

QUEENSLAND INTERNATIONAL TOURIST CENTRE AGREEMENT ACT REPEAL ACT

No. 66 of 1989

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Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 66 of 1989

An Act to repeal the Queensland International Tourist Centre Agreement Act 1978, to make provision for the future use of the land the subject of that Act and for related purposes

[ASSENTED TO 14TH JUNE, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Queensland International Tourist Centre Agreement Act Repeal Act 1989*.

2. Commencement. (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act or such of them as are specified shall commence on a day appointed by Proclamation.

3. Interpretation. In this Act except where a contrary intention appears—

“Director of National Parks” means the Director of National Parks and Wildlife appointed within the meaning of the *National Parks and Wildlife Act 1975-1984*;

“Livingstone Shire Council” means the Council for the Shire of Livingstone constituted under and in accordance with the *Local Government Act 1936-1988*;

“Minister” means the Premier of Queensland or such other Minister from time to time being charged with the administration of this Act: the term includes any Minister performing temporarily the duties of the Minister administering this Act;

“Registrar of Titles” means the Registrar appointed within the meaning of the *Real Property Act 1861-1988*;

“Surveyor-General” means the Surveyor-General appointed within the meaning of the *Surveyors Act 1977-1987*;

“the Act” means the *Queensland International Tourist Centre Agreement Act 1978*;

“the Agreement” means the Agreement (as subsequently amended) between the State of Queensland and Iwasaki Sangyo Co. (Aust.) Pty. Ltd. the execution of which was authorized by the *Queensland International Tourist Centre Agreement Act 1978*;

“the Commissioner” means the Commissioner of Water Resources appointed within the meaning of the *Water Resources Administration Act 1978-1984*;

“the Company” means Iwasaki Sangyo Co. (Aust.) Pty. Ltd. a company duly incorporated in the State of Queensland and having its registered office at Farnborough Road, via Yeppoon 4703;

“Town Plan” means the Town Planning Scheme for the Shire of Livingstone prepared in accordance with the *Local Government Act 1936-1988*;

“well” includes an artesian or sub-artesian well or bore whether licensed under the *Water Act 1926-1987* or not.

PART II—REPEAL OF ACT AND VALIDATION OF USES

4. Repeal of the Act. (1) The *Queensland International Tourist Centre Agreement Act 1978* is repealed.

(2) As from the commencement of this section the Agreement is terminated and all rights, duties and obligations of the State of Queensland under the Act and the Agreement, except to the extent specified in this Act, are hereby terminated.

(3) No action or claim whether for damages or compensation for loss or injury or otherwise may be brought against the State of Queensland or any person or body as a result of the repeal of the Act or the termination of the Agreement.

(4) The Registrar of Titles shall take such action as may be necessary to cancel and remove from the instrument of title and copy of the instrument of title held in his office any memorial endorsed thereon in accordance with the Act in relation to the land identified in Schedule I as held in fee simple by the Company.

5. Validation of existing use of land. Notwithstanding any Act or law to the contrary, it is hereby declared that the use to which any land identified in Schedule I as held in fee simple by the Company or any building, works or structure thereon and any development or improvement thereto was put immediately prior to the commencement of this Act, is, and shall remain, a lawful use and shall be deemed a lawful use, whether conforming or non conforming, for the purposes of the *Local Government Act 1936-1988* or the Town Plan.

6. Zoning of land. (1) Notwithstanding any Act or law to the contrary, it is hereby declared that, subject to section 5 and this section, upon the commencement of this section, all land identified in Schedule I as held in fee simple by the Company, save the land identified in Schedules II and III, shall be deemed to come within and be subject to the Rural “A” Zone of the Town Plan.

(2) Notwithstanding any Act or law to the contrary, it is hereby declared that, subject to section 5 and this section, upon the commencement of this section all land identified in Schedule II shall be deemed to come within and be subject to the Special Facilities Zone of the Town Plan.

(3) Within six months after the commencement of this section the Company may make application to the Minister to have assigned to all

or part of the land identified in Schedule II designated purposes in accordance with the Town Plan which shall be—

- (a) purposes for which buildings or other structures may be erected or used or for which land may be used without consent of the Livingstone Shire Council;
- or
- (b) purposes for which buildings or other structures may be erected or used or for which land may be used with consent of the Livingstone Shire Council,

such purposes being in accordance with an existing use validated under section 5.

