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PLANNING AND DEVELOPMENT ACT 2005

CITY OF STIRLING

LOCAL PLANNING SCHEME
No. 3

PLANNING AND DEVELOPMENT ACT 2005
APPROVED LOCAL PLANNING SCHEME
City of Stirling
LOCAL PLANNING SCHEME No. 3

Ref: TPS/0095/2

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the City of Stirling Local Planning Scheme No. 3 on 19 July 2010, the scheme text of which is published as a Schedule annexed hereto.

D. BOOTHMAN, Mayor.
S. JARDINE, Chief Executive Officer.

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PART 1—PRELIMINARY**1.1 Citation**

1.1.1 The City of Stirling Local Planning Scheme No. 3 (“the Scheme”) comes into operation on its Gazettal date.

1.1.2 The following Scheme is revoked—

- City of Stirling District Planning Scheme No. 2 (Gazettal Date: 13 September 1985)

1.2 Responsible Authority

The City of Stirling (“the Council” or “the City”) is the responsible authority for implementing the Scheme.

1.3 Scheme Area

The Scheme applies to the Scheme area, which covers that part of the local government district of the City of Stirling shown on the Scheme Maps.

Note: The Scheme area (or part) is also subject to the Metropolitan Region Scheme (see Clause 1.10) and does not include TPS 38 (see Clause 1.9).

1.4 Contents of the Scheme

The Scheme comprises the—

- Scheme Text; and
- Scheme Maps

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

1.5 Purposes of the Scheme

The purposes of the Scheme are to—

- set out the Council’s planning aims and intentions for the Scheme area;
- set aside land as reserves for public purposes;
- zone land within the Scheme area for the purposes defined in the Scheme;
- control and guide land use and development;
- set out procedures for the assessment and determination of planning applications;
- make provision for the administration and enforcement of the Scheme; and
- address other matters set out in the First Schedule to the Act.

1.6 The Aims of the Scheme

The aims of the Scheme are—

- To provide for a range of housing choice in neighbourhoods with a strong community identity and high levels of amenity;
- To provide for convenient attractive and viable commercial centres, which service the needs of the community and are accessible to pedestrians, cyclists and public transport users as well as motorists;
- To assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments, as well as providing opportunities for home based employment;
- To protect and enhance the environmental values and natural resources of the local government area and to promote sustainable land use and development;
- To encourage the conservation and continued use of identified places and objects of cultural heritage significance;
- To assist in the effective implementation of regional plans and policies including the State Planning Strategy.

1.7 Definitions

1.7.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have—

- in the Planning and Development Act; or
- if they are not defined in that Act—
 - in the Dictionary of defined words and expressions in Schedule 1; or
 - in the Residential Design Codes.

1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes—

- in the case of a residential development, the definition in the Residential Design Codes prevails; and
- in any other case the definition in the Dictionary prevails.

1.7.3 Notes, and instructions printed in italics, are not part of the Scheme.

1.8 Relationship with Local Laws

Where a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails.

1.9 Relationship with other Schemes

By way of information, the following other Scheme of the City of Stirling is, at the Gazettal date of the Scheme, complementary to the Scheme—

- Town Planning Scheme No. 38: Gazetted: 18 July 1997

1.10 Relationship with the Metropolitan Region Scheme

The Scheme is complementary to the Metropolitan Region Scheme and the provisions of the Metropolitan Region Scheme continue to have effect.

Note: The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission.

PART 2—LOCAL PLANNING POLICY FRAMEWORK**2.1 Scheme Determinations to Conform with Local Planning Strategy**

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

2.2 Local Planning Policies

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

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

and may amend or add to or rescind the Policy.

2.3 Relationship of Local Planning Policies to Scheme

2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the Council in respect of any application for planning approval but Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Note: Local Planning Policies are guidelines used to assist the Council in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, Council must have due regard to relevant Local Planning Policies as required under clause 10.2.

