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TOWN PLANNING AND DEVELOPMENT ACT 1928

CITY OF PERTH

**TOWN PLANNING
SCHEME No. 2**

TOWN PLANNING AND DEVELOPMENT ACT 1928
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME
City of Perth
City Planning Scheme No. 2

Ref: 853/2/10/26

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 that the Hon. Minister for Planning and Infrastructure approved the City of Perth Town Planning Scheme No. 2 on 9 December 2003, the Scheme Text of which is published as a Schedule annexed hereto.

Dr. P. NATTRASS, Lord Mayor.
F. R. EDWARDS, Chief Executive Officer.

Schedule

CITY OF PERTH

CITY PLANNING SCHEME No. 2**PART 1—INTRODUCTION****1. Title**

This town planning scheme may be referred to as the City of Perth City Planning Scheme No. 2.

2. Commencement

This Scheme commences on the gazettal date.

NOTE:

The "gazettal date" is defined in Schedule 4.

3. Scheme documents

(1) This Scheme comprises the following documents—

- (a) the Scheme text;
- (b) the Scheme map;
- (c) the building heights plan; and
- (d) the plot ratio plan.

(2) Documents made and amended pursuant to the Scheme include—

- (a) each precinct plan;
- (b) each planning policy;
- (c) each Council register; and
- (d) the functional road hierarchy map.

NOTE:

1. The "Scheme text", "precinct plans", "planning policy", "Council register", "Scheme map" and "functional road hierarchy map" are defined in Schedule 4.

2. The amendment procedures applying to precinct plans, planning policies, Council registers and the functional road hierarchy map are set out in clauses 56 and 57.

4. Scheme area

This Scheme applies to the Scheme area which covers all the municipal district of the City apart from the area, illustrated on the Scheme map, comprising the land that is in the redevelopment area for the purposes of the *East Perth Redevelopment Act 1991*.

NOTE:

Parts of the Scheme area are also subject to other planning laws such as the Metropolitan Region Scheme (see clause 7) and minor town planning schemes (see clause 8).

5. Responsible authority

The authority responsible for administering this Scheme is the Council.

NOTE:

The "Council" is defined in Schedule 4.

6. Objectives and intentions

(1) The Council has prepared this Scheme for the purpose of controlling and guiding development and growth in a responsible manner and which can initiate, accommodate and respond to change.

(2) The overall goal of this Scheme is to ensure that the City of Perth and its environs will be widely recognised as a viable world class city providing a high level of services and amenities in a friendly and accountable manner.

(3) The general objectives of this Scheme are—

- (a) to recognise and reinforce the role of Perth as the capital of Western Australia and the administrative, financial and political centre of the State;
- (b) to cater for the diversity of demands, interests and lifestyles by facilitating and encouraging the provision of a wide range of choices in housing, business, employment, education, leisure, transport and access opportunities;
- (c) to protect and enhance the health, safety and general welfare of the City's inhabitants and the social, physical and cultural environment of the City;
- (d) to ensure that the use and development of land is managed in an effective and efficient manner within a flexible framework which—
 - (i) recognises the individual character and needs of localities within the Scheme area;
 - (ii) can respond readily to change; and
 - (iii) is consistent with the Metropolitan Region Scheme and wider regional planning strategies and objectives;

- (e) to promote the development of a sense of local community and recognise the right of the community to participate in the evolution of localities;
- (f) to promote and safeguard the economic well-being and functions of the City;
- (g) to co-ordinate and ensure that development is carried out in an efficient and environmentally responsible manner which—
 - (i) makes optimum use of the City's growing infrastructure and resources;
 - (ii) promotes an energy efficient environment; and
 - (iii) respects the natural environment; and
- (h) to promote and safeguard the cultural heritage of the City by—
 - (i) identifying, conserving and enhancing those places which are of significance to Perth's cultural heritage;
 - (ii) encouraging development that is in harmony with the cultural heritage value of an area; and
 - (iii) promoting public awareness of cultural heritage generally.

7. Relationship with other laws

- (1) This Scheme is complementary to, and not a substitute for, the Metropolitan Region Scheme.
- (2) Where a provision of this Scheme is inconsistent with a provision of a local law, the provision of this Scheme prevails.
- (3) The Residential Design Codes are to be read as part of this Scheme.

NOTE:

- 1. The "Metropolitan Region Scheme" is defined in Schedule 4.
- 2. The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission.

8. Minor town planning schemes

(1) The Council administers the following minor town planning schemes which are complementary to this Scheme—

- (a) Saint Martins Town Planning Scheme No.7;
- (b) Wesley Trust Town Planning Scheme No.11;
- (c) SGIO Town Planning Scheme No.13;
- (d) Withernsea Town Planning Scheme No.14;
- (e) AMP Town Planning Scheme No.16;
- (f) Westralia Square Town Planning Scheme No.18;
- (g) Bishops See Town Planning Scheme No.19;
- (h) FAI Site Town Planning Scheme No.21;
- (i) Woodside Town Planning Scheme No.22;
- (j) Paragon Town Planning Scheme No.23 and
- (k) Town Planning Scheme No.24.

(2) Unless the contrary intention appears, a reference in any of the minor town planning schemes mentioned in subclause (1) to the City of Perth City Planning Scheme is to be taken to refer to this Scheme.

9. Repeals

The following written laws are repealed—

Name	Date of Publication in the <i>Government Gazette</i>
(a) City of Perth City Planning Scheme	20 December 1985
(b) Zoning By-law No.64	10 October 1961
(c) Zoning By-law No.65	24 May 1962

NOTE:

The repeal of each of these schemes and by-laws extends to any amendments to them (see section 33 of the *Interpretation Act 1984*).

10. Definitions

In this Scheme, unless the contrary intention offers, the words and expressions used have the meanings set out in Schedule 4.

NOTE:

The definitions of words and expressions set out in section 2(1) of the *Town Planning and Development Act 1928* and section 6 of the *Metropolitan Region Scheme Act 1959* are also relevant for the purposes of this Scheme.

PART 2—LAND USE

11. Precincts

- (1) The Scheme area is divided into the precincts set out in the precinct table at the end of this clause and the location and boundaries of the precincts are shown on the Scheme map.
- (2) The precincts denoted "CC" in the precinct table comprise that part of the Scheme area referred to as the City Centre.
- (3) For each precinct, there is a precinct plan.

PRECINCT TABLE

P1	Northbridge (CC)
P2	Cultural Centre (CC)
P3	Stirling (CC)
P4	Victoria (CC)
P5	Citiplace (CC)
P6	St Georges (CC)
P7	Civic (CC)
P8	Foreshore (CC)
P9	Matilda Bay
P10	West Perth
P11	Hamilton
P12	Langley
P13	Adelaide
P14	Goderich
P15	East Perth

NOTE:

1. "City Centre", "precinct", "precinct plan" and "Scheme area" are defined in Schedule 4.
2. "City Centre" means the area described in Schedule 1.
3. There is to be a planning policy for each precinct and each of those policies, like any other planning policy, are to be contained in the Policy Manual.

12. Reserves and scheme use areas

(1) Land within the Scheme area is classified as—

- (a) a Metropolitan Region Scheme reserve; or
- (b) a City of Perth Scheme reserve; or
- (c) one of the following Scheme use areas—
 - (i) City Centre;
 - (ii) Residential area;
 - (iii) Residential/Commercial area;
 - (iv) Office/Residential area;
 - (v) Town Centre;
 - (vi) Commercial area.

(2) The classification of land within the Scheme area is shown on the precinct plan in which that land is located.

NOTE:

1. "Metropolitan Region Scheme reserves" and "City of Perth Scheme reserves" are defined in Schedule 4.
2. Each reserve is shown on the Scheme map and the relevant precinct plan.
3. Each Scheme use area is described in Schedule 1.

13. Metropolitan Region Scheme reserves

Land shown on the Scheme map as a Metropolitan Region Scheme reserve—

- (a) is reserved under the Metropolitan Region Scheme;
- (b) is shown on the Scheme map and the relevant precinct plan; and
- (c) is not reserved by this Scheme.

NOTE:

1. The provisions of the Metropolitan Region Scheme apply to all Metropolitan Region Scheme reserves.
2. Development (other than the erection of a boundary fence) on a Metropolitan Region Scheme reserve requires approval from the Western Australian Planning Commission under Part II of the Metropolitan Region Scheme.

14. Use of a City of Perth Scheme reserve

A City of Perth Scheme reserve may be used for—

- (a) any use which gives effect to the purpose for which the land is reserved under this Scheme; or
- (b) where the land is vested in or is under the care, control or management of a public authority, a Commonwealth agency or the City, any use which gives effect to any purpose for which the land may lawfully be used.

NOTE:

1. "City", "public authority" and "Commonwealth agency" are defined in Schedule 4.
2. Planning approval is granted by the Council under Part 4.

15. Use groups and use group categories

(1) A use group is—

- (a) a described use; or
- (b) a group of described uses having generally similar functional characteristics, within the use group categories set out in Schedule 2.

(2) The use group categories are—

- (a) Business Services;
- (b) Civic;

- (c) Community and Cultural;
- (d) Dining;
- (e) Education 1;
- (f) Education 2;
- (g) Entertainment;
- (h) Healthcare 1;
- (i) Healthcare 2;
- (j) Home Occupation;
- (k) Industry—Cottage;
- (l) Industry—Light;
- (m) Industry—Service;
- (n) Mixed Commercial;
- (o) Office;
- (p) Recreation and Leisure;
- (q) Residential;
- (r) Retail (Central);
- (s) Retail (General);
- (t) Retail (Local);
- (u) Special Residential; and
- (v) Storage.

(3) Where a particular use is referred to in a use group, it is taken to be excluded from any other use group that might otherwise have been construed to include the use within its general terms.

(4) Where a particular use—

- (a) is not referred to in any use group; and
- (b) does not come within the general terms of any use group,

it is taken to be an unlisted use.

16. Types of uses

(1) Uses are classified in this Scheme as—

- (a) preferred uses;
- (b) contemplated uses;
- (c) prohibited uses;
- (d) additional uses;
- (e) non-conforming uses; and
- (f) unlisted uses.

(2) The Council may grant planning approval, in accordance with Part 4, for any use except a prohibited use (unless the prohibited use is an additional use).

NOTE:

1. Planning approval by the Council under Part 4 is required for most uses (see clauses 36 and 37).

2. The Council's powers and responsibilities in respect of applications for planning approval involving various categories of uses are dealt with in Part 4 as follows—

- (a) preferred uses—clause 44;
- (b) contemplated uses—clause 45;
- (c) unlisted uses—clause 46; and
- (d) non-conforming applications—clause 47.

17. Use group tables

(1) The use group tables set out the classification of uses within each precinct of the Scheme area by reference to—

- (a) use group categories; and
- (b) use symbols.

(2) The use symbols have the following meanings—

- “P” means that a use within the relevant use group is a preferred use;
- “C” means that a use within the relevant use group is a contemplated use; and
- “X” means that a use within the relevant use group is a prohibited use.

NOTE:

1. The use group tables are set out in Schedule 3.

2. The Scheme use areas are listed in clause 12 and described in Schedule 1.

3. The precinct plans identify the Scheme use areas applicable to each precinct.

18. Changes of use

(1) Where it is proposed to use any premises for a different use other than a use which is development listed in clause 37, planning approval must be obtained before commencing the different use.

- (2) A change of use occurs—
- (a) in the case of a City of Perth reserve—whether or not the change of use is consistent with the purpose or one of the purposes for which the land—
 - (i) is reserved under this Scheme; or
 - (ii) may lawfully be used;
 - (b) in the case of land in a Scheme use area—whether or not the change of use is a use described in the Scheme use area table as ‘preferred or contemplated’; and
 - (c) where, in particular, premises are used as restricted premises without express approval of the Council under Part 4.

NOTE:

1. Generally planning approval is required for most changes of uses (see clauses 36 and 37).
2. The expression “restricted premises” is defined in Schedule 4.