(4) Upon an application under subsection (3) the Minister may—

- (a) cause such examinations and investigations to be undertaken and such reports to be prepared as he considers necessary or appropriate;
- (b) receive from the Company such information as the Minister requires,

and may make a recommendation to the Governor in Council.

(5) The Governor in Council may, by Order in Council—

- (a) approve the application;
- (b) refuse the application;
- (c) approve the application subject to such modifications and alterations as specified in the Order.

(6) After the expiry of six months from the commencement of this section, all land identified in Schedule II which has not been—

- (a) the subject of designated purposes assigned in accordance with this section;
- or
- (b) the subject of an application in accordance with subsection (3),

shall be deemed to come within and be subject to the Rural "A" Zone of the Town Plan.

(7) Notwithstanding any Act or law to the contrary, it is hereby declared that, subject to section 5 and this section, upon the commencement of this section all land identified in Schedule III shall be deemed to come within and be subject to the Special Facilities (Beach Protection) Zone of the Town Plan being a Special Facilities Zone with a designated purpose of beach protection in accordance with the Town Plan.

PART III—CONSTRUCTION OF ROAD

7. Construction of road. (1) Within three months after the commencement of this section the Company shall, with the agreement of the Livingstone Shire Council first had and obtained, survey, at the

expense of the Company, the route for a road from the Yeppoon to Byfield Declared Road to Landing Reserve R11 Parish of Woodlands County of Palmerston at Fishing Creek.

(2) Within twelve months after the commencement of this section the Company shall construct, at the Company's expense, a road at a standard specified by the Livingstone Shire Council along the route determined in accordance with subsection (1).

(3) Upon certification of the completion of the road, as provided for in subsections (1) and (2), by the Livingstone Shire Council, the dedicated road to Landing Reserve R11 Parish of Woodlands County of Palmerston at Fishing Creek, as identified in Schedule I, shall be permanently closed and thereupon shall be held by the Company in fee simple and the road, as provided for in subsections (1) and (2), shall be Crown land and deemed to be dedicated as a road for public use under and for the purposes of the *Land Act 1962-1988*.

(4) The Registrar of Titles and the Surveyor-General shall make all recordings, entries or endorsements in the appropriate registers or records as they think necessary to record the dedication or closure of roads in accordance with this section and shall execute all such other acts, matters and things as may be necessary or proper to enable the delivery up of any grant or grants, certificate or certificates of title for land and the issue of a new grant or grants, certificate or certificates of title to that land.

8. Limitation on dealing with land. Until such time as the road specified in section 7 is surveyed, constructed and dedicated by the Company under section 7 or by the Livingstone Shire Council under sections 9 to 11, the land identified in Schedule I as held in fee simple by the Company shall not be the subject of any dealing permitted under the *Real Property Act 1861-1988*, the *Real Property Act 1877-1986* or the *Property Law Act 1974-1986*.

9. Failure to construct road. (1) Should the Company fail to survey, construct and dedicate the road as provided for in section 7, the Livingstone Shire Council, notwithstanding the provisions of any other Act, is hereby authorized to take all necessary action to survey, construct and dedicate a road between the Yeppoon to Byfield Declared Road and Landing Reserve R11 Parish of Woodlands County of Palmerston at Fishing Creek.

(2) All costs and expenses incurred and certified by the Livingstone Shire Council to have been incurred in surveying, constructing and dedicating the road in accordance with subsection (1) shall be a debt due and owing by the Company to the Livingstone Shire Council and may be registered as a debt in any court in Queensland and recovered in any manner prescribed for the recovery of debts in that court.

(3) Notwithstanding the provisions of subsection (2), such debt, when certified to the Registrar of Titles by the Livingstone Shire Council, shall constitute a charge upon the land identified in Schedule I as held

in fee simple by the Company and shall be registered as such upon the title to such land by the Registrar of Titles and shall not be discharged from the title to such land until the Registrar of Titles has received from the Livingstone Shire Council a certificate to the effect that such debt has been discharged, and, until such debt is discharged, such land shall not be the subject of any dealing.