2.4 Procedure for Making or Amending a Local Planning Policy

2.4.1 If the Council resolves to prepare a Local Planning Policy, the Council—

- (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of—
 - (i) where the draft Policy may be inspected;
 - (ii) the subject and nature of the draft Policy; and
 - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the Council considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the Council is to—

- (a) review the proposed Policy in the light of any submissions made; and
- (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

2.4.3 If the Council resolves to adopt the Policy, the Council is to—

- (a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
- (b) if, in the opinion of the Council, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.

2.4.4 A Policy has effect on publication of a notice under Clause 2.4.3(a).

2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the Council.

- (a) Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

2.5 Revocation of Local Planning Policy

A Local Planning Policy may be revoked by—

- (a) the adoption by the Council of a new Policy under Clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
- (b) publication of a notice of revocation by the Council once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

2.6 Local Planning Policies Made Under Previous Scheme

2.6.1 Where a Local Planning Policy has been adopted in accordance with the requirements of the District Planning Scheme No.2, it shall continue to have effect, and may be amended or revoked as if it were a Local Planning Policy under the current scheme.

PART 3—RESERVES

3.1 Reserves

Certain lands within the Scheme area are classified as—

- (a) Regional Reserves; or
- (b) Local Reserves.

3.2 Regional Reserves

3.2.1 The lands shown as “Regional Reserves” on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map for the purposes of the Planning and Development Act 2005. These lands are not reserved under the Scheme.

3.2.2 The approval of the Council under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.

Note: The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve unless specifically excluded by the Region Scheme.

3.3 Local Reserves

“Local Reserves” are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

3.4 Use and Development of Local Reserves

3.4.1 A person must not—

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve, without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the Council is to have due regard to—

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

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

PART 4—ZONES AND THE USE OF LAND

4.1 Zones

4.1.1 The Scheme area is classified into the zones shown on the Scheme Maps.

4.1.2 The zones are delineated and depicted on the Scheme Maps according to the legend on the Scheme Maps.

4.1.3 Land delineated on the Scheme Maps which is not classified into a zone or reserve is classified as land with ‘No Zone’.

Note: Typically, land with no zone may include roads, rights of way and pedestrian access ways. Generally, development on such land is for public purposes and is not subject to the provisions of the Scheme, However, from time to time such land may become surplus (such as for road closures) and is amalgamated with the abutting zoned land. In these circumstances, the objective is to facilitate the development of such land in accordance with the standards and requirements of the abutting zoned land to which it has been amalgamated.

4.2 Objectives of the Zones

The objectives of each of the zones are as follows, and are intended to provide the context for development within the respective zones—

4.2.1 Business Zone

- (a) To provide for a limited range of small-scale commercial development which is compatible with residential development.
- (b) To provide for a range of housing types compatible with a mixed use environment.

4.2.2 Civic Zone

- (a) To provide for a limited range of community facilities which are compatible with surrounding development.
- (b) To ensure that the design of development is in keeping with the scale and form of surrounding development.

4.2.3 Development Zone

- (a) To provide for coordinated development through the application of a comprehensive structure plan to guide subdivision and development.

- (b) To avoid the development of land for purposes likely to compromise its future development for purposes, or in a manner likely to detract from the amenity or integrity of the area.

4.2.4 District Centre Zone

- (a) To provide for an extended range of shopping, commercial and community services to meet the weekly needs of the catchment neighbourhoods, and contribute towards the employment needs of the local workforce.
- (b) To ensure the design and siting of development provides a high standard of safety and amenity and contributes towards a sense of place and community.

4.2.5 Hotel Zone

- (a) To provide for a limited range of entertainment and accommodation related facilities.
- (b) To ensure a high standard of development and design that contributes towards a sense of place and community.

4.2.6 Industry Zone

- (a) To provide for a range of industrial and business development, as well as facilities for the storage and distribution of goods.
- (b) To ensure a high standard of development appropriate to a modern industrial area and which is conducive to safe and convenient access by all clientele.