19. Additional uses

- (1) An additional use is a use which, in relation to a specific site—
- (a) is a prohibited use in the precinct in which that site is located;
 - (b) is listed, with reference to that site, in Schedule 5; and
 - (c) is taken, as the result of its listing in Schedule 5, to be a ‘contemplated’ use for that site subject to the conditions, if any, set out in Schedule 5 in respect of that use.
- (2) The Council may—
- (a) after receiving an application for planning approval involving a prohibited use; or
 - (b) at any other time,
- initiate an amendment to Schedule 5 of this Scheme to add, amend or delete an additional use, the site to which it applies or one or more conditions to which that use is subject.
- (3) The Council is not to initiate an amendment under sub-clause (2) unless it is satisfied that:
- (a) a development involving the proposed additional use would be consistent with—
 - (i) the orderly and proper planning of the locality;
 - (ii) the conservation of the amenities of the locality; and
 - (iii) the statement of intent set out in the relevant precinct plan; and
 - (b) the use of the specific site for that purpose would not have any undue adverse effect on—
 - (i) the occupiers and users of the development;
 - (ii) the property in, or the inhabitants of, the locality; or
 - (iii) the likely future development of the locality.

NOTE:

The listing of any use, or the amendment or revocation of any use, in Schedule 5 is an amendment to this Scheme text to which clause 57(2) applies.

20. Non-conforming uses

- (1) Nothing in this Scheme is to prevent—
- (a) the continued use of any land or building for a non-conforming use; or
 - (b) the carrying out of any development for which planning approval was obtained before the gazettal date.
- (2) Where a non-conforming use exists, no further development of the relevant land or building is to be carried out without planning approval.
- (3) The Council may terminate a non-conforming use by purchasing or compulsorily acquiring the relevant land in accordance with section 13 of the Act.
- (4) If, in respect of any land or building, a non conforming use:—
- (a) ceases for at least 6 consecutive months; or
 - (b) is destroyed or damaged to the extent of at least 75% of its value,
- then it cannot be recommenced without planning approval.

NOTE:

1. A “non-conforming use” and “gazettal date” are defined in Schedule 4.
2. The reference to the “Act” is to the *Town Planning and Development Act 1928*, section 13 of which enables a local government to purchase or, with the consent of the Governor, take compulsorily, subject to the *Land Acquisition and Public Works Act 1902*, any land within a town planning scheme.
3. Planning approval is granted by the Council under Part 4.

21. Register of non-conforming uses

- (1) A person who wishes the Council to record a non-conforming use may submit to the Council in writing full details of the nature, location and extent of the non-conforming use.
- (2) Where the Council is satisfied that a non-conforming use exists, it is to record, in a register of non-conforming uses, details of each non-conforming use.
- (3) A copy of the register of non-conforming uses is to be—
- (a) kept at the offices of the City; and
 - (b) made available for public inspection during office hours.

NOTE:

A non-conforming use may exist if it is not registered on the register of non-conforming uses.

PART 3—DEVELOPMENT REQUIREMENTS*Division 1—General Development Requirements***22. Source of development requirements**

Unless otherwise consistent with a planning approval, development is to comply with the standards and requirements contained in this Scheme.

NOTE:

This Scheme comprises the Scheme text, the Scheme Map, the Building Heights Plan and the Plot Ratio Plan (see clause 3(1)).

23. Residential design codes

(1) The Residential Design Codes apply only—

- (a) to a residential development on land to which this Scheme or a precinct plan designates a density code; and
- (b) to the extent expressly specified in this Scheme, or in the relevant precinct plan, as applying to a residential development, or to the relevant land.

(2) The plot ratio and building height provisions of Residential Design Codes do not apply to a residential development.

(3) A residential development is to comply with the relevant plot ratio and building height requirements (if any) of this Scheme.

NOTE:

1. This Scheme comprises the Scheme text, the Scheme Map, the Building Heights Plan and the Plot Ratio Plan (see clause 3(1)).
2. A copy of the Residential Design Codes, as amended, is to be available for public inspection at the offices of the Council.

24. Variations to the residential design codes

(1) The specific provisions of this Scheme which constitute variations from the provisions of the Residential Design Codes are listed in Schedule 6.

(2) If a provision of the Residential Design Codes is inconsistent with a provision listed in Schedule 6, the latter is to prevail to the extent of that inconsistency.

25. Densities

(1) Subject to compliance with the procedures set out in clause 41, the Council may grant an increase in the permitted dwelling density by up to 50% if—

- (a) the proposed development effects the discontinuance of non-conforming use; or
- (b) the proposed development conserves or enhances an existing building which in the Council's opinion is worthy of retention due to its heritage or aesthetic value.

(2) Where the Council allows an increase in the permitted dwelling density, any applicable standards and provisions of the Residential Design Codes are to be determined by reference to that higher density.

26. Building heights and setbacks

(1) The height of a building will comply with the heights specified in the Building Heights Plan.

(2) Development on land fronting St George's Terrace, between Barrack Street and Elder Street, will provide—

- (a) a podium at a minimum height ratio of 0.5:1.0 and a maximum height ratio of 1.0:1.0; and
- (b) for development above the podium, a minimum setback from the front and sides of the podium at 5 metres

(3) Notwithstanding sub-clause 26(2)—

- (a) a podium setback greater than 5 metres will be required where considered necessary to reduce wind turbulence at the street level or to maintain the desired city form; and
- (b) side setbacks from the podium may be reduced on lots which have a narrow frontage.

NOTE:

1. Refer also to the Building Heights and Setbacks Policy which is contained in the Policy Manual.
2. Refer to Policy 4.5 Building Heights and Setbacks for discussion of the Terrace Road podium provisions;
3. Refer to the precinct plans which specify the particular character appropriate for each precinct.

27. Plot ratio

(1) Unless otherwise provided in this Scheme, the plot ratio of development is to comply with the plot ratios specified in the Plot Ratio Plan.

(2) Notwithstanding sub-clause 27(1)—

- (a) Land which is in a Residential/Commercial area and bounded by Wittenoom, Bennett and Wellington Streets and the precinct boundary line will have a plot ratio not exceeding:
 - (i) where the building is to be used for commercial purposes only, 0.5 : 1.0;
 - (ii) where the building is to be used for residential and commercial purposes as a combined development, 2.0 : 1.0, provided that the plot ratio of the part of the building used for commercial purposes shall not exceed 0.5 : 1.0 and the part of the building used for residential purposes shall not exceed 1.5 : 1.0; or
 - (iii) where the building is to be used for residential purposes only, 1.5 : 1.0.

- (b) Land which is in a Residential/Commercial area and bounded by Hay Street and Forrest Avenue will have a plot ratio not exceeding—
 - (i) where the building is to be used for commercial purposes only, 2.0 : 1.0;
 - (ii) where the building is to be used for both residential and commercial purposes, 4.0 : 1.0 provided that the plot ratio of the part of the building used for commercial purposes shall not exceed 2.0 : 1.0; or
 - (iii) where the building is to be used for residential purposes only, 4.0 : 1.0.
- (c) Land which is in a Residential/Commercial area and bounded by Wellington, Hill and Bennett Streets and Bishops Row will have a plot ratio not exceeding—
 - (i) where the building is to be used for commercial purposes only 2.0 : 1.0;
 - (ii) where the building is to be used for both residential and commercial purposes, 3.0 : 1.0 provided that the plot ratio of the part of the building used for commercial purposes shall not exceed 2.0 : 1.0; or
 - (iii) where the building is to be used for residential development only, 3.0 : 1.0.

28. Bonus plot ratio

(1) Subject to this clause and to clause 47, the Council may permit, by way of the grant of planning approval, an increase of up to 20% from the specified maximum plot ratio (in this clause referred to as 'bonus plot ratio').

(2) The Council may permit bonus plot ratio in respect of a proposed development where the development in the opinion of the Council—

- (a) would either—
 - (i) conserve or enhance the whole or part of a conservation area or a place which has been declared by the Council to be significant and worthy of conservation; or
 - (ii) include a community or other facility or amenity and that facility or amenity and the design, standard and nature of the proposed development as a whole would constitute a significant improvement to the amenities of the Central Area; and
- (b) would not adversely affect the cultural heritage significance of that, or any other, conservation area or place including the streetscape or precinct in which it is located; and
- (c) would not have a significant adverse effect on an adjoining property or a property in the general locality unless—
 - (i) the relevant application is advertised in accordance with clause 41; and
 - (ii) any submissions duly received in response to that advertising are considered by the Council.

NOTE:

"Central area" is defined in Schedule 4.

29. Sewerage connection

Despite any provision of this Scheme to the contrary, all developments are to be connected to a comprehensive sewerage system.

Division 2—Places of Cultural Heritage Significance

30. Declaration of places of cultural heritage significance

(1) If, in the opinion of the Council, a place—

- (a) is of cultural heritage significance or has special interest related to or associated with the cultural heritage; and
- (b) should be conserved or enhanced,

the Council may, by resolution, declare the place to be significant and worthy of conservation.

(2) In considering a proposal to declare a place to be significant and worthy of conservation, the Council is to—

- (a) give the owner and occupier of the place—
 - (i) details of the proposal; and
 - (ii) a period of 14 days, or such further period as the Council may determine, to make a written submission to the Council about the proposal; and
- (b) take into account any written submission duly made under this clause.

(3) Where the Council declares a place to be significant and worthy of conservation, it is to give notice of its declaration to the Western Australian Planning Commission, Heritage Council of Western Australia and the owner and occupier of the place.

(4) The power to declare a place to be significant and worthy of conservation includes the power to amend or revoke a declaration of that type.

(5) Any building which:-

- (a) as at the gazettal date was contained in the fifth schedule of the City of Perth City Planning Scheme repealed under clause 9; or
- (b) as at the gazettal date had been the subject of resolution under sub-clause 46(1) of the City of Perth City Planning Scheme repealed under clause 9; or

- (c) is included in the State Register of Heritage Places established under the provisions of the *Heritage of Western Australia Act 1990*,

is deemed to be the subject of a declaration under sub-clause 30(1) of this Scheme.

NOTE:

A "place" is defined in Schedule 4. It may include works, trees, buildings and contents of buildings.

31. Declaration of a conservation area

(1) If, in the opinion of the Council, it is necessary or appropriate to have special planning controls to conserve or enhance the cultural heritage significance of an area, the Council may, by resolution, declare that area to be a conservation area.

(2) In considering a proposal to declare an area to be a conservation area, the Council is to—

- (a) give the owner and occupier of the place—
 - (i) details of the proposal; and
 - (ii) a period of 28 days, or such further period as the Council may determine, to make a written submission to the Council about the proposal; and
- (b) take into account any written submission duly made under this clause.

(3) The Council is to adopt for each conservation area a planning policy.

(4) Where the Council declares an area to be a conservation area and adopts a planning policy for that area, it is to give notice of its declaration and, when available, a copy of the planning policy to—

- (a) each of the owners and occupiers of land within that area;
- (b) the Heritage Council of Western Australia; and
- (c) the Western Australian Planning Commission.

(5) The power to declare an area to be a conservation area includes the power to amend or revoke a declaration of that type.

NOTE:

The procedures relating to the adoption of a planning policy are set out in clause 56.

32. Register of places of cultural heritage significance

(1) The Council is to record, in a register of places of cultural heritage significance, a list of each place which is—

- (a) the subject of a declaration under clause 30;
- (b) being considered for the purposes of a declaration under clause 30; or
- (c) the subject of a declaration under clause 31.

(2) A copy of the register is to be—

- (a) kept at the offices of the City; and
- (b) made available for public inspection during office hours.

NOTE:

A "place" is defined in Schedule 4 to include "area".

33. Heritage agreements

The Council may, in accordance with the *Heritage of Western Australia Act 1990*, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.

NOTE:

1. A heritage agreement may include a covenant, intended to run with the land, relating to the development or use of the land or any part of the land.
2. A heritage agreement may be entered into whether or not the place to which it applies is listed in the register of places of cultural heritage significance.
3. Detailed provisions relating to heritage agreements are set out in section 29 of the *Heritage of Western Australia Act 1990*.