(4) Upon completion of the road in accordance with this section and payment by the Company of any costs and expenses, the dedicated road to Landing Reserve R11 Parish of Woodlands County of Palmerston at Fishing Creek as identified in Schedule I shall be permanently closed and thereupon shall be held by the Company in fee simple and the road, as provided for in subsection (1), shall be Crown land and deemed to be dedicated as a road for public use under and for the purposes of the *Land Act 1962-1988*.

(5) The Registrar of Titles and the Surveyor-General shall make all recordings, entries or endorsements in the appropriate registers or records as they think necessary to record the dedication or closure of the road in accordance with this section and shall execute all such other acts, matters and things as may be necessary or proper to enable the delivery up of any grant or grants, certificate or certificates of title for land and the issue of a new grant or grants, certificate or certificates of title to that land.

10. Powers of entry, etc. (1) For the purposes of section 9 any member, officer, employee, contractor or agent of the Livingstone Shire Council, or any person authorized by the Livingstone Shire Council in that behalf, may—

- (a) enter upon any land identified in Schedule I as held in fee simple by the Company for the purpose of making any inspection, valuation, survey or taking levels;
- (b) affix or set up thereon trigonometrical stations, survey pegs, marks, or poles, and from time to time alter, remove, inspect, reinstate and repair the same;
- (c) dig and bore into the land so as to ascertain the nature of the soil, and set out the lines of any works thereon;
- (d) do all things necessary for the purposes aforesaid.

(2) The power to enter upon any land includes power to—

- (a) re-enter from time to time;
- (b) remain upon that land for such time as is necessary to achieve the purpose of the entry;
- (c) take such assistants, vehicles, materials, equipment or things as are necessary to achieve the purpose of the entry.

(3) Save to the extent it is otherwise prescribed by this subsection, not less than seven days' notice in writing shall be given to the Company of the intention to enter the land under subsection (1) and the authority under which the person entering claims to enter or has entered shall, if required by the Company, be produced and shown.

Where entry upon land is proposed for the purpose only of making an inspection or a valuation thereof, notice as prescribed by this subsection need not be given.

(4) Every person who—

(a) without due authority, destroys, mutilates, defaces, takes away, or alters the position of any trigonometrical station, survey peg, mark, or pole fixed or set up by any person under the authority of this section;

or

(b) wilfully obstructs or attempts to obstruct any person acting under the authority of this section,

commits an offence against this Act.

Penalty: 40 penalty units.

(5) The Livingstone Shire Council or any member, officer, employee, contractor or agent thereof or any person authorized by the Livingstone Shire Council in that behalf shall not be liable for any compensation for any damage (if any) done to the land identified in Schedule I as held in fee simple by the Company by reason of the exercise of any power conferred by this section or section 9 or 11.

11. Temporary occupation of land. (1) The Livingstone Shire Council or any member, officer, employee, contractor, agent or person authorized thereby may, for the purposes of section 9, temporarily occupy and use any land identified in Schedule I as held in fee simple by the Company for the purpose of constructing, maintaining or repairing any works referred to in section 9, and may—

(a) take therefrom stone, gravel, sand, earth, and other material;

(b) deposit thereon any material;

(c) form and use temporary roads thereon;

(d) manufacture bricks or other materials thereon;

(e) erect workshops, sheds, and other buildings of a temporary nature thereon.

(2) The Livingstone Shire Council or any member, officer, employee, contractor, agent or person authorized thereby or the person having the charge of the works shall, before occupying or using any land under subsection (1), and except in the case of accident requiring immediate repair, give to the Company not less than seven days' notice in writing, and shall state in such notice the use proposed to be made of the land and an approximate period during which such use is expected to continue.

PART IV—ENVIRONMENTAL PARKS

12. Termination of Special Leases. (1) Special Leases 43968 and 43969 granted to the Company under the provisions of the *Land Act 1962-1988* are hereby terminated and the land subject to those Special

Leases shall be Crown land for the purposes of the *Land Act 1962-1988* and all improvements on such land including any building, structure, road construction or other construction shall be deemed to be the property of the Crown.

