of the area or precinct in which the sign is to be displayed;
 - (i) the construction of the sign is not sound;
 - (j) the sign will be additional to other signs on the land where it will be displayed;
 - (k) in the opinion of the City, the proposed content of the sign may be considered offensive; or

- (l) there are other grounds on which the City considers the application should be refused.
- (4) If the City refuses to approve an application for a licence, it is to give written reasons for that refusal to the applicant.

3.3 Licence issue

- (1) Where the City approves an application for a licence, then the City shall issue to the applicant a licence in the form determined by the City.
- (2) A licence may include plans or other documents other than the form of licence.
- (3) A licence shall not be valid until such time as any public liability insurance policy, if required as a condition of the licence, has been put into effect and a certificate of currency covering the period of the licence has been lodged with the City.

3.4 Variation of sign licence

The City may vary the terms or conditions of a licence on application by a licensee, and the licensee shall comply with the terms and conditions as varied on and from the date of the City giving written notice of the variation to the licensee.

3.5 Deemed sign licence

- (1) Where a sign is the subject of a development approval granted under the Scheme, then:
 - (a) a licence to display the sign is deemed to have been issued under this local law to each of the grantee of the development approval and the current owner of the land where the sign is displayed:
 - (i) on the same conditions as those attaching to the development approval;
 - (ii) subject to a condition that the licence will be valid while the development approval remains valid; and
 - (iii) on the date of the notice of the grant of development approval; and
 - (b) the grantee of the development approval and the current owner of the land where the sign is displayed are each deemed to be a licensee.

- (2) A reference in this local law to:
 - (a) a licence shall include a reference to a deemed licence under subclause (1); and
 - (b) a licensee shall include a reference to a deemed licence under subclause (1).

3.6 Term and validity of licence

A licence remains valid until:

- (a) a public liability insurance policy, where required as a condition of the licence, lapses, is cancelled or is no longer in operation; or
- (b) the licence is cancelled by the City,

and the licensee, the owner or occupier of the land where the sign is displayed or any person displaying the sign, must immediately cease to display the sign and remove the sign from display.

3.7 Responsibilities of licensee

A licensee shall comply with the terms and conditions of the licence.

3.8 Cancellation of licence

- (1) The City may cancel a licence if:
 - (a) the licensee does not comply with a term or condition of the licence;
 - (b) the licensee does not comply with a provision of this local law;
 - (c) variations are made to the sign or to its content which have the effect that the sign is not that approved by the licence;
 - (d) the licensee is convicted of an offence against this local law;
 - (e) in the case of a licence deemed to be issued under clause 3.5(1), the licensee is convicted of an offence against the Scheme or the *Town Planning and Development Act 1928* in relation to the sign; or
 - (f) a licensed sign is so altered that it is determined by the City to be detrimental to the interests of the public, any adjacent property owner or occupier.

3.9 Transfer of valid licence

- (1) An application for the transfer of a valid licence is to:
 - (a) be in the form determined by the City;
 - (b) provide the information required by the form or by any other clause of this local law;
 - (c) be signed by the licensee and the proposed transferee of the licence; and
 - (d) be forwarded to the City together with any transfer fee imposed and determined by the City.
- (2) The City may refuse to consider or determine an application for the transfer of a licence, which is not in accordance with subclause (1).
- (3) The City may approve an application for the transfer of a licence, refuse to approve it or approve it subject to such terms and conditions as it sees fit, and if it is approved, the proposed transferee shall become the licensee from the date of the approval.
- (4) Where a licensed sign is attached to a building or land, and the licensee is:
 - (a) the registered proprietor or agent of the registered proprietor of that building or land; or
 - (b) a lessee of that building or land under a lease,

then respectively on the transfer of the building or land to a new registered proprietor or the transfer or assignment of the lease, the new registered proprietor or the new lessee becomes the licensee and the address for service of any notices shall be the address of the building or land, without any need for an application to be made to the City under subclause (1).