34. Transfer of plot ratio

(1) The Council may approve, by a grant of planning approval, the transfer of unused plot ratio rights from a site—

- (a) which is—
 - (i) a place declared by the Council to be significant and worthy of conservation; or
 - (ii) within a conservation area; and
- (b) which cannot be developed satisfactorily,

to another site.

(2) An application for approval under this clause is to—

- (a) comply with the requirements of clause 39; and
- (b) be signed by the owner of each of the sites which would be affected by an approval.

35. Register of transferred plot ratio

(1) The Council is to record, in a register of transferred plot ratio, the sites affected by, and details of the transfer of plot ratio rights under, an approval under clause 34.

- (2) A copy of the register is to be—
- (a) kept at the offices of the City; and
 - (b) made available for public inspection during office hours.

PART 4—PLANNING APPROVAL

36. Need for planning approval

(1) A person shall not begin or continue development of any land or building in the Scheme area, unless it is a development exempted by clause 37, without first having applied for and obtained planning approval.

(2) To avoid any doubt, development for which planning approval is required includes both use (which is the subject of Part 2 of this Scheme) and development (which is the subject of Part 3), which includes demolition.

NOTE:

1. "planning approval", (defined in Schedule 4), is granted by the Council. In some cases, approval might also be required by the Western Australian Planning Commission under the *Metropolitan Region Town Planning Scheme Act 1959*.
2. A "development" is defined in Schedule 4. As well as building works it includes any—
 - changes of use (see clause 18);
 - unlisted use ;
 - prohibited use ;
 - demolition (see clause 48); or
 - advertisement.
3. Council cannot approve an application for a prohibited use (see clause 16(2)).

37. Exemption from planning approval

Planning approval is not required for the following development—

- (a) building or other work for the maintenance, improvement or other alteration of any building where those works affect only its interior or do not materially affect its external appearance unless the building or structure is—
 - (i) located or proposed to be in or on a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
 - (ii) the subject of an Order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) listed, or is proposed to be located in or on a place that is listed, in the register of places of cultural heritage significance;
- (b) building or other work carried out by the City, a public authority or a Commonwealth agency in connection with the maintenance or improvement of a public street;
- (c) building or other work carried out by the City, a public authority or a Commonwealth agency in connection with any public utility; or
- (d) development of a minor nature listed in a schedule as exempt from the requirement to obtain planning approval.

NOTE:

1. The register of places of cultural heritage significance also contains a list of each area declared by the Council to be a conservation area (see clauses 30 and 31).
- 2 Planning approval is not required for—
 - (a) certain developments carried out in accordance with subdivisional approval—see section 20D of the *Town Planning and Development Act 1928*; and
 - (b) development on certain land subject to the *East Perth Redevelopment Act 1991*, referred to in clause 4.
3. Development of a Metropolitan Region Scheme reserve may require approval under the *Metropolitan Region Town Planning Scheme Act 1959* and the Metropolitan Region Scheme

38. Unauthorised existing developments

(1) Where a development has been, or is being, carried out contrary to clause 36, a person may apply to the Council for planning approval for that development.

(2) If the Council grants planning approval in respect of an application made under subclause (1), the planning approval is not to be taken as—

- (a) authorising development before the date on which the Council resolved to grant the planning approval; or
- (b) preventing action being taken by the Council in respect of the unauthorised development before the date on which the Council resolved to grant planning approval.

39. Form of application

An application is to—

- (a) be made in the form prescribed in Schedule 7 and is to be signed by the owner of the land to which the application relates;
- (b) be given to the City; and
- (c) accompanied by such plans, documents or information as is required under the Scheme Text or any other Scheme document referred to in subclause 3(2).

NOTE:

1. An "application" is defined in Schedule 4, to mean an application for planning approval.
2. The prescribed form is set out in Schedule 7.

40. Design advisory committee

- (1) The Council is to appoint a design advisory committee for the purpose of considering, and advising the Council with respect to, applications.
- (2) The design advisory committee—
 - (a) is to be consulted where an application seeks an increase in the permitted plot ratio of a site in the Central Area; and
 - (b) may be consulted on other design matters relating to development.

NOTE:

1. The Central area is defined in Schedule 4.
2. Matters relating to the powers, constitution and procedures of a committee established by a local government are set out in sections 5.8—5.18 of the *Local Government Act 1995*.

41. Advertising procedure

- (1) Where an application involves an unlisted use the Council is to direct the applicant to advertise the application in any manner that it considers to be appropriate.
- (2) Where an application does not involve an unlisted use the Council may direct the applicant to advertise the application in any manner that it considers to be appropriate.
- (3) Written submissions in respect of an application advertised in accordance with this clause are to be lodged with the Council within the period and in the form (if any) prescribed in the relevant advertisement or notice.
- (4) The Council may decline to consider a submission that has not been lodged on time or fails to comply with any other requirement applying to it.

NOTE:

The Council may make a planning policy under clause 56 setting out advertising requirements and procedures.

42. Referral of applications to the Western Australian Planning Commission

- (1) This clause applies to an application which—
 - (a) in respect of a non-residential development in the Perth Parking Management Area, seeks a car parking bonus of 10% or more than is permitted in the Perth Parking Management Area;
 - (b) proposes a public car park with 50 bays or more in the Perth Parking Management Area; or
 - (c) is made by, or on behalf of, the City.
- (2) In respect of an application to which this clause applies, the Council, at the completion of the advertising procedure, if any, required by it, is to forward to the Western Australian Planning Commission copies of—
 - (a) the application; and
 - (b) the submissions, if any, duly lodged with the Council in response to the advertising of the application.
- (3) The Western Australian Planning Commission after considering the application and submissions is to notify the Council in writing within 21 days of receiving the application that it either—
 - (a) supports the application on such terms and conditions, if any, as it specifies;
 - (b) does not support the application; or
 - (c) requires a further period of 21 days, or a specified longer period, to respond to the Council.
- (4) Following receipt of the notification from the Western Australian Planning Commission referred to in subclause 3(a) or (b) above, the Council will determine the application in accordance with clause 43 of the Scheme.

NOTE:

The "Perth Parking Management Area" is defined in Schedule 4.

43. Determination of application—general provisions

- (1) The Council may refuse to consider an application which does not comply with the requirements of this Part.
- (2) In assessing an application, the Council—
 - (a) may consult with any person or body; and
 - (b) is to have regard to any written submission lodged with the Council under clause 41.
- (3) Subject to this Part, the Council may approve or refuse an application.
- (4) Without limiting the scope of the Council's discretion to determine an application under subclause (3), the Council is to have regard to—
 - (a) the provisions of this Scheme and of any other written law applying within the Scheme area including the Metropolitan Region Scheme;
 - (b) any relevant planning policy;
 - (c) any relevant precinct plan;
 - (d) any statement of planning policy of the Western Australian Planning Commission;
 - (e) any planning study approved by the Council;
 - (f) any submission accompanying or related to the application;
 - (g) the orderly and proper planning of the locality;
 - (h) the conservation of the amenities of the locality;

- (i) the design, scale and relationship to existing buildings and surroundings (including heritage and environmental surroundings) of any proposed building;
- (j) the cultural heritage significance of any land or building affected by the proposed development; and
- (k) provision of adequate access for people with disabilities.

NOTE:

1. The Council's power to approve or refuse the following applications is affected by the following clauses—

- (a) applications for unlisted uses (clause 46);
- (b) non-complying applications (clause 47);
- (c) applications by the City (clause 42); and
- (d) applications for demolition (clause 48).

2. The power to approve an application includes the powers to impose conditions on the approval (*Interpretation Act 1984*, section 50).

44. Determination of application for a preferred use

Where, in a precinct, a use group category is classified as a preferred use then, in considering an application involving a use from that category in that precinct, the Council—

- (a) cannot refuse the application by reference to the proposal to begin or continue the preferred use; and
- (b) may impose whatever conditions it considers appropriate in granting approval.

45. Determination of application for a contemplated use

The provisions of clause 43 apply to an application for a contemplated use.

46. Determination of application for an unlisted use

(1) Subject to subclause (2), the Council may refuse or approve an application which involves an unlisted use.

(2) The Council cannot grant planning approval for a development which involves an unlisted use unless—

- (a) the advertising procedure set out in clause 41 has been followed; and
- (b) it is satisfied, by an absolute majority, that the proposed development is consistent with the matters listed in clause 43(4).

47. Determination of non-complying applications

(1) In this clause—

- (a) an application which does not comply with a standard or requirement of this Scheme (including a standard or requirement set out in a planning policy or in the relevant precinct plan), where the standard or requirement does not provide for any permitted variation, is called a “non-complying application”; and
- (b) a non-complying application does not include an application involving a prohibited use.

(2) Subject to subclause (3), the Council may refuse or approve a non-complying application.

(3) The Council cannot grant planning approval for a non-complying application unless—

- (a) if so required by the Council under clause 41(2), the application has been advertised;
- (b) in respect of an application for an increase from the specified maximum plot ratio—
 - (i) the increase is no more than 20%; and
 - (ii) the application complies with clause 28;
- (c) in respect of an application to which clause 42(1)(a) or (b) applies, the Western Australian Planning Commission has either notified the Council of its support for the application or has not responded within the 21 days, or the extended period, referred to in clause 42(3); and
- (d) the Council is satisfied by an absolute majority that—
 - (i) if approval were to be granted, the development would be consistent with—
 - (A) the orderly and proper planning of the locality;
 - (B) the conservation of the amenities of the locality; and
 - (C) the statement of intent set out in the relevant precinct plan; and
 - (ii) the non-compliance would not have any undue adverse effect on—
 - (A) the occupiers or users of the development;
 - (B) the property in, or the inhabitants of, the locality; or
 - (C) the likely future development of the locality.

48. Determination of application for demolition

In considering an application for or involving demolition, the Council is to have regard to the matters listed in clause 43(4) and—

- (a) may defer consideration of the application until—
 - (i) it has granted planning approval for subsequent development of the relevant site;
 - (ii) it has issued a building licence for that development; and
 - (iii) it is satisfied that the subsequent development will commence;

- (b) may approve the application, subject to conditions including—
 - (i) the retention, maintenance, reinstatement or repositioning of any part of the existing building or structure;
 - (ii) the screening of the site during redevelopment; and
 - (iii) where the development that has been approved has not been substantially commenced for a total period of more than 6 months, the landscaping of or other treatment of the site to the satisfaction of the Council; or
- (c) may refuse the application.

49. Notice of Council decision

(1) As soon as is practicable after making a decision in relation to an application, the Council is to give to the applicant, in writing, in the form prescribed in Schedule 7 of the Scheme—

- (a) notice of the approval or refusal;
- (b) the reason or reasons for the approval or refusal; and
- (c) the conditions, if any, to which approval is subject.

(2) For the purposes of this clause, where—

- (a) the approval of an application requires an absolute majority; and
- (b) the decision of the Council in respect of the application is not an approval by an absolute majority,

then the decision is taken to be a decision to refuse the application.

(3) The Council may give a copy of the documents referred to in subclause (1) to the owner or occupier of the lot to which the application relates.

NOTE:

Notice of approval or refusal may be given in any of the ways referred to in clause 62.

50. Term of planning approval

(1) A planning approval is valid from the date on which the Council resolved to grant the planning approval until—

- (a) it lapses under subclause (2);
- (b) the expiry of the period, if any, imposed by the Council under clause 51; or
- (c) it is revoked under clause 52,

whichever occurs first.

(2) A planning approval is to lapse if the development has not been substantially commenced before the expiration of 2 years, or such further period as the Council may determine, from the date on which the Council resolved to grant the planning approval.

51. Temporary planning approval

The Council may, in granting planning approval, limit the period during which the development may be carried out where—

- (a) it considers that development in excess of that period might adversely affect the amenities of the locality or the orderly and proper planning of the locality; or
- (b) for any other reason it considers that approval ought to be granted for a limited or trial period.