4.2.7 Local Centre Zone

- (a) To provide for a limited range of small-scale retail, commercial and community facilities to meet the day-to-day needs of the immediate neighbourhood.
- (b) To ensure safe and convenient access to facilities, in an environment which is conducive to pedestrian movement.
- (c) To ensure development is sited and designed so as to reinforce a sense of place and attractive streetscapes.

4.2.8 Mixed Business Zone

- (a) To facilitate a development mix of showrooms and service industry of a higher aesthetic quality located on major traffic routes.
- (b) To provide a more intense commercial business development form within established industrial areas of the City.
- (c) To ensure that traffic management, road safety, site access, onsite parking, building design and streetscape appearance are not compromised.

4.2.9 Mixed Use Zone

- (a) To provide for a wide variety of active uses on the street level that contribute to a vibrant and active street which are compatible with residential and other non active uses on upper levels.
- (b) To facilitate the creation of employment within the area so as to reduce the demand for travel, and enhance the level of self-sufficiency.
- (c) To ensure a high standard of design that negates issues such as noise, smell and vibration that are related to mixed use developments.

4.2.10 Private Institutions Zone

- (a) To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of such facilities, which are compatible with surrounding development.
- (b) To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.

4.2.11 Regional Centre Zone

- (a) To provide for the full range of shopping, office, administrative, social, recreation, entertainment and community services, consistent with the region-serving role of the centre.
- (b) To facilitate the creation of employment within the centre so as to reduce the demand for travel, and enhance the level of self-sufficiency within the sub-region.
- (c) To promote a high degree of accessibility to and within the centre, for users of all modes of transport (bus, rail, private car, cycle and pedestrian) and to avoid fragmentation of commercial development.
- (d) To enhance pedestrian connectivity within the centre, so as to facilitate movement between sites and from public and private transport nodes.

4.2.12 Residential Zone

- (a) To provide for residential development at a range of densities with a variety of housing type and size, to meet the current and future needs of the community.
- (b) To provide for a range of non-residential uses, which are compatible with and complementary to residential development.

4.2.13 Service Station Zone

- (a) To provide for the location of Service Stations throughout the City.
- (b) To ensure that the design is appropriate and in keeping with surrounding development.
- (c) To ensure that development respects the amenity of the area.

4.2.14 Special Beach Development Zone

- (a) To provide a sound, coordinated strategy for the integrated development of public and private land to facilitate the creation of a safe, vibrant mixed use centre based on 'main street' design principles.
- (b) Development of a range of commercial facilities that will contribute towards economic development, local employment and the viability of the area as a commercial centre servicing residents, visitors and the local workforce.
- (c) Development of a range of versatile, medium and high density accommodation suitable for both tourists and permanent residents, so as to maximise accessibility to the foreshore and enhance the level of support for a wide range of commercial and recreational facilities.
- (d) Buildings designed to contribute towards a distinctive urban-coastal character and sense of place, and which are evocative of a beach-side town.
- (e) Buildings designed to capitalise on the vistas and climatic attributes of the location, but which will respect the visual amenities of the street and locality.
- (f) Buildings designed to provide an attractive visual frame and sense of enclosure for the adjacent street but which are in 'scale' with the adjoining public spaces.
- (g) Buildings designed to provide safe and efficient vehicular and pedestrian access and egress along the streets and to the foreshore.

4.2.15 Special Use Zone

To facilitate special categories of land uses that do not sit comfortably within any other zone.

4.3 Table 1—Zoning Table

4.3.1 Table 1—Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of use classes on the left hand side of the Table 1—Zoning Table and the list of zones at the top of the Table 1—Zoning Table.

4.3.2 The symbols used in the cross reference in the Table 1—Zoning Table have the following meanings—

- 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;
- 'D' means that the use is not permitted unless the Council has exercised its discretion by granting planning approval;
- 'A' means that the use is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 9.4;
- 'X' means a use that is not permitted by the Scheme.