(2) No action or claim, whether for damages or compensation for loss or injury or otherwise, shall be brought in any Court of law against the State of Queensland or any person or body in relation to the termination of the Special Leases or the vesting of any improvements on the land, the subject of those leases, in the Crown in accordance with this section.

13. Termination of Esplanade. All that land shown as Esplanade adjacent to Lot 16 Parish of Woodlands County of Palmerston on Surveyed Plan Catalogue No. Ps 139 hereby ceases to be a road for the purposes of the *Land Act 1962-1988* and shall be deemed to be Crown land.

14. Creation of environmental park. (1) The following land, identified in Schedule IV, is reserved as an environmental park under and for the purposes of the *Land Act 1962-1988*—

- (a) Lot 16 Parish of Woodlands County of Palmerston on Surveyed Plan Catalogue No. Ps 139 together with the land deemed Crown land under section 13;
- (b) Lot 17 Parish of Woodlands County of Palmerston on Surveyed Plan Catalogue No. Ps 139.

(2) Upon reservation as environmental parks under subsection (1), the Director of National Parks shall become the trustee of the environmental parks and shall have and may exercise all powers and responsibilities as a trustee of an environmental park under and for the purposes of the *Land Act 1962-1988*.

(3) The reservation as environmental parks under this section shall not subject the Company to any liability under the *Land Act 1962-1988* in respect of any action done or omitted to be done in relation to the land comprising such environmental parks prior to the commencement of this Act.

15. Access to environmental park. (1) Notwithstanding any Act or law to the contrary, the Company shall allow and permit the Director of National Parks, his agents and employees and any contractor to the Director, his agents or employees, free and unimpeded access, together with such machinery, vehicles or goods as the Director authorizes, to the land comprising an environmental park in accordance with section 14 by means of roads which may have been or may be constructed on land owned by the Company, whether or not the roads are or have been dedicated for the use of the public.

(2) Any person who interferes with the exercise of the rights set out in subsection (1) commits an offence against this Act.

Penalty: in the case of an individual—100 penalty units;
in the case of a corporation—500 penalty units for each
day the offence continues.

PART V—SUPPLY OF WATER

16. Operation of wells. (1) The Company shall supply to the Commissioner, at an address nominated by the Commissioner, the following information:—

- (a) the quantity of water obtained from any well, spring or dam situated in or on the land identified in Schedule I as held in fee simple by the Company;
- (b) the level of water existing in any well, spring or dam situated in or on the land so identified in Schedule I for the purpose of monitoring aquifer performance;
- (c) a chemical and microbiological analysis of the water from any well, spring or dam situated in or on the land so identified in Schedule I.

(2) The information required by subsection (1) shall be supplied by the Company at such intervals and within such periods as may be specified in writing to the Company by the Commissioner.

(3) Should the Company fail to comply with the requirements of subsections (1) and (2) the Commissioner is hereby authorized to take all necessary action to obtain such information.

(4) All costs and expenses incurred and certified by the Commissioner to have been incurred in obtaining such information shall be a debt due and owing by the Company to the Commissioner and may be registered as a debt in any court in Queensland and recovered in any manner prescribed for the recovery of debts in that court.

(5) For the purposes of this section the Commissioner and any officer, employee, contractor or agent is hereby authorized to enter and re-enter any land so identified in Schedule I and do all such things as are necessary to fulfil the purposes of this section.

17. Duty to supply water. If, in the opinion of the Commissioner, any action by the Company in, on, over or under the land identified in Schedule I as held in fee simple by the Company causes a reduction—

- (a) in the supply of groundwater to the owner of any existing well, spring or dam situated on land outside the land identified in Schedule I as held in fee simple by the Company;
or
- (b) in the quality of the water in the well, spring or dam described in paragraph (a),

the Company shall, at its expense and within such time as the Commissioner may specify, provide the owner with a supply of water no less in quantity, discharge rate and quality than the supply of water

which would, in the Commissioner's opinion, have been available if the action by the Company had not occurred.

Penalty—500 penalty units for each day the offence continues.