52. Revoked or amended planning approval

(1) Within 28 days of the Council granting planning approval, an owner of premises in respect of which that planning approval has been granted by the Council may apply to the Council to revoke or amend the planning approval.

(2) The Council may, prior to commencement of the use or development subject of the planning approval, in respect of an application under subclause (1), approve or refuse the application.

(3) In determining an application under this clause, the Council is to have regard to those matters set out in clause 43(4).

NOTE:

1. In this subclause, “amend” has the meaning given to it in section 5 of the *Interpretation Act 1984*, that is—“replace, substitute, in whole or in part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law”.

2 A “planning approval” is defined in Schedule 4 to include any conditions.

53. Inconsistent planning approvals

Where, in relation to a particular premises, the Council grants a planning approval which is inconsistent with an earlier planning approval in respect of the same premises, then, to the extent of the inconsistency, the later planning approval is to prevail.

54. Deemed refusal

(1) Subject to this clause, an application is taken to have been refused where notice of planning approval or refusal is not given to the applicant by the Council within—

- (a) 60 days of the receipt of the application; or
- (b) such further time as may be agreed in writing between the applicant and the Council within that period of 60 days.

(2) An application in respect of any place which is listed in the register of places of cultural heritage significance or is being considered for the purposes of a declaration under clause 30 or 31, is taken to have been refused where notice of planning approval is not given to the applicant within—

- (a) 90 days of the receipt of the application; or
- (b) such further time as may be agreed in writing between the applicant and the Council within that period of 90 days.

(3) An application which is subject to the advertising procedure set out in clause 41, or referral under clause 42, is taken to have been refused where notice of planning approval is not given to the applicant by the Council within—

- (a) 90 days of the receipt of the application; or
- (b) such further time as may be agreed in writing between the applicant and the Council within that period of 90 days.

(4) Nothing in this clause prevents the Council from making a decision about an application after the expiry of the periods referred to in sub-clauses (1), (2) and (3).

NOTE:

An applicant for planning approval has a right of appeal where there has been a deemed refusal (see clause 55).

55. Appeals

Subject to the provisions of the Act, an applicant for planning approval has a right of appeal against the exercise by the Council of a discretion to—

- (a) impose a condition of planning approval; or
- (b) refuse to grant planning approval.

NOTE:

1. The appeal provisions are set out in Part V of the *Town Planning and Development Act 1928*.

2. An appeal may be to the Town Planning Appeal Tribunal.

PART 5—MISCELLANEOUS

56. Planning policies

(1) The Council may make planning policies which are to—

- (a) relate to an aspect of development control or any other matter relevant to this Scheme; and
- (b) apply to all or a part of the Scheme area.

(2) In preparing a draft planning policy, the Council is to have regard to—

- (a) the purpose for which land is set aside under this Scheme;
- (b) the orderly and proper planning of the locality;
- (c) the conservation of the amenities of the locality;
- (d) any strategies, studies or objectives adopted by the Council; and
- (e) any other matters it considers to be relevant.

(3) Having prepared a draft planning policy, the Council is—

- (a) to advertise a summary of the draft once a week for 4 consecutive weeks in a newspaper circulating in the locality;
- (b) to allow a further 4 weeks, in addition to the 4 week period stipulated in subclause (3)(a), for submissions to be lodged with the Council;
- (c) where practicable, to notify those persons who, in the opinion of the Council, might be directly affected by the draft; and
- (d) to forward a copy of the draft to the Western Australian Planning Commission.

(4) The advertising and notification referred to in subclause (3) is to contain details of—

- (a) where the draft planning policy may be inspected; and
- (b) where, in what form and during what period written submissions may be made to the Council.

(5) After the expiry of the period for submissions, the Council is to—

- (a) review the draft planning policy having regard to any written submissions; and
- (b) determine, by resolution, to adopt the draft planning policy, with or without amendment, or not to proceed with it.

(6) As soon as practicable after the Council makes a determination under subclause (5), details of the determination are—

- (a) to be advertised once in a newspaper circulating in the locality;
- (b) where practicable, to be given to those persons directly affected by the draft planning policy; and
- (c) to be given to the Western Australian Planning Commission together with, where the Council has resolved to adopt the draft planning policy with one or more amendments, a copy of the amended draft planning policy.

(7) A copy of each planning policy, as amended, is to be kept and made available for public inspection at the offices of the Council and any other premises nominated by the Council.

(8) A planning policy adopted by the Council may be altered or rescinded only by following the procedure set out in this clause for making and adopting a planning policy.

(9) The following planning policies as adopted by the Council at its meeting held on 26 June 2001 shall be taken to be policies adopted in accordance with the requirements of this clause 56—

- (a) General Planning Procedures policy;
- (b) Residential Development policy;
- (c) Development and Design policy;
- (d) Parking and Access policy;
- (e) Mount Street Design policy;
- (f) Newspaper House/Perth Technical College policy;
- (g) King Street policy;
- (h) James, William Roe and Lake Street policy;
- (i) Civic Precinct policy;
- (j) Cathedral Precinct policy;
- (k) Future Development of Northbridge (Northbridge Report—Chapter 3 and Appendix 1) policy;
- (l) Terrace Road Design policy; and
- (m) Goderich Design policy.

57. Precinct plans and other scheme documents

(1) The Council may make precinct plans for the purpose of setting out the intent of a particular precinct.

(2) The making and amendment of any precinct plan or functional road hierarchy map must follow the procedure set out in clause 56 for making and adopting a planning policy.

(3) The following precinct plans as adopted by the Council at its meeting held on 26 June 2001 shall be taken to be precinct plans adopted in accordance with the requirements of this clause 57—

- (a) City Centre Precincts Plan;
- (b) Northbridge Precinct Plan;
- (c) Cultural Centre Precinct Plan;
- (d) Stirling Precinct Plan;
- (e) Victoria Precinct Plan;
- (f) Citiplace Precinct Plan;
- (g) St Georges Precinct Plan;
- (h) Civic Precinct Plan;
- (i) Foreshore Precinct Plan;
- (j) Matilda Bay Precinct Plan;
- (k) West Perth Precinct Plan;
- (l) Hamilton Precinct Plan;
- (m) Langley Precinct Plan;
- (n) Adelaide Precinct Plan;
- (o) Goderich Precinct Plan; and
- (p) East Perth Precinct Plan.

(4) An amendment to—

- (a) a precinct use area boundary;
- (b) the Scheme text;
- (c) the Scheme map;
- (d) the building heights plan; and
- (e) the plot ratio plan.

can be made only in accordance with the procedures applying to a town planning scheme amendment set out in section 7 of the Act.

(5) An amendment to a Council register may be made by resolution of the Council.

NOTE:

1. The reference to the Act is to the *Town Planning and Development Act 1928*.

2. The *Interpretation Act 1984* defines “amend” to include “replace, substitute, in whole or in part, add to or vary”.

3. The detailed provisions applying to a town planning scheme amendment are contained in the *Town Planning Regulations 1967* made under that Act.

4. The “Scheme text” includes the Schedules to this Scheme.

58. Agreements and dealings with land

For the purpose of carrying out this Scheme and ensuring compliance with it, the Council may—

- (a) enter into any agreement with any owner, occupier or other person having an interest in land affected by this Scheme;
- (b) acquire any land within the Scheme area; and
- (c) deal with or dispose of any land which it has acquired.

59. Delegation

The Council may, either generally or in a particular case or in a particular class of cases, by resolution passed by an absolute majority of the Council, delegate to—

- (a) a Committee of the Council; or
- (b) an officer of the Council,

any power conferred or imposed on the Council under this Scheme.

NOTE:

1. Sections 58 and 59 of the *Interpretation Act 1984* apply to the construction and scope of this delegation power.
2. Delegations made by the Council may be contained in a planning policy.

60. Compensation

(1) Claims for compensation under section 11(1) of the Act by reason of the land or property of a person being injuriously affected by the making of this Scheme are not to be made later than 6 months after the gazettal date.

(2) Any claim made by the Council under section 11(2) of the Act is to be made within 6 months of the completion of the work or the section of the work by reason of which the land in which the claim is made is increased in value.

(3) If, where compensation for injurious affection is claimed under the Act, the Council elects to purchase or take the land compulsorily the Council is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

(4) The Council may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used and preserved, for a use compatible with the purpose for which it is reserved.

NOTE:

1. The reference to the Act is to the *Town Planning and Development Act 1928*.
2. The gazettal date is defined in Schedule 4.
3. Section 13 of the *Town Planning and Development Act 1928* empowers the Council to purchase or compulsorily acquire land comprised in a Scheme.

PART 6—ENFORCEMENT**61. Giving documents**

(1) Unless otherwise stated in the Scheme, a document may be given to a person in any of the ways provided for by sections 9.50, 9.52, and 9.53 of the *Local Government Act 1995*.

(2) Unless otherwise stated in this clause, a document may be given to the City or to the Council in any of the ways provided for in section 9.51 of the *Local Government Act 1995*.

NOTE:

A “document” is defined very broadly in section 5 of the *Interpretation Act 1984*. It would include an application for planning approval and a notice of the Council's decision.

62. Notices and expenses under section 10 of the Act

A notice required to be given by the Council under section 10(1) of the Act is to be a 28 day notice signed by the Chief Executive Officer and sent by registered post to the owner and to any occupier or lessee of the premises affected by the notice.

NOTE:

The reference to the Act is to the *Town Planning and Development Act 1928*.

63. Authorised entry

(1) An officer authorised by the Council may, with any assistance required, enter at any reasonable time any building or land to determine whether the provisions of this Scheme have been or are being observed.

(2) An authorised officer exercising the power of entry under subclause (1) or any other person accompanying an authorised officer who—

- (a) finds a person committing; or
- (b) on reasonable grounds suspects a person of having committed, a breach of a provision of this Scheme,

may ask that person his or her name and address.

(3) A person who—

- (a) in any way delays or obstructs an authorised officer in the exercise of his or her powers under this clause; or
- (b) when asked to do so under subclause (2), refuses to give his or her name or address or gives a false name or address,

commits an offence.

(4) A person who gives or is suspected of giving a false name or address to the person making the enquiry under subclause (2) may, without any other warrant, be apprehended by the person making the demand and taken before a Justice to be dealt with according to law.

64. Offences

(1) Subject to Part 4 of this Scheme, a person shall not erect, alter or add to a building, or use or change the use of any land or building, or permit or suffer any land or building to be used or the use of any land or building to be changed for any purpose—

- (a) other than a purpose permitted or approved of by the Council in the use area in which that land or building is situated;
- (b) unless all approvals, consents or licences required by this Scheme or any other law have been granted or issued;
- (c) unless all conditions imposed upon the grant or issue of any approval, consent or licence required by this Scheme or any other law have been and continue to be complied with; and
- (d) unless all standards laid down and all requirements prescribed by this Scheme or determined by the Council under this Scheme with respect to that building or that use of that land or building have been and continue to be complied with.

(2) Where the Council has granted planning approval for the development of land on a condition which involves the maintenance or continuance of the state or condition of any place, area, matter or thing, a person shall not use or permit or suffer the use of that land for any purpose while the state or condition of that place, area, matter or thing is not being maintained or continued in accordance with that condition.

NOTE:

A person who fails to comply with a provision of this Scheme is guilty of an offence and is subject to the penalty set out in section 10(4) of the *Town Planning and Development Act 1928*.

SCHEDULE 1
Scheme use areas

General descriptions of the seven types of Scheme use area referred to in the Scheme are provided in this Schedule. The boundaries of, and detailed land use objectives for the Scheme use areas in individual precincts are contained in the precinct plans.