3.10 Rights of objection and appeal

When the City makes a decision as to whether it will:

- (a) grant a person a licence under this local law; or
- (b) vary, transfer or cancel a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

PART 4 – PORTABLE SIGNS

4.1 Portable Signs

- (1) A person shall not display a portable sign on local government property so that it obstructs or may obstruct a person using that local government property.
- (2) Where a portable sign is so displayed that it satisfies the requirements of an exempted advertisement under the Scheme, then it shall be deemed not to be an obstruction within subclause (1).

PART 5 – NO BILL POSTING

5.1 No bill posting

- (1) A person shall not display a bill on any land or on any thing on any land.
- (2) Where a person has contravened subclause (1), then in addition to that person, each of the following persons shall be deemed to have committed an offence against subclause (1):
 - (a) the owner or occupier of the land where the bill is displayed, except where that was not erected with the knowledge or consent of the owner or occupier as the case may be; and
 - (b) where the bill advertises or promotes an event, person or thing:
 - (i) the promoter (who will include any person named on the bill as the promoter or as a person authorizing the bill);
 - (ii) the person, if any, promoted by the bill; and
 - (iii) the owner or occupier of the land where the event, person or thing as advertised or promoted by the bill is to be held or appear, as the case may be.

PART 6 – NOTICES

6.1 Notice to repair, modify or remove sign

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- (1) Where a sign is not maintained in a good condition or is or becomes dilapidated, or in the City's opinion the content of the sign is offensive, the City may issue a notice to the:
 - (a) owner or occupier of the land where the sign is displayed;
 - (b) the grantee of any development approval issued for the sign; or
 - (c) the licensee of the sign,requiring that person to, as the City considers appropriate:
 - (d) repair or maintain the sign in the manner specified in the notice, or if not so specified, so that it is put into a good condition or so it is not dilapidated;
 - (e) modify the content of the sign as specified in the notice; or
 - (f) remove the sign from display,within such time as may be specified in the notice or if no time is specified within 14 days of the City giving the notice.
- (3) Without limiting any other provision of this local law, this clause applies to the signs referred to in clause 2.2.

6.2 Notice to rectify breach

Where a person breaches a term or condition of a licence or a provision of this local law, the City may give a notice to the person specifying the breach and requiring it to be rectified, and the person shall comply with the notice within the period indicated in the notice, or if no period is indicated, within 14 days of the City giving the notice to the person.

PART 7 – MISCELLANEOUS

7.1 Fees

All fees referred to in this local law shall be imposed and determined by the City under and in accordance with sections 6.16 to 6.19 of the Act.

7.2 Public liability insurance

- (1) Where, as a condition of a licence, the licensee is required to provide a public liability insurance policy, indemnifying the City against all actions, suits, claims, damages, losses and expenses made against or incurred by the City

arising from any activity, action or thing performed or erected under the licence, the licensee shall:

- (a) take out a public liability insurance policy in the name of the licensee and the City, for a minimum value of \$5,000,000 or such other amount as the City considers appropriate to the risk involved;
 - (b) keep that insurance policy current for the duration of the licence;
 - (c) include a clause in the policy which prevents the policy from being cancelled without the written consent of the City;
 - (d) include a clause in the policy which requires both the licensee and the insurance company to advise the City if the policy lapses, is cancelled or is no longer in operation; and
 - (e) on the request of an authorized person, provide for inspection of the policy and a certificate of currency for the required insurance policy.
- (2) A licensee who refuses or cannot provide a current certificate of insurance within 2 working days of a request under subclause (1)(e) commits an offence.

PART 8- OFFENCES AND PENALTIES

8.1 Offences

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who fails to comply with a notice given under this local law commits an offence.
- (3) A person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

8.2 Prescribed offences and modified penalties

- (1) An offence against a clause specified in the Second Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

- (2) The amount appearing in the final column of the Second Schedule directly opposite a prescribed offence described in that Schedule is the modified penalty for that offence.