4.3.3 A change in the use of land from one use to another is permitted, if—

- (a) the Council has exercised its discretion by granting planning approval;
- (b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Table 1—Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.

Note—

1. *The planning approval of the Council is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*
2. *The Council will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*
3. *In considering a 'D' or 'A' use, the Council will have regard to the matters set out in clause 10.2.*
4. *The Council must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.*

ZONE USE CLASS	Business	Civic	Development	District Centre	Hotel	Industry	Local Centre	Mixed Business	Mixed Use	Private Institutions	Regional Centre	Residential	Service Station	Special Beach Development	Special Use	
				District Centre	Hotel	Industry	Local Centre	Mixed Business	Mixed Use	Private Institutions	Regional Centre	Residential	Service Station	Special Beach Development	Special Use	
Aged or Dependent Persons Dwelling	D ²	A	Development and use of land is to be in accordance with an approved Structure Plan prepared and adopted under part 6A	A ²	X	X	A ²	X	P ²	D	P ²	P	X	D ²		
Amusement Parlour	X	X		P	D	X	P	X	P	X	P	X	X	P		
Bed and Breakfast	D	X		D	X	X	D	X	D	X	D	A	X	X		
Betting Agency	X	X		D	D	X	D	D	D	X	D	X	X	D		
Boarding House	A ²	X		A ²	X	X	A ²	X	D ²	X	D ²	A	X	A ²		
Car Park	D	P		D	D	P	D	P	D	D	D	X	D	D		
Caravan Park	X	X		X	X	X	X	X	X	A	X	X	X	X		
Caretaker's Dwelling	D	D		D	D	P	D	P	P	D	D	D	X	D		
Child Care Premises	D	P		D	X	D	D	D	A	D	D	A	X	D		
Cinema / Theatre	D	X		D	D	X	X	X	D	X	D	X	X	D		
Civic Use	D	P		D	D	D	D	D	P	X	D	A	X	P		
Club Premises	A	X		A	A	A	A	D	P	D	P	X	X	A		
Community Purposes	A	P		P	X	X	P	X	P	D	P	A	X	P		
Consulting Rooms	D	X		P	X	X	P	X	P	D	P	X	X	D		
Convenience Store	X	X		P	X	D ³	P	D ³	P	D ³	P	X	X	P		
Corrective Institution	X	X		X	X	X	X	X	X	X	X	X	X	X		
Drive Through Fast Food Outlet	X	X		D	X	X	X	D	X	X	D	X	X	X		
Educational Establishment	D	X		D	X	X	D	D	D	D	D	X	X	X		
Exhibition Centre	D	D		P	X	X	P	D	P	X	P	X	X	D		
Family Day Care	D	X		X	X	X	X	X	D	D	X	A	X	D		
Fast Food Outlet	A	X		P	X	X	P	D	P	X	P	X	X	P		
Fuel Depot	X	X		X	X	A	X	X	X	X	X	X	X	X		
Funeral Parlour	D	X		D	X	X	A	D	D	X	D	X	X	X		
Garden Centre	D	X		D	X	D	D	P	D	X	D	X	X	X		
Grouped Dwelling	D ²	X		D ²	X	X	D ²	X	D ²	X	D ²	P	X	X		
Hardware Showroom	X	X		D	X	X	X	P	X	X	D	X	X	X		
Home Business	D	X		D	X	X	D	X	D	X	D	A	X	D		
Home Occupation	D	X		D	X	X	D	X	D	X	D	D	X	D		
Home Office	P	X		P	X	X	P	X	P	X	P	P	X	P		
Home Store	P	X		P	X	X	P	X	P	D	P	A	X	P		
Hospital	X	X		X	X	X	X	X	X	A	A	X	X	X		
Hostel	X	X		A ²	X	X	X	X	A ²	X	X	A	X	A ²		
Hotel	X	X		A	P	X	X	A	A	X	A	X	X	A		
Industry—Cottage	D	X		D	X	P	D	P	X	X	X	D	X	X		
Industry—Extractive	X	X		X	X	P	X	X	X	X	X	X	X	X		
Industry—General	X	X		X	X	P	X	D	X	X	X	X	X	X		
Industry—Light	X	X		X	X	P	X	D	X	X	X	X	X	X		
Industry—Mining	X	X		X	X	X	X	X	X	X	X	X	X	X		
Industry—Noxious	X	X		X	X	A	X	X	X	X	X	X	X	X		
Industry—Rural	X	X		X	X	D	X	X	X	X	X	X	X	X		
Industry—Service	X	X		X	X	P	X	P	X	X	X	X	X	X		
Institutional Building	X	X		X	X	X	X	X	X	A	X	X	X	X		
Institutional Home	A	X		X	X	X	X	X	X	A	X	X	X	X		
Market	X	X	D	X	X	D	D	P	X	D	X	X	D			