SCHEME USE AREA	DESCRIPTION
City Centre	<p>The City Centre Scheme use area applies to all non-reserved land in the city centre, and covers Precincts P1 Northbridge, P2 Cultural Centre, P3 Stirling, P4 Victoria, P5 Citiplace, P6 St Georges and P7 Victoria.</p> <p>The City Centre is the State's primary location for business and administration as well as commercial, civic, cultural, entertainment and retail activity. It is also a major focus for tourism, both as a sight-seeing destination and for the tourist accommodation it provides, and is gaining popularity as a residential location for those seeking an urban lifestyle. Diversity and vitality are fundamental to the overall land use profile of the city centre and should be facilitated by providing a wide range of facilities and services which enable the city to fulfil its many functions while sustaining interest and activity on a virtually continuous basis. The scale and intensity of activities in the city centre also help to distinguish it from surrounding areas and are therefore important to its land use character.</p> <p>Each of the seven Precincts covered by the city centre Scheme use area has a slightly different land use emphasis and no particular use group is either preferred or prohibited in all of the Precincts concerned. A number of use groups, however, are classified either as preferred or contemplated in all Precincts—Residential, Special residential, Home Occupation, Civic, Community and Cultural, Entertainment, Dining, Retail (Local and General), Business Services, Healthcare (1 and 2) and Education (1 and 2).</p> <p>NOTE: Refer to Schedule 6: Use group tables for more detailed information.</p>
Residential	<p>Residential Scheme use areas cover parts of Precincts P9 Matilda Bay, P10 West Perth, P13 Adelaide and P14 Goderich.</p> <p>The emphasis in these areas is very much on permanent residential accommodation of various types, developed in accordance with the relevant Residential Design Code, with associated home-based businesses also favoured. Preferred use groups are therefore Residential and Home Occupation. A limited range of complementary uses may also be considered appropriate in certain instances, provided that the amenity of surrounding residential fabric is adequately preserved— use groups including Special Residential, Recreation and Leisure, Retail(Local), Community and Cultural, Education 1 and Healthcare 1, as well as nursing homes in the Healthcare 2 category, are classified as contemplated uses. Most of these would be subject to an advertising procedure before being considered by the Council.</p> <p>NOTE: Refer to Schedule 6: Use group tables for more detailed information.</p>

SCHEME USE AREA	DESCRIPTION
Residential/ Commercial	<p>Residential/Commercial Scheme use areas cover parts of Precincts P10 West Perth and P14 Goderich.</p> <p>They are intended to develop as lively and diverse mixed-use areas providing for an extensive range of residential and commercial uses to be established either in association with each other or independently, in a compatible manner—mixed residential/commercial development is strongly encouraged, provided that conflict between the residential and non-residential components is minimised. A wide variety of uses in the Residential, Home Occupation, Special Residential, Community and Cultural, Dining, Recreation and Leisure, Office, Retail (Local), Business Services and Healthcare 1 categories are classified as preferred, while all other use groups with the exception of Retail(Central) and Industry(Light) are contemplated in these areas.</p> <p>NOTE: Refer to Schedule 6: Use group tables for more detailed information.</p>
Office/Residential	<p>Office/Residential Scheme use areas cover parts of Precincts P10 West Perth and P13 Adelaide.</p> <p>It is intended that they develop as mixed use areas comprised primarily of permanent residential accommodation and office/business activities, together with a limited range of complementary uses—residential and non-residential uses may be developed either in combination or independently, in a compatible manner. Preferred use groups are Residential, Office, Home Occupation, Dining, Business Services and Healthcare 1. Certain other uses which serve the needs of surrounding residents and workers and/or are compatible with the desired character of the area may also be considered appropriate.</p> <p>NOTE: Refer to Schedule 6: Use group tables for more detailed information.</p>
Town Centre	<p>Town Centre Scheme use areas cover parts of Precincts P10 West Perth and P14 Goderich.</p> <p>While the Town centres should have the potential to accommodate a range of commercial and residential uses, it is intended that they be identified principally as shopping/service nodes serving the needs of residents and workers in surrounding areas and generally functioning at a smaller, more localised scale than the retail precincts of the central city. The centres, both of which are focused on portions of Hay Street, should have a distinct “main street” focus with continuous shopfronts enhancing the pedestrian environment along the primary street frontage. Preferred uses abutting Hay Street are therefore those in the Retail (Local and General), Dining, and Business Services categories. Although some other uses may be favourably regarded on this frontage if compatible with the desired character of the centre, contemplated use group categories include Community and Cultural, Entertainment, Mixed Commercial, Industry (Service and Cottage). These and many more may be considered appropriate at other locations within the centre i.e. rear ground floor tenancies, upper or lower levels and on street frontages other than Hay Street.</p> <p>NOTE: Refer to Schedule 6: Use group tables for more detailed information.</p>
Commercial	<p>Commercial Scheme use areas cover parts of Precincts P10 West Perth and P11 Hamilton.</p> <p>It is intended that they continue to develop as general commercial areas accommodating a diverse mix of facilities and services. Preferred use groups include Office, Business Services, Mixed Commercial, Community and Cultural, Entertainment, Recreation and Leisure, Retail (Local), Dining, Industry (Cottage) and Healthcare 1. Industry (service) is also classified as preferred in Hamilton. Most other use groups within the Commercial area are contemplated.</p> <p>NOTE: Refer to Schedule 6: Use group tables for more detailed information.</p>

SCHEDULE 2

Use group categories

USE GROUP	DESCRIPTION
Business Services	See definition of ‘business services’ in Schedule 4.
Civic	See definition of ‘civic building’ in Schedule 4.
Community and Cultural	Premises used to provide social, cultural or recreational facilities and services, generally on a non-profit basis, for the benefit of the community including: community centre, exhibition centre, public library, place of worship.

USE GROUP	DESCRIPTION
Dining	See definition of 'restaurant' in Schedule 4.
Education 1	See definition of 'educational facility—lower' in Schedule 4.
Education 2	See definition of 'educational facility—upper' in Schedule 4.
Entertainment	Premises used for the purpose of amusement, entertainment or similar purposes and operated generally on a commercial basis including: amusement parlour, betting agency, cinema/theatre, club, function centre, nightclub, tavern.
Healthcare 1	See definition of 'consulting rooms' in Schedule 4.
Healthcare 2	Premises, other than those included in the Healthcare 1 use group category, used for general healthcare and associated facilities, including: hospital, medical centre, nursing home.
Home Occupation	See definition of 'home occupation' in Schedule 4.
Industry—Cottage	See definition of 'industry—cottage' in Schedule 4.
Industry—Light	See definition of 'industry—light' in Schedule 4.
Industry—Service	See definition of 'industry—service' in Schedule 4.
Mixed Commercial	Premises accommodating a range of commercial facilities and services not generally considered appropriate to main shopping areas, such as those involving large areas for the display of bulky goods or catering for the through movement of vehicles including: auction room, car wash facility, convenience store, fast food outlet, funeral parlour, garden centre, open air display, printing/reprographic service, service station, showroom, vehicle sales or hire outlet, veterinary centre.
Office	See definition of 'office' in Schedule 4.
Recreation and Leisure	See definition of 'recreation facility' in Schedule 4.
Residential	Premises providing for long-term or permanent residential accommodation including: aged persons dwelling, caretaker's dwelling, grouped dwelling, single house, multiple dwelling.
Retail (Local)	See definition of 'local shop' in Schedule 4.
Retail (General)	All retail outlets—other than those in the Retail (Local), Retail (Central) and Mixed Commercial use group categories and any further uses which are separately defined in the Scheme—as well as premises providing selected personal services operating predominantly from "shopfront" locations, including: drycleaner, laundromat, shop.
Retail (Central)	See definition of 'department store' in Schedule 4.
Special Residential	Premises providing short-term, temporary or specialised residential accommodation including: lodging house, hotel.
Storage	See definition of 'warehouse' in Schedule 4.

SCHEDULE 3

Use group tables

P1 Northbridge (CC)

Use Group	Use Symbol	
	East of Russell Square	West of Russell Square
Business Services	P	C
Civic	C	C
Community and Cultural	P	P
Dining	P	P
Education 1	C	C
Education 2	C	C
Entertainment	P	C
Healthcare 1	C	C
Healthcare 2	C	C
Home Occupation	C	P
Industry—Light	X	X
Industry—Service	C	C
Industry—Cottage	C	C
Mixed Commercial	C	C
Office	C	C
Recreation and Leisure	P	C

Use Group	Use Symbol	
	East of Russell Square	West of Russell Square
Residential	C	P
Retail (Central)	C	X
Retail (General)	P	C
Retail (Local)	P	P
Special Residential	P	P
Storage	C	C

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 14 of the Scheme text, and relevant precinct plan for further information.

P2 Cultural Centre (CC)

Use Group	Use Symbol
Business Services	C(1)
Civic	P
Community and Cultural	P
Dining	C
Education 1	C
Education 2	P
Entertainment	C
Healthcare 1	C(1)
Healthcare 2	C(1)
Home Occupation	C
Industry—Light	X
Industry—Service	C(1)
Industry—Cottage	C(1)
Mixed Commercial	C(1)
Office	C(1)X
Recreation and Leisure	C(1)X
Residential	C
Retail (Central)	X
Retail (General)	C
Retail (Local)	C
Special Residential	C
Storage	C(1)X

(1) Means use contemplated on William Street and Beaufort Street frontages only.

NOTE:

The majority of land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P3 Stirling (CC)

Use Group	Use Symbol
Business Services	P
Civic	C
Community and Cultural	C
Dining	C/P(1)
Education 1	C
Education 2	C
Entertainment	C
Healthcare 1	C
Healthcare 2	C
Home Occupation	P
Industry—Light	C
Industry—Service	C
Industry—Cottage	C
Mixed Commercial	C
Office	P
Recreation and Leisure	C
Residential	P
Retail (Central)	C
Retail (General)	C/P(1)
Retail (Local)	C/P(1)
Special Residential	P
Storage	C

(1) Means use preferred on Beaufort Street, contemplated elsewhere in Precinct.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P4 Victoria (CC)

Use Group	Use Symbol
Business Services	C
Civic	P
Community and Cultural	P
Dining	C
Education 1	P
Education 2	P
Entertainment	C(1)
Healthcare 1	P
Healthcare 2	P
Home Occupation	C
Industry—Light	X
Industry—Service	C(1)
Industry—Cottage	C(1)
Mixed Commercial	C
Office	C
Recreation and Leisure	C
Residential	C
Retail (Central)	C(1)
Retail (General)	C
Retail (Local)	C
Special Residential	P
Storage	C

(1) Means use contemplated primarily in the area south of Murray Street.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P5 Citiplace (CC)

Use Group	Use Symbol	
	King Street Heritage	Rest of Precinct
Business Services	C	P
Civic	C	C
Community and Cultural	C	C
Dining	C(2)	P/C(3)
Education 1	C(1)	C(1)
Education 2	C(1)	C(1)
Entertainment	C	P/C(3)
Healthcare 1	C(1)	C(1)
Healthcare 2	C(1)	C(1)
Home Occupation	C	C(1)
Industry—Light	C(2)	C(1)
Industry—Service	C(2)	C/X(3)
Industry—Cottage	C	C/X(3)
Mixed Commercial	X	C/X(3)
Office	C(1)	C(1)
Recreation and Leisure	C(1)	C
Residential	C	C(1)
Retail (Central)	X	P/C(3)
Retail (General)	C(2)	P/C(3)
Retail (Local)	C	P/C(3)
Special Residential	C	C(1)
Storage	C(2)	C(1)

(1) Means use must be situated at other than street/pedestrian level in King Street area and/or main “retail core” (centred on Hay and Murray Street malls and Forrest Place), as applicable.

(2) Means certain types of retail/ industrial uses only will be considered; refer to Precinct Plan and King Street Design Guidelines for further information.