8.3 Infringement notices and other notices

For the purposes of this local law:

- (a) the form of the infringement notice given under section 9.16(1) of the Act is that of Form 1 in the Third Schedule;
- (b) where a vehicle is involved in the commission of an offence, the form of the notice requiring an owner to identify the driver referred to in section 9.13 of the Act is that of Form 2 in the Third Schedule;
- (c) where a vehicle is involved in the commission of an offence, the form of the infringement notice given under section 9.16(1) of the Act is that of Form 3 in the Third Schedule; and
- (d) the form of the notice to withdraw an infringement notice referred to in section 9.20 of the Act is that of Form 4 in the Third Schedule.

8.4 Records to be kept

The City shall cause adequate records to be kept of all infringement notices given under section 9.16(1) of the Act and modified penalties received in relation to prescribed offences under this local law.

**FIRST SCHEDULE
CITY OF SUBIACO
SIGNS LOCAL LAW 2004**

APPLICATION FOR A SIGN LICENCE

PROPERTY DETAILS:

Lot No.	House/Street No.	Location No.	Diagram or Plan No.
Certificate of Title			Lot Area (m2)
Street Name			Suburb
Nearest Street Intersection			Assessment No. (property rate no)

OWNER DETAILS:

Name			
Address			Post Code
Phone (work)	(home)		Fax
Contact Person			
Signature			Date
Signature			Date

OCCUPIER DETAILS:

Name			
Address			Post Code
Phone (work)	(home)		Fax
Contact Person			
Signature			Date
Signature			Date

The signature of the landowner or occupier is required for all applications. This application will not proceed without that signature.

APPLICANT DETAILS:

City of Subiaco Signs Local Law 2004

Name

Address

Post Code

Phone (work)

(home)

Fax

Contact Person

Signature

Date

The decision letter will be sent to the applicant.

SIGN:

Type of Sign

Location

Position at location

Materials

Illumination – Internal/External

Wording/Illustration (Plan Design attached)

OFFICE USE ONLY

**Acceptance Officer's
Initials**

Date Received

Council Reference No

Application Fee

paid / unpaid *

**Checking
Inspector**

Permit/Licence No

Approval Date

** delete as appropriate*

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**SECOND SCHEDULE
CITY OF SUBIACO
SIGNS LOCAL LAW 2004
Prescribed Offences and Modified Penalties**

Item No	Clause No	Nature of Offence	Modified Penalty \$
1	2.1	Displaying a sign without a licence	100
2	3.7	Breach of conditions of licence	100
3	4.1(1)	Portable sign causing obstruction of local government property	100
4	5.1	Bill posting	100
6	6.1	Failure to comply with notice to repair, modify or remove sign	100
7	6.2	Failure to comply with notice to rectify breach	100
8		All other offences not specified	100

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**THIRD SCHEDULE
FORM 1
CITY OF SUBIACO
LOCAL GOVERNMENT ACT 1995
SIGNS LOCAL LAW 2004
INFRINGEMENT NOTICE**

Infringement Notice No

Date: (1)

To: (2)

of (3)

It is alleged that on (4) at (5) am/pm at (6)
you committed an offence against clause (7) of the City of
Subiaco Signs Local Law 2004 by (8)
for which the modified penalty payable is (9) \$.

If you do not wish to have a complaint of the above offence heard and determined by a court you may pay the modified penalty within 28 days after this notice is given to you, by posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Subiaco at PO Box 270, Rokeby Road, Subiaco 6904 or by delivering this form and paying the amount of the modified penalty to an authorized person at the offices of the City of Subiaco at 241 Rokeby Road, Subiaco.

Name of authorized person issuing notice:

Title of authorized person:

Signature of authorized person:

- (1) Insert date of infringement notice.
- (2) Insert name of alleged offender [or “owner of (vehicle identification)” if given with a notice under section 9.13 of the Act].
- (3) Insert address of alleged offender [not required if given with a notice under section 9.13 of the Act].
- (4) Insert date of alleged offence.
- (5) Insert time at which offence allegedly committed and indicate am or pm.
- (6) Insert place at which offence allegedly committed.
- (7) Insert number of clause of local law.
- (8) Insert description of offence.
- (9) Insert amount of modified penalty.