PART VI—MISCELLANEOUS

18. Operation of Acts. It is hereby expressly declared that as from the commencement of this section the following Acts shall apply to the land identified in Schedule I as held in fee simple by the Company:—

Beach Protection Act 1968-1986

Canals Act 1958-1987

Coal Mining Act 1925-1981

Local Government Act 1936-1988

Mining Act 1968-1986

Petroleum Act 1923-1988

Water Act 1926-1987

19. Offences generally. (1) Any person who contravenes or fails to comply with any provision of this Act commits an offence against this Act, and, except where a specific penalty is otherwise provided for that offence, is liable to a penalty of 200 penalty units.

(2) Without derogation from any other provision of this Act any person who, after being convicted of an offence against this Act, continues in the contravention or failure to comply for which he has been so convicted commits an offence which shall be deemed to be a continuing offence and, except where a specific penalty is prescribed, shall be liable to a penalty of 50 penalty units for each day during which such offence continues.

(3) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886-1988*.

(4) Proceedings for an offence against this Act shall be instituted by a person authorized in writing by the Minister to institute the proceedings in a particular case.

20. Evidentiary aids. In any proceedings under or for the purposes of this Act—

(a) it shall not be necessary to prove—

(i) the signature of the Minister;

(ii) the authority of any person to commence the proceedings;

(b) any allegation or averment in any complaint that—

(i) any place is within or without the land specified in Schedules I to IV;

(ii) any use of any land, building or structure is or is not authorized under this Act,

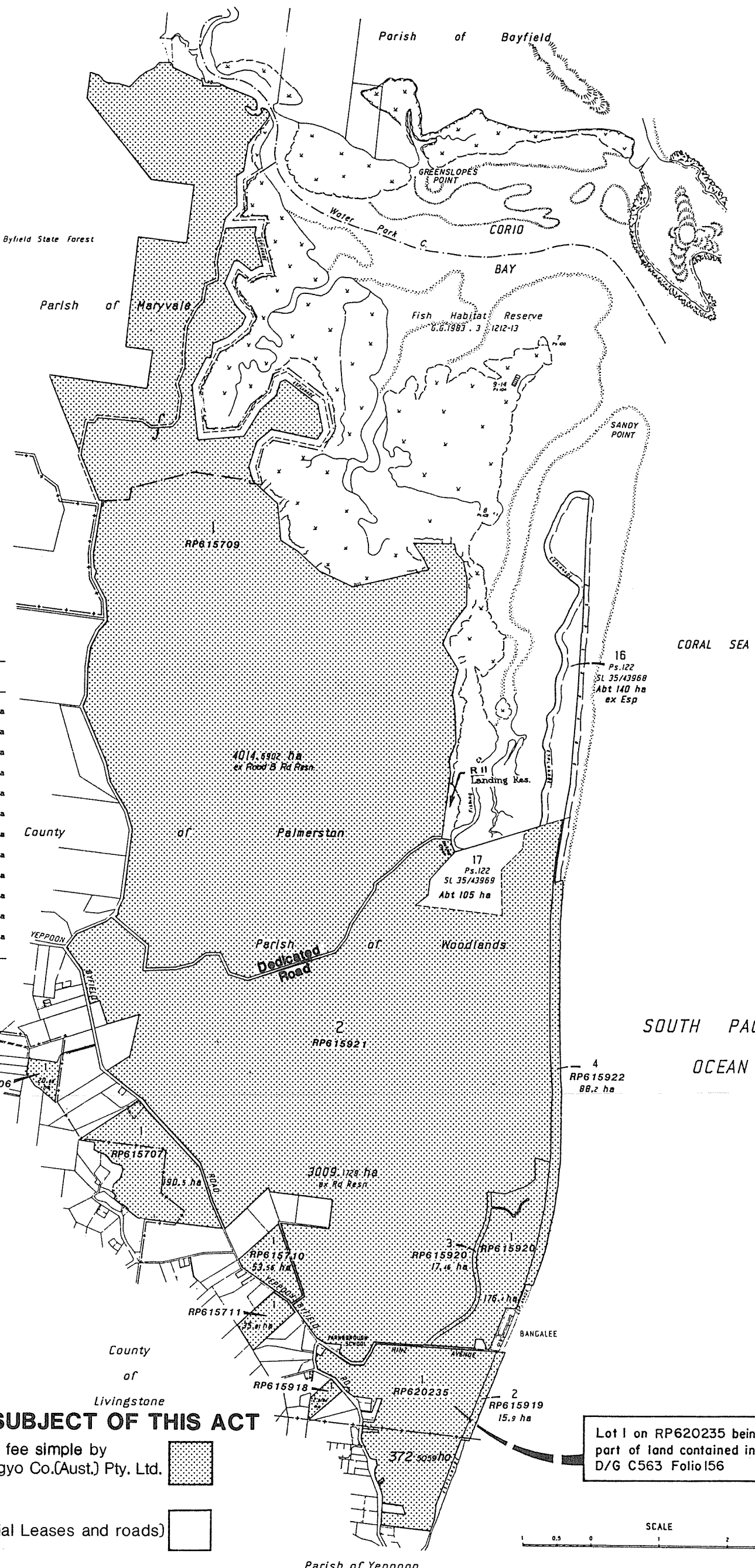
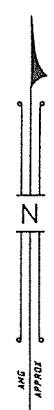
shall be *prima facie* evidence of the fact thereby alleged or averred and, in the absence of evidence to the contrary, shall be conclusive evidence of that fact.