(3) Means latter classification applicable to GPO/Commonwealth Bank buildings.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P6 St Georges (CC)

Use Group	Use Symbol
Business Services	P
Civic	P
Community and Cultural	C
Dining	P
Education 1	C(1)
Education 2	C
Entertainment	C
Healthcare 1	P
Healthcare 2	C
Home Occupation	C
Industry—Light	X
Industry—Service	C
Industry—Cottage	C
Mixed Commercial	C
Office	P
Recreation and Leisure	C(1)
Residential	C
Retail (Central)	C
Retail (General)	C
Retail (Local)	C
Special Residential	C
Storage	C(1)

(1) Means use should be situated at other than street/pedestrian level.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P7 Civic (CC)

Use Group	Use Symbol
Business Services	P
Civic	P
Community and Cultural	P
Dining	P/C(1)
Education 1	C(2)
Education 2	C
Entertainment	P/C(1)
Healthcare 1	P
Healthcare 2	C
Home Occupation	C
Industry—Light	X
Industry—Service	X
Industry—Cottage	C/X(1)
Mixed Commercial	C
Office	P
Recreation and Leisure	C
Residential	C
Retail (Central)	C
Retail (General)	P/C(1)
Retail (Local)	P/C(1)
Special Residential	C
Storage	X

(1) Means latter classification refers to properties fronting St Georges Terrace.

(2) Means use should be other than at street/pedestrian level.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P8 Foreshore (CC)

All land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P9 Matilda Bay

Use Group	Use Symbol
	Residential R60
Business Services	X
Civic	X
Community and Cultural	C
Dining	X
Education 1	C(1)
Education 2	X
Entertainment	X
Healthcare 1	C(1)
Healthcare 2	X/C(1)
Home Occupation	P
Industry—Light	X
Industry—Service	X
Industry—Cottage	X
Mixed Commercial	X
Office	X
Recreation and Leisure	C(1)
Residential	P
Retail (Central)	X
Retail (General)	X
Retail (Local)	C(1)
Special Residential	C(1)
Storage	X

(1) Means subject to advertising procedure. In case of Healthcare 2, all uses other than nursing homes are prohibited uses.

NOTE:

Other than the Residential Scheme use area, land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P10 West Perth

Use Group	Use Symbol				
	Residential R160	Residential/ Commercial	Office/ Residential	Commercial	Town Centre
Business Services	X	P	P	P	P
Civic	X	C	C	C	C(2)
Community & Cultural	C	P	C	P	C
Dining	C(1)	P	P	P	P
Education 1	C(1)	C	C	C	C(2)
Education 2	X	C	C	C	C(2)
Entertainment	X	C	C	P	C
Healthcare 1	C(1)	P	P	P	C(2)
Healthcare 2	X/C(1)	C	C	C	C(2)
Home Occupation	P	P	P	C	C(2)
Industry—Light	X	X	X	C	X
Industry—Service	X	C	X	C	C
Industry—Cottage	X	C	X	P	C
Mixed Commercial	X	C	X	P	C
Office	X	P	P	P	C(2)
Recreation & Leisure	C(1)	P	C	P	C(2)
Residential	P	P	P	C	C(2)
Retail (Central)	X	X	X	C	C
Retail (General)	X	C	X	C	P
Retail (Local)	C(1)	P	C	P	P
Special Residential	C(1)	P	C	C	C(2)
Storage	X	C	X	C	C(2)

(1) Means subject to advertising procedure. In case of Healthcare 2, all uses other than nursing homes are prohibited.

(2) Means use must be situated other than at street frontage for properties on Hay Street.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P11 Hamilton

Use Group	Use Symbol
Business Services	P
Civic	C
Community and Cultural	P
Dining	P
Education 1	C
Education 2	P
Entertainment	P
Healthcare 1	P
Healthcare 2	C
Home Occupation	C
Industry—Light	C
Industry—Service	P
Industry—Cottage	P
Mixed Commercial	P
Office	P
Recreation and Leisure	P
Residential	C
Retail (Central)	X
Retail (General)	C
Retail (Local)	P
Special Residential	C
Storage	C

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P12 Langley

All land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P13 Adelaide

Use Group	Use Symbol	
	Office/ Residential	Residential R160
Business Services	P	X
Civic	P	X
Community and Cultural	C	C
Dining	P	C(1)
Education 1	C	C(1)
Education 2	C	X
Entertainment	C	X
Healthcare 1	P	C(1)
Healthcare 2	C	X/C(1)
Home Occupation	P	P
Industry—Light	X	X
Industry—Service	X	X
Industry—Cottage	X	X
Mixed Commercial	C	X
Office	P	X
Recreation and Leisure	C	C(1)
Residential	P	P
Retail (Central)	X	X
Retail (General)	C	C(1)
Retail (Local)	C	C(1)
Special Residential	P	C(1)
Storage	C	X

(1) Means subject to advertising procedure. In case of Healthcare 2, all uses other than nursing homes are prohibited.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P14 Goderich

Use Group	Use Symbol		
	Residential R160	Residential/ Commercial	Town Centre
Business Services	X	P	P
Civic	X	C	C(2)
Community and Cultural	C	P	C
Dining	C(1)	P	P
Education 1	C(1)	C	C(2)
Education 2	X	C	C(2)
Entertainment	X	C	C
Healthcare 1	C(1)	P	C(2)
Healthcare 2	X/C(1)	C	C(2)
Home Occupation	P	P	C(2)
Industry—Light	X	X	X
Industry—Service	X	C	C
Industry—Cottage	X	C	C
Mixed Commercial	X	C	C
Office	X	P	C(2)
Recreation and Leisure	C(1)	P	C(2)
Residential	P	P	C(2)
Retail (Central)	X	X	X
Retail (General)	X	C	P
Retail (Local)	C(1)	P	P
Special Residential	C(1)	P	C(2)
Storage	X	C	C(2)

(1) Means subject to advertising procedure. In the case of Healthcare 2, all uses other than nursing homes are prohibited.

(2) Means use must be situated other than at street frontage for properties on Hay Street.

NOTE:

Some land in this Precinct is reserved under the Metropolitan Region Scheme (MRS)—refer to clause 13 of the Scheme text and relevant precinct plan for further information.

P15 East Perth

Land in this Precinct is within the boundaries of the East Perth Redevelopment Area and is therefore under the control of the East Perth Redevelopment Authority. Refer to East Perth Redevelopment Scheme text and Policies Manual for further information.

SCHEDULE 4**1. General Definitions**

In this Scheme, unless the contrary intention appears—

TERM	DEFINITION
absolute majority	in relation to the Council, means a majority comprising enough of the members for the time being of the Council for their number to be more than 50% of the number of offices (whether vacant or not) of members of the Council;
Act	means the <i>Town Planning and Development Act 1928</i> ;
additional use	means a use, in respect of a specified site, listed in Schedule 5, and to which clause 19 applies;
advertisement	means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purpose of an advertisement, announcement or direction and includes any hoarding or similar structure used or adapted for use, for the display of advertisements and “advertising” has a correlative meaning;
amenities	depending on its context, means— <ul style="list-style-type: none"> (a) the expectations of those living and working in an area about the quality of their environment including its pleasantness, character, beauty, harmony in the exterior design of buildings, privacy and security; or (b) facilities providing use, convenience or enjoyment;
application	means an application for planning approval;

TERM	DEFINITION
approved plan	means any plan that— <ol style="list-style-type: none"> (a) forms part of an application for which planning approval has been granted; and (b) has been endorsed with the approval of the Council;
building	includes a structure erected or placed on land;
Chief Executive Officer	means the Chief Executive Officer of the City;
Central area	means that part of the Scheme area encompassed by each of the precincts, other than Matilda Bay, West Perth and Hamilton, listed in the precinct table in clause 11;
City	means the City of Perth continued in existence as a body corporate under the <i>Local Government Act 1995</i> ;
City of Perth Scheme reserve	means land reserved under this Scheme and shown on the Scheme map as a City of Perth Scheme reserve;
commercial	means any activity involving any form of purchase, hire or sale of goods or services;
Commonwealth agency	includes a Commonwealth Minister, body or officer and an agency or instrumentality of the Crown in right of the Commonwealth;
community uses	means those uses, in a particular locality, which provide services or facilities, such as health or social services or meeting facilities, to those who live or work in that locality;
conservation	has the same meaning given to it in the <i>Heritage of Western Australia Act 1990</i> ; NOTE: Under the <i>Heritage of Western Australia Act 1990</i> , “conservation” is defined to mean, in relation to any place—“the management of that place in a manner that will— <ol style="list-style-type: none"> (a) enable the cultural heritage significance of that place to be retained; and (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place, and may include the preservation, stabilization, protection, restoration, reconstruction, adaptation, and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting”.
conservation area	means an area declared by the Council under clause 31;
Council	means the Council of the City;
Council register	means— <ol style="list-style-type: none"> (a) register of non-conforming uses; (b) register of places of cultural heritage significance; (c) register of transferred plot ratio; or (d) any other register kept by the Council under this Scheme.
cultural heritage significance	has the same meaning given to it in the <i>Heritage of Western Australia Act 1990</i> ; NOTE: The <i>Heritage of Western Australia Act</i> defines “cultural heritage significance” to mean, in relation to a place—“the relative value which that place has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generations”.
development	has the same meaning as is given to it in the Act except that it also includes any advertisement; NOTE: Section 2(1) of the <i>Town Planning and Development Act 1928</i> defines “development” to mean—“the development or use of any land, including any demolition, erection, construction, alteration of or addition to any building or structure on the land and the carrying on the land of any excavation or other works and, in the case of a place to which a Conservation Order made under section 59 of the <i>Heritage of Western Australia Act 1990</i> applies, also includes any act or thing that— <ol style="list-style-type: none"> (a) is likely to change the character of that place or the external appearance of any building; or (b) would constitute an irreversible alteration of the fabric of any building”.
dwelling	has the same meaning given to it in the Residential Design Codes; NOTE: Clause 1.3.1 of the Residential Design Codes defines “dwelling” to mean—“a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by— <ul style="list-style-type: none"> • a single person, • a single family, • no more than six (6) persons who do not comprise a single family”.

TERM	DEFINITION
floor area of a building	means— <ol style="list-style-type: none"> (a) for any building (or part of a building) that is a residential development within a residential area, the gross total of the areas of all floors of the building being the areas specified in the definition of Plot Ratio contained in the Residential Design Codes; (b) for any other building (or part of a building), the gross total area of all floors of the building— <ol style="list-style-type: none"> (i) including the area of car parking spaces and circulation aisles in public fee-paying car parks, (ii) excluding— <ul style="list-style-type: none"> – toilets and bathrooms; – lift shafts; – stairs and stair landings; – plant rooms; – lobbies; – communal facilities for the exclusive use of the on-site residents (reading rooms, meeting rooms, gyms, change rooms or other areas as approved by Council, but not including common storage areas); – residential storerooms, accessible only from outside the dwelling with a minimum dimension of 1.5m; – staff tea preparation and lunch areas; – staff changeroom/locker facilities; – car parks and circulation areas for on-site tenants and residents and bicycle parking areas; – open balconies, verandahs, terraces and courtyards; and – the thickness of any external walls.
frontage	means the boundary line or lines between land and the street or streets upon which that land abuts;
functional road hierarchy map	means the map on which is set out the system of classifying roads by their function or role;
gazettal date	means the date on which this Scheme is published in the <i>Government Gazette</i> ;
hazardous use	means a use, including an industry, which by reason of the processes involved, the method of manufacture, the nature of the materials stored, used or produced or the activities carried on, creates a hazard to public health;
Health Act	means the <i>Health Act 1911</i> ;
height	in relation to a building, means the distance measured from the mean natural level of that part of the land on which the building is erected to the highest point of any part of the building but does not include— <ol style="list-style-type: none"> (a) any lift plant, water tower or similar utility or services, not exceeding 3.0 metres in height; or (b) any architectural feature or decoration (other than a free-standing sign) not used or any form of accommodation which may be approved by the Council;
height ratio	means the ratio of the building height to the width of the road;
heritage agreement	means an agreement entered into under clause 33 of this Scheme and section 29 of the Heritage of Western Australia Act;
Heritage of Western Australia Act	means the <i>Heritage of Western Australia Act 1990</i> ;
incidental use	is a use of premises which is ancillary and subordinate to the predominant or primary use;
land	has the same meaning given to it in the Act; NOTE: Section 2(1) of the <i>Town Planning and Development Act 1928</i> defines “land” to include—“land, tenements and hereditaments and any interest therein, and also houses, buildings, and other works and structures”.