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**THIRD SCHEDULE
FORM 2
CITY OF SUBIACO
LOCAL GOVERNMENT ACT 1995
SIGNS LOCAL LAW 2004
NOTICE REQUIRING OWNER TO IDENTIFY DRIVER**

Date: (1)

To: (2)

of (3)

It is alleged that on (4) at (5) am/pm at (6)
your vehicle (7) was involved in the commission of an
offence against clause (8) of the City of Subiaco Signs Local Law 2004.
You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was
the driver or person in charge of the vehicle at the time when the offence is alleged to have been
committed. If you do not prove otherwise, you will be deemed to have committed the offence unless:

- (a) within 28 days after being given this notice:
 - (i) you inform the Chief Executive Officer, or an authorised person of the City of Subiaco, as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or
- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given to you or such further time as may be allowed.

Name of authorized person issuing notice:

Title of authorized person:

Signature of authorized person:

- (1) Insert date of notice.
- (2) Insert name of owner or "owner of (vehicle identification)".
- (3) Insert address of owner [not required if owner not named].
- (4) Insert date of alleged offence.
- (5) Insert time at which offence allegedly committed and indicate am or pm.
- (6) Insert place at which offence allegedly committed.
- (7) Insert vehicle registration number and description.
- (8) Insert number of clause of local law.

City of Subiaco Signs Local Law 2004

**THIRD SCHEDULE
FORM 3
CITY OF SUBIACO
LOCAL GOVERNMENT ACT 1995
SIGNS LOCAL LAW 2004
INFRINGEMENT NOTICE**

Infringement Notice No

Date: (1)

To: (2)

of (3)

It is alleged that on (4) at (5) am/pm at (6)
your vehicle (7) was involved in the commission of an offence against
clause (8) of the City of Subiaco Signs Local Law 2004 by (9)
for which the modified penalty payable is (10) \$.

If you do not wish to have a complaint of the above offence heard and determined by a court you may pay the modified penalty within 28 days after this notice is given to you. Unless within 28 days after the giving of this notice to you –

- (a) the modified penalty is paid; or
- (b) you:
 - (i) inform the Chief Executive Officer or an authorized person of the City of Subiaco as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
 - (ii) satisfy the Chief Executive Officer of the City of Subiaco that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,

you will be deemed to have committed the above offence and court proceedings may be instituted against you.

Payment may be made either by posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Subiaco at at PO Box 270, Rokeby Road, Subiaco 6904 or by delivering this form and paying the amount of the modified penalty to an authorized person at the offices of the City of Subiaco at 241 Rokeby Road, Subiaco.

Name of authorized person issuing notice:

Title of authorized person:

Signature of authorized person:

- (1) Insert date of infringement notice.
- (2) Insert name of alleged offender [or “owner of (vehicle identification)”].
- (3) Insert address of owner (may be omitted).

City of Subiaco Signs Local Law 2004

- (4) Insert date of alleged offence.
- (5) Insert time at which offence allegedly committed and indicate am or pm.
- (6) Insert place at which offence allegedly committed.
- (7) Insert vehicle registration number and description.
- (8) Insert number of clause of local law.
- (9) Insert description of offence.
- (10) Insert amount of modified penalty.

City of Subiaco Signs Local Law 2004

**THIRD SCHEDULE
FORM 4
CITY OF SUBIACO
LOCAL GOVERNMENT ACT 1995
SIGNS LOCAL LAW 2004
NOTICE OF WITHDRAWAL**

Date: (1)

To: (2)

of (3)

Infringement Notice No (4) dated (5) has been withdrawn.
The modified penalty of (6) \$

- * has been paid and a refund is enclosed
- * has not been paid and should not be paid.

* Delete as appropriate

Name of authorized person issuing notice:

Title of authorized person:

Signature of authorized person:

- (1) Insert date of notice.
- (2) Insert name of alleged offender to whom infringement notice has been given.
- (3) Insert address of alleged offender.
- (4) Insert infringement notice number.
- (5) Insert date of infringement notice.
- (6) Insert amount of modified penalty.

City of Subiaco Signs Local Law 2004

The Common Seal of the City of Subiaco
was affixed by authority of a resolution
of the Council made on 22 June 2004
in the presence of:

A V Costa JP
Mayor

C Burton
Chief Executive Officer