21. Regulations. The Governor in Council may, from time to time, make regulations not inconsistent with this Act providing for all or any purposes whether general or to more particular cases that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

22. Orders in Council. (1) The Governor in Council may from time to time make all such Orders in Council as he thinks fit for the further or more effectually or particularly carrying out the objects and purposes of this Act and for curing irregularities.

(2) Section 28A of the *Acts Interpretation Act 1954-1988* shall apply with respect to Orders in Council made under this section and, for the purposes of such application, that section shall be read and construed as if references to regulations were references to Orders in Council made under this section.


SCHEDULE I
 AREA THE SUBJECT OF THIS ACT




TENURE SCHEDULE

LOT	PLAN NO.	C/T	AREA
1	RP615709	C536 FOL.14	4014.6902 ha
2	RP615921	C536 FOL.10	3009.1729 ha
1	RP615706	C536 FOL.6	20.69 ha
1	RP615707	C536 FOL.15	190.5 ha
1	RP615711	C536 FOL.9	35.81 ha
1	RP615918	C536 FOL.13	12.8184 ha
1	RP615710	C536 FOL.12	53.56 ha
1	RP620235	C563 FOL.156	372.5059 ha
4	RP615922	C536 FOL.11	88.2 ha
2	RP615919	C536 FOL.5	15.9 ha
1	RP615920	C536 FOL.7	176.4 ha
3	RP615920	C536 FOL.8	17.46 ha

AREA THE SUBJECT OF THIS ACT

Land held in fee simple by
 Iwasaki Sangyo Co.(Aust.) Pty. Ltd. 

Other (Special Leases and roads) 