TERM	DEFINITION
landscaped area	means any area developed by the planting of lawns, garden beds, shrubs or trees and includes any area developed with rockeries, ornamental ponds, swimming pools, barbecue areas or children's playgrounds and includes any other area approved by the Council as landscaped area;
local area traffic management	means the management of traffic on residential or other streets;
local recreation	means premises open to the public and providing facilities to meet the passive and active recreation needs of the population of an immediate locality;
lot	has the same meaning given to it in the Act; NOTE: Section 2(1) of the <i>Town Planning and Development Act 1928</i> defines "lot" to mean—"a defined portion of land depicted on a plan or diagram publicly exhibited in the public office of the Department of Land Administration, or deposited in the Office of Titles or Registry of Deeds and for which a separate Crown Grant or Certificate of Title has been or can be issued; or depicted on a subdivisional plan or diagram, whether so exhibited or deposited or not, but which is, whether before or after the coming into operation of the <i>Town Planning and Development Act Amendment Act 1956</i> , approved by the Commission and includes the whole of the land the subject— (a) of a Crown Grant issued under the <i>Land Act 1933</i> ; or (b) of a certificate of title issued under the <i>Transfer of Land Act 1893</i> ; or (c) of a survey into a lot pursuant to a direction given under section 17 of the <i>Land Act 1933</i> ; or (d) of a part-lot shown on a plan of subdivision or diagram deposited in the Department of Land Administration, Office of Titles, or Registry of Deeds; or (e) of a conveyance registered under the <i>Registration of Deeds Act 1856</i> ".
Metropolitan Region Scheme	means the Metropolitan Region Scheme made under the <i>Metropolitan Region Town Planning Scheme Act 1959</i> ;
Metropolitan Region Scheme reserve	means land reserved under the Metropolitan Region Scheme;
Minister	means the Minister responsible for the administration of the Act;
non-conforming use	means a use of land which, although lawful immediately prior to the coming into operation of this Scheme, is a prohibited use;
noxious use	means a use, including an industry, in which any of the processes involved constitutes an "offensive trade" as defined in section 186 of the Health Act, but does not include fish shops or dry cleaning premises; NOTE: Section 186 of the Health Act defines "offensive trade" to mean and include any of the trades specified in Schedule 2 of that Act, and any other trade declared to be offensive by proclamation.
owner	in relation to any land includes the Crown in right of the State and the Commonwealth and every person who jointly or severally, whether at law or in equity— (a) is entitled to the land for any estate of fee simple in possession; or (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or (c) is entitled to receive or is in receipt of, or if the lands were let to a tenant, would be entitled to receive the rents and profits, whether as a beneficial owner, trustee, mortgagee in possession or otherwise;
Perth Parking Management Area	means the area described in regulation 4 and Schedule 1 of the <i>Perth Parking Regulations 1999</i> ;
Perth Parking Policy	means the policy developed under section 5 of the <i>Perth Parking Management Act 1999</i> and published in the <i>Government Gazette</i> on 16 July 1999;
place	for the purposes of Division 2 of Part 3 dealing with places of cultural heritage significance, has the same meaning as given to it in the Heritage of Western Australia Act except that it includes a tree; NOTE: Section 3(1) of the Heritage of Western Australia Act defines "place" to mean—"an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes— (a) an area of land situated below low water mark on the sea shore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;

TERM	DEFINITION
	<p>(b) any works or buildings situated there, their contents relevant to the purposes of this Act and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and</p> <p>(c) as much of the land beneath the place as is required for the purposes of its conservation”.</p>
planning approval	means approval, with or without conditions, granted by Council in respect of an application, to begin or continue development;
planning policy	means a planning policy made by the Council under clause 56;
plot ratio	means the ratio of the floor area of a building to the area of land within the boundaries of the lots on which that building is located; NOTE: The “floor area of a building” is defined earlier in this Schedule.
podium	means part of a building which is a continuous base or pedestal projecting from the ground;
Precinct	means an area or neighbourhood of limited size having— (a) a similar use or other characteristics; and (b) specified boundaries;
precinct plan	means a document setting out the planning intentions for a particular precinct;
predominant use	is the use of land to which all other uses carried on that land are subordinate, incidental or ancillary;
premises	includes lands and buildings;
prohibited use	means a use that is not permitted by the Scheme;
public authority	has the same meaning given to it in the Act; NOTE: Section 2(1) of the Act defines “public authority” to mean—“a Minister of the Crown acting in his official capacity, a State Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any Act, administers or carries on for the benefit of the State, a social service or public utility”.
public utility	means any works or undertaking constructed or maintained by a public authority, Commonwealth agency or municipality to provide water, sewerage, electricity, gas, drainage, communications or other similar services;
register of non-conforming uses	means the register kept in accordance with clause 21;
register of places of cultural heritage significance	means the register kept in accordance with clause 32;
register of transferred plot ratio	means the register kept in accordance with clause 35;
residential development	means a development (including part of a development) used, intended, adapted or designed to be used, for a residential purpose, but does not include a use that is part of the Special Residential Use Group;
Residential Design Codes	means the Residential Design Codes set out in Appendix 2 to the Statement of Planning Policy No.1 prepared under 5AA of the Act;
retail floor area	means the floor area of each of the floors of a building used for the display or sale of goods but does not include floor areas used for concealed storage, food preparation, a workshop or a toilet;
Scheme area	means the area defined in clause 4;
Scheme map	means the document identifying the broad planning objectives of the Scheme area;
Scheme text	means the document to which this Schedule is attached and includes this and all other Schedules;
Scheme use area	means an area, identified in clause 12(1), for which appropriate uses are described in Schedule 1;
storey	means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling above it but does not include any portion of a building used solely for car parking and having 50% or more of its volume below natural ground level;
street alignment	means the boundary between the land comprising a street and the land abutting it, but, where a new street alignment is prescribed, means the boundary between that land and that new street alignment;

TERM	DEFINITION
tree	includes group of trees or other vegetation;
unlisted use	has the meaning given to it in clause 15(4);
Western Australian Planning Commission	means the Commission established by section 4 of the <i>Western Australian Planning Commission Act 1985</i> .

2. Land Use Definitions

In this Scheme, unless the contrary intention appears—

TERM	DEFINITION	USE GROUP
aged person's dwelling	has the same meaning given to 'aged or dependent person's dwelling' in the Residential Design Codes; NOTE: Clause 5 of the Residential Design Codes defines 'aged or dependent person's dwelling' to mean 'a dwelling within a group of such dwellings provided by a religious or charitable organisation, or body approved by the Council, for the accommodation of aged or dependent persons, and designed and used solely for that purpose'.	Residential
amusement parlour	means premises— (a) that are open to the public; (b) the predominant use of which are for amusement by means of amusement machines; and (c) that have at least 3 amusement machines operating within the premises during operating hours;	Entertainment
auction room	means premises used for the sale of goods by public or private auction, but does not include areas used for the storage of those goods;	Mixed Commercial
betting agency	means premises operated under the <i>Totalisator Agency Board Betting Act 1960</i> ;	Entertainment
business services	means premises used for the provision of services which are predominantly administrative in nature and which— (a) are dependent on direct access to the public; and (b) generally have a retail shop front, and includes a bank or building society, post office, real estate agency and travel agency;	Business Services
car park	means premises used primarily for parking private vehicles or taxis whether or not— (a) as a public or private car park; and (b) for reward, but does not include— (a) any part of a public road used for parking or for a taxi rank; or (b) any premises used for the display of vehicles for sale;	Car park
car wash facility	means premises— (a) used for the mechanical washing of vehicles; and (b) operated on a commercial basis;	Mixed Commercial
caretaker's dwelling	means a dwelling on the same site as a building, operation or plant which is occupied by a supervisor of that building, operation or plant;	Residential
cinema/theatre	means premises where the public may view a motion picture or theatrical production, with or without ancillary facilities for the sale of refreshments;	Entertainment
civic building	means premises used by a government (Federal, State or Local) or a government agency in carrying out its parliamentary, executive or judicial functions, and includes Parliament House, Council House, Government House and the Federal, Supreme, District and Local Court buildings;	Civic

TERM	DEFINITION	USE GROUP
club	means premises— (a) used by a legally constituted club or association or other body of persons united by a common interest (whether or not the premises are licensed under the <i>Liquor Licensing Act 1988</i>); and (b) which are not otherwise defined under these land use definitions;	Entertainment
community centre	means premises accommodating services (such as health or social services) or facilities (such as meeting or recreation facilities) primarily for the benefit of those who live or work in the surrounding locality;	Community and Cultural
consulting rooms	means premises, other than a hospital, used for the investigation and/or treatment of physical or mental injuries or ailments in the practice of a profession by a person who is— (a) a legally qualified medical practitioner, dentist, physiotherapist, masseur, chiropractor, chiropractist or similar professional; and (b) either a member or eligible for membership of the relevant professional body;	Healthcare 1
convenience store	means premises— (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens and newsagents but includes the sale of petrol; (b) operated during hours which include but may extend beyond normal trading hours; (c) that provide parking for its customers; and (d) the floor area of which does not exceed 300 squares net lettable area;	Mixed Commercial
day care centre	means premises used for the daily or occasional care of children in accordance with the <i>Community Services (Child Care) Regulations 1988</i> ;	
department store	means a large retail outlet that— (a) sells a wide variety of goods including clothing, footwear, personal and household goods; and (b) is generally arranged into different departments;	Retail (Central)
dry cleaning premises	means premises used for the cleaning of garments and other fabrics by chemical processes;	Retail (General)
educational facility—lower	means premises that are— (a) child care premises as defined in the <i>Community Services (Child Care) Regulations 1988</i> ; or (b) used as a pre-primary or primary school;	Education 1
educational facility—upper	means premises used for— (a) a secondary school; or (b) post-secondary education, including a tertiary institution, business college, employment training centre or academy;	Education 2
exhibition centre	means premises used for the display and storage, but not the sale, of materials of an artistic, cultural, historical or scientific nature, such as a museum or art gallery, with or without facilities for the sale of refreshments and/or souvenirs;	Community and Cultural
fast food outlet	means premises where food is prepared and sold— (a) to be taken away; or (b) for consumption on those or adjacent premises—if the operation of the premises is likely to attract considerable vehicular traffic to those premises for short periods;	Mixed Commercial
	NOTE: The related definition of “restaurant” is set out later in this Schedule.	
function centre	means premises— (a) used, by arrangement, to cater for private functions; and (b) on which food and drink may be served and entertainment may be provided;	Entertainment

TERM	DEFINITION	USE GROUP
funeral parlour	means premises used to prepare and store bodies for burial or cremation;	Mixed Commercial
garden centre	means premises used for the display and sale of garden products including garden ornaments, plants, seeds and domestic garden implements;	Mixed Commercial
grouped dwelling	has the same meaning given to it in the Residential Design Codes; NOTE: The Residential Design Codes defines "grouped dwelling" to mean— "A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property."	Residential
home occupation	means the carrying on of any business conducted in a dwelling or within the boundaries of the lot upon which a dwelling is constructed but does not include the sale or hire of any goods;	Home Occupation
hospital	means premises, whether permanent or otherwise, in which people receive medical or surgical treatment or care, and includes a maternity hospital or nursing home as defined in the <i>Hospitals and Health Services Act 1927</i> but does not include a hospital—special purpose;	Healthcare 2
hospital—special purpose	means premises used for the purposes of a hospital for— (a) the treatment of infectious or contagious diseases; or (b) the treatment or care of the mentally ill;	
hotel	means premises providing accommodation for the public the subject of a hotel licence under the <i>Liquor Licensing Act 1988</i> ;	Special Residential
industry	means premises used for the manufacture, dismantling, processing, assembling, testing, servicing, maintenance or repairing of goods, and includes, if carried out on the same land and incidental to any of these activities— (a) the storage of goods; (b) administration or accounting; (c) the sale of goods by wholesale or retail; and (d) the provision of amenities for employees;	Industry (all categories)
industry—cottage	means a trade or light industry producing arts and crafts goods which cannot be carried out as a home occupation and which— (a) does not adversely affect the amenity of the locality; (b) where operated in conjunction with a residential use, does not employ any person other than a member of the occupier's household; (c) is conducted in an out-building which is compatible with the principal uses to which land in the area in which it is located may be put; (d) does not occupy an area greater than 50 square metres; and (e) does not display a sign greater than 0.2 square metres in area;	Industry (Cottage)
industry—light	means industry— (a) in which the processes carried on, the machinery used and the goods carried to and from the premises would not affect the amenity of the locality; and (b) the conduct of which would not impose an undue load on any existing or proposed service for the supply of water, gas, electricity, sewerage facilities or other similar services;	Industry (Light)
industry—service	means premises— (a) on which light industry is carried on; and (b) that have a retail shop front relating to that light industry;	Industry (Industry Service)
laundromat	means premises, open to the public, in which washing machines, with or without provision for drying clothes, are available for use for reward;	Retail (General)

TERM	DEFINITION	USE GROUP
local shop	means a shop in which the only goods offered for sale are foodstuffs, toiletries, stationery or goods of a similar domestic nature intended for day to day consumption or use by persons living or working in the locality of the shop;	Retail (Local)
lodging house	has the same meaning given to it in the Health Act; NOTE: Section 3(1) of the Health Act defines "Lodging-house" to mean—"any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the reward; but the term does not include— (a) premises licensed under a publican's general licence, limited hotel licence, or wayside-house licence, granted under the <i>Licensing Act 1911</i> [now the <i>Liquor Licensing Act 1988</i>]; (b) premises used as a boarding school approved under the <i>Education Act 1928</i> ; or (c) any building comprising residential flats".	Special Residential
medical centre	means premises (other than hospital) that contains facilities for— (a) consulting rooms; and (b) ancillary services such as those provided by a chemist, pathologist and radiologist;	Healthcare 2
multiple dwelling	has the same meaning given to it in the Residential Design Codes; NOTE: The Residential Design Codes defines "multiple dwelling" to mean "A dwelling in a group of more than one dwelling on a lot where any part of a dwelling is vertically above part of any other but does not include a Grouped Dwelling".	Residential
night club	means premises— (a) used for entertainment with or without eating facilities; or (b) that are the subject of a licence under the <i>Liquor Licensing Act 1988</i> ;	Entertainment
nursing home	means premises in which persons who do not require constant medical attention are received as patients and lodged for the purposes of medical supervision and nursing care;	Healthcare 2
office	means premises used for— (a) administration purposes; or (b) the practice of a profession, but does not include premises defined under these use definitions as business services, consulting rooms or a veterinary centre;	Office
open air sales and display	means the use of land for the display, sale or hire of goods or equipment in the open air;	Mixed Commercial
place of worship	means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;	Community and Cultural
printing/reprographic service	means premises providing printing, photocopying, reprographic, digital imaging or similar services to businesses and the general public;	Mixed Commercial
public library	means premises accommodating a collection of books and/or other reference material available for use by the public;	Community and Cultural
recreation facilities	means premises used for any indoor or outdoor sport, recreation or leisure activity;	Recreation and Leisure
research and development	means scientific and industrial research and the development, production and assembly of products associated with that research;	
restaurant	means premises— (a) where the predominant use is the preparation, sale and consumption of food on the premises; and (b) where seating is provided for patrons, and includes a café but does not include a fast food outlet; NOTE: A "fast food outlet" is defined earlier in this Schedule.	Dining

TERM	DEFINITION	USE GROUP
restricted premises	means any premises used or designed primarily for the sale by retail or wholesale, or the offer for hire, loan or exchange or the exhibition, display or delivery of— (a) publications that are classified as restricted publications under the <i>Censorship Act 1996</i> ; or (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;	
service station	means premises used for— (a) the retail sale of petroleum products and motor vehicle accessories and goods of an incidental/convenience retail nature; and (b) carrying out greasing, car repairs or minor mechanical repairs to motor vehicles but not panel beating, spray painting, major repairs or vehicle working, and does not include a transport depot;	Mixed Commercial
shop	means premises used to— (a) sell goods by retail; (b) hire goods; or (c) provide services of a personal nature, including a hairdresser or beauty therapist, but does not include premises otherwise defined in these land use definitions, such as a convenience store, department store, fast food outlet, or showroom;	Retail (General)
	NOTES: (1) The <i>Interpretation Act 1984</i> defines “sell” to “include barter, exchange, offer to sell and expose for sale”. (2) A “local shop” is defined earlier in this Schedule.	
showroom	means premises in which goods are displayed and in which the predominant use is not the sale of goods;	Mixed Commercial
single house	has the same meaning given to it in the Residential Design Codes; NOTE: The Residential Design Codes defines “single house” to mean— “A dwelling standing wholly on its own green title or survey-strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property.”	Residential
tavern	means premises— (a) used to sell liquor for consumption on the premises; and (b) that are the subject of a tavern licence under the <i>Liquor Licensing Act 1988</i> ;	Entertainment
transport depot	means any premises used— (a) for the garaging of vehicles used or intended for use for the carriage of goods for hire or reward; or (b) for the transfer of goods from one such vehicle to another such vehicle whether or not the land or the building is also used for the maintenance and repair of the vehicles;	Mixed Commercial
vehicle sales or hire outlet	means premises used for the sale or hire of new or second hand motor vehicles, with or without ancillary facilities for vehicle servicing;	Mixed Commercial
veterinary centre	means premises used by a registered veterinary surgeon for the— (a) diagnosis of animal diseases and disorders; (b) medical or surgical treatment of animals; or (c) prevention of animal diseases or disorders, with or without facilities for the hospitalisation or boarding of animals;	Mixed Commercial
warehouse	means premises used for the storage of goods, whether or not commercial transactions involving the sale of the goods are carried out in or on that building or land.	Storage

SCHEDULE 5**Additional uses****NOTE:**

This schedule cannot be compiled until the gazettal of the City Planning Scheme.

SCHEDULE 6**Variations to Residential Design Codes**

Set out below are the variations to the Residential Design Codes as specified in the Scheme.

Clause 24(1) of the Scheme text

P9 Matilda Bay—

- Each dwelling shall be provided with two covered parking bays plus an additional space for visitor parking. Properly treated, this additional space may be included in landscaping calculations.
- All new grouped or multiple dwelling development, which accommodates more than two units, is required to ensure that two of the required visitor bays are designed and constructed so as to be capable of accommodating the on-site parking, loading and unloading of furniture vans or other service vehicles.
- The setback distance from all boundaries other than the street boundaries at each storey of a building shall be that prescribed with respect to the top storey of the building. Where a development is affected by the graduated height plane the setbacks shall be calculated in accordance with the Residential Design Codes or such lesser distance as the Council considers appropriate.

P10 West Perth—

- In the residential Scheme use area fifty per cent of the site shall be designed, developed and maintained as landscaped area.

Planning

Policy 4.8—Landscaping requirements relating to provision of landscape plans.

Policy 5.1—Parking Policy—Section relating to landuse parking requirements with respect to Residential Uses.

Policy 5.4—Bicycle Parking and End of Journey Facilities Policy—Section relating to provision of bicycle parking facilities required for multiple dwellings as follows “Bicycle Parking Facilities for multiple dwelling residential development must be provided at a rate of 1 bay for every 2 units”.

Policy 6.1—Mounts Bay Height Controls and Building Lines.

Policy 6.7—Goderich Design Policy

The provisions of the Goderich Design Policy prevail over the R Codes.

Policy 6.8—Terrace Road Design Policy

The provisions of the Terrace Road Design Policy prevail over the R Codes.

Policy 6.1—Mount Street Design Policy

The provisions of the Mount Street Design Policy prevail over the R Codes.

SCHEDULE 7**Forms**

This Schedule contains the following forms—

- Metropolitan Region Scheme (Form 1)—Application for Approval to Commence Development; and
- Notice of Decision on Application for Planning Approval.

COUNCIL IS REQUESTED TO FORWARD THE ORIGINAL TO THE MINISTRY FOR PLANNING ONLY WHEN THE APPROVAL OF THE WESTERN AUSTRALIAN PLANNING COMMISSION IS REQUIRED.

METROPOLITAN REGION SCHEME

Form 1

Office Use Only
Serial No

City/Town/Shire of

APPLICATION FOR APPROVAL TO COMMENCE DEVELOPMENT

Owner of land on which development proposed } Surname.....
 } Other Names.....
 } Address in full.....
 Postcode

Submitted by.....
 Address for Correspondence.....
 Postcode Phone

Locality of development (street, suburb. etc.).....
 Titles Office description of land: Lot No Location No.
 Plan or Diagram Certificate of Title Vol. Folio
 Nearest road junction or intersection

Description of proposed development

State nature of any existing buildings and/or land use

Approximate cost of proposed development \$

Estimated time of completion.....

Three copies of the Building Plan and Site Plan of the proposal are submitted with this application.
 Signed by the owner of the land.....
 Date

RECOMMENDATION OF COUNCIL

.....

NOTE: Submit original and duplicate together with copies of the plans requested to the office of the Local Authority in whose area the development is proposed.

ALL DETAILS MUST BE COMPLETED

NOTICE OF DECISION ON APPLICATION FOR PLANNING APPROVAL

CLAUSE 49

THIS IS NOT A BUILDING LICENCE

For Office Use Only
Serial No.

CITY OF PERTH CITY PLANNING SCHEME No. 2

APPROVAL/REFUSAL TO COMMENCE DEVELOPMENT

Name of owner of land on which development proposed:.....

.....

Surname:

Other Names:

Address:

Approval to commence development in accordance with the application for Town Planning Approval dated and the attached plans received dated is/was GRANTED/REFUSED (by the Council at its meeting on) in accordance with the provisions of the City Planning Scheme and the Metropolitan Region Scheme subject to the following conditions/for the following reasons—

.....
.....
.....
.....
.....

NOTE: SHOULD THE APPLICANT BE AGGRIEVED BY THIS DECISION A RIGHT OF APPEAL MAY EXIST UNDER THE PROVISIONS OF THE CITY PLANNING SCHEME OR THE METROPOLITAN REGION SCHEME.

This approval is valid for a period of.....years only. If development is not commenced within this period a fresh approval must be obtained before commencing or continuing the development.

.....
Chief Executive Officer/Town Clerk.

SCHEDULE 8

Minor development exempt from planning approval

Pursuant to section 37(d), the following development is exempt from the need to obtain town planning approval—

- A sign that complies with the By-law relating to signs (Local Law No. 40).

ADOPTION—

In accordance with the requirements of the *Town Planning and Development Act 1928* and pursuant to Regulation 13 of the *Town Planning Regulations 1967*, the Council adopts the proposed City of Perth City Planning Scheme No. 2, as laid on the table, for the purposes of enabling the State Planning Commission to examine the Scheme and to obtain the consent of the Hon. Minister for Planning to advertise the Scheme for public inspection.

Adopted by resolution of the Council of the City of Perth at the Ordinary Meeting of the Council held on the 9th day of August 1992.

Dr P. NATTRASS, Lord Mayor.
F. R. EDWARDS, Chief Executive Officer.

CITY OF PERTH
CITY PLANNING SCHEME No. 2

Adopted for final approval by the resolution of the Council of the City of Perth at the Ordinary Meeting of the Council held on the 26th day of June 2001 and the seal was, pursuant to that resolution, hereunto affixed in the presence of—

Dr P. NATTRASS, Lord Mayor.
F. R. EDWARDS, Chief Executive Officer.

RECOMMENDED—

NEIL FOLEY, Delegated under S.20 of the
Western Australian Planning Commission Act 1985.

Dated 9 December 2003.

APPROVED—

ALANNAH MacTIERNAN, Minister for Planning and Infrastructure.

Dated 9 December 2003.