Lot 1 on RP620235 being part of land contained in D/G C563 Folio156

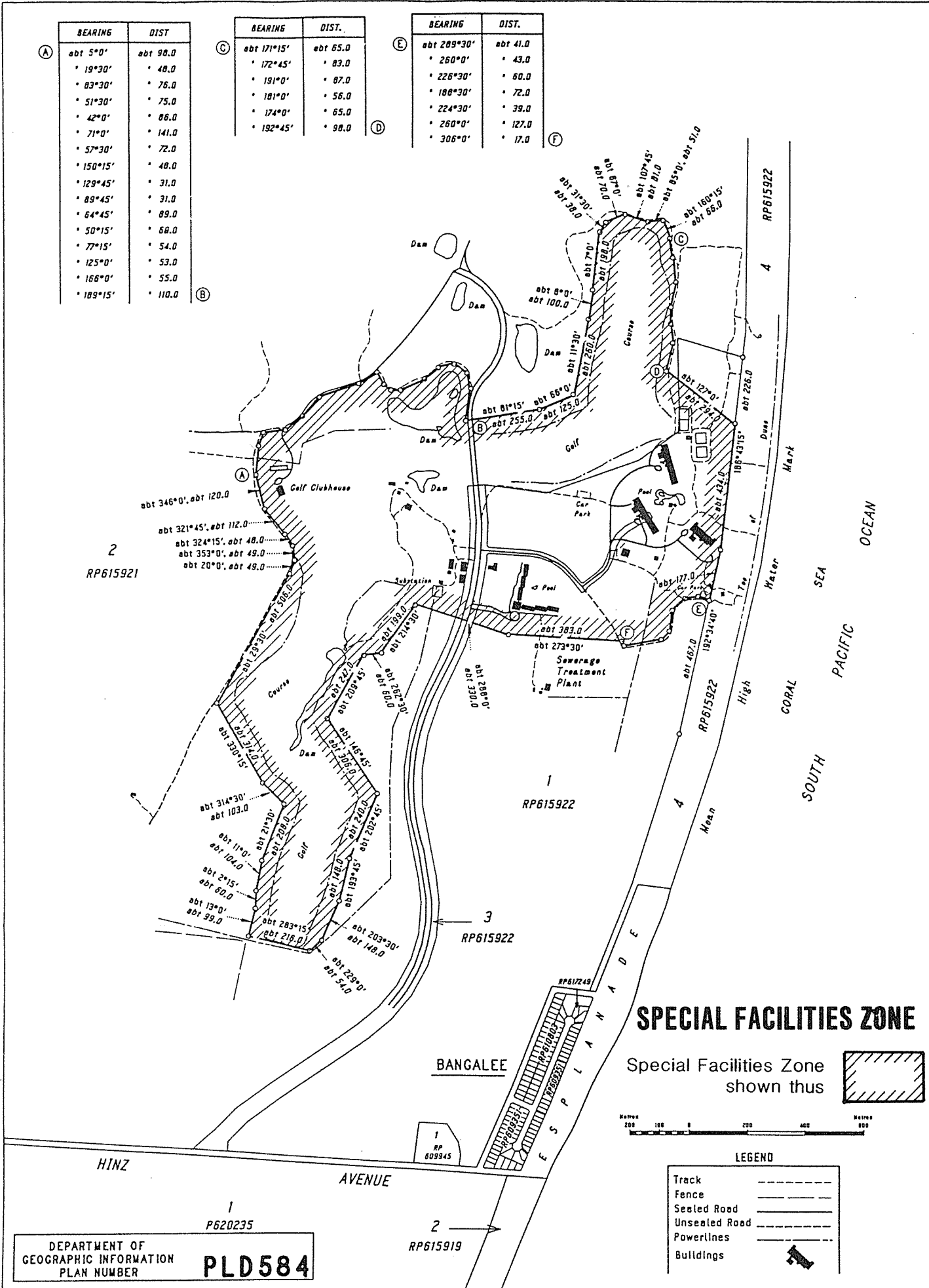


SCHEDULE II
SPECIAL FACILITIES ZONE OF THE TOWN PLANNING SCHEME FOR
THE SHIRE OF LIVINGSTONE

BEARING	DIST
abt 5°0'	abt 98.0
" 19°30'	" 48.0
" 83°30'	" 76.0
" 51°30'	" 75.0
" 42°0'	" 86.0
" 71°0'	" 141.0
" 57°30'	" 72.0
" 150°15'	" 48.0
" 129°45'	" 31.0
" 89°45'	" 31.0
" 64°45'	" 89.0
" 50°15'	" 68.0
" 77°15'	" 54.0
" 125°0'	" 53.0
" 166°0'	" 55.0
" 189°15'	" 110.0

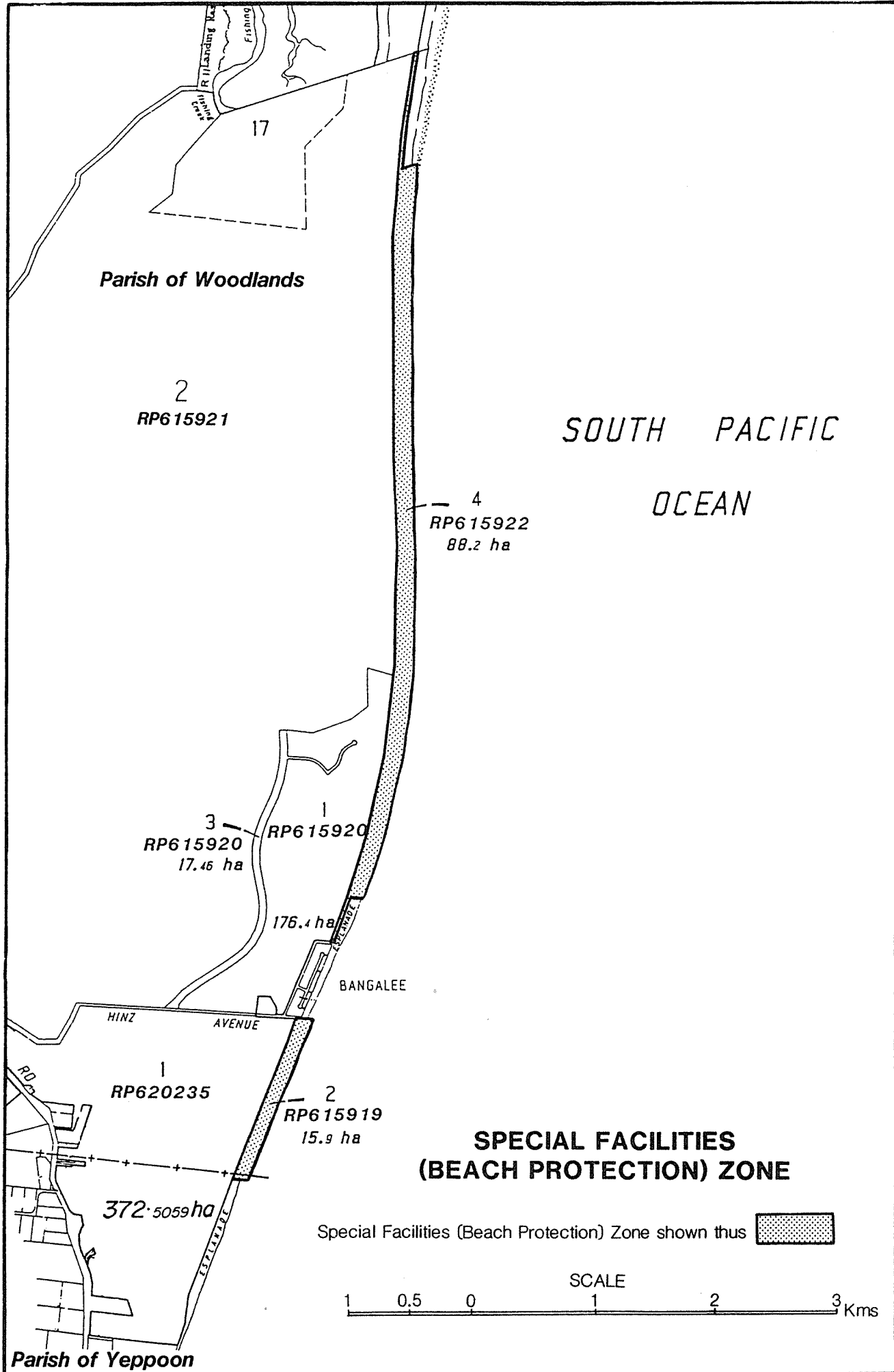
BEARING	DIST.
abt 171°15'	abt 65.0
" 172°45'	" 83.0
" 191°0'	" 87.0
" 181°0'	" 56.0
" 174°0'	" 65.0
" 192°45'	" 98.0

BEARING	DIST.
abt 289°30'	abt 41.0
" 260°0'	" 43.0
" 226°30'	" 60.0
" 188°30'	" 72.0
" 224°30'	" 39.0
" 260°0'	" 127.0
" 306°0'	" 17.0



SCHEDULE III

SPECIAL FACILITIES (BEACH PROTECTION) ZONE OF THE TOWN
PLANNING SCHEME FOR THE SHIRE OF LIVINGSTONE



SCHEDULE IV
ENVIRONMENTAL PARKS