Refer Schedule 4

ZONE USE CLASS	Business	Civic	Development	District Centre	Hotel	Industry	Local Centre	Mixed Business	Mixed Use	Private Institutions	Regional Centre	Residential	Service Station	Special Beach Development	Special Use
				District Centre	Hotel	Industry	Local Centre	Mixed Business	Mixed Use	Private Institutions	Regional Centre	Residential	Service Station	Special Beach Development	Special Use
Media Establishment	D	X	Development and use of land is to be in accordance with an approved Structure Plan prepared and adopted under part 6A	P	X	X	P	D	P	X	P	X	X	D	Refer Schedule 4
Medical Centre	A	X		P	X	X	D	D	P	D ⁴	P	X	X	D	
Motel	X	X		X	P	X	X	X	D	X	D	X	X	D	
Motor Vehicle Repair	X	X		A	X	P	X	D	X	X	A	X	D	X	
Motor Vehicle Wash	X	X		A	X	P	X	D	X	X	A	X	D	X	
Motor Vehicle, Boat or Caravan Sales	X	X		X	X	X	X	D	X	X	X	X	X	X	
Multiple Dwelling	D ²	X		D ²	X	X	D ²	X	D ²	X	D ²	P ¹	X	D ²	
Night Club	X	X		A	D	X	X	X	A	X	A	X	X	D	
Nursing Home	X	X		X	X	X	X	X	X	D	X	A	X	X	
Office	P	D		P	X	D	P	D	P	D ⁴	P	X	X	D	
Park Home Park	X	X		X	X	X	X	X	X	A	X	X	X	X	
Personal Care Services	P	A		P	X	D	P	X	P	D ⁴	P	X	X	P	
Personal Services	D	X		P	X	D	P	X	P	D ⁴	P	X	X	P	
Place of Worship	D	D		D	X	D	D	D	A	D	D	A	X	A	
Reception Centre	D	X		D	D	X	X	D	D	X	D	X	X	D	
Recreation—Private	P	X		P	X	X	P	P	P	P	P	X	X	P	
Residential Building	D ²	X		D ²	D ²	X	D ²	X	D ²	D	D ²	D	X	D ²	
Restaurant	P	X		P	P	D	P	D	P	X	P	X	X	P	
Restricted Premises	X	X		A	A	X	A	X	A	X	A	X	X	A	
Retirement Complex	A	X		X	X	X	X	X	D	P	X	D	X	X	
Rural Pursuit	X	X		X	X	X	X	X	X	D	X	A	X	X	
Salvage Yard	X	X		X	X	A	X	X	X	X	X	X	X	X	
Service Station	A	X		P	X	D	A	D	X	X	P	X	P	X	
Shop	X	X		P	X	X	P	X	P	D ^{3,4}	P	X	X	P	
Short Stay Accommodation	X	X		D ²	A ²	X	X	X	D ²	X	D ²	A	X	D ²	
Showroom	X	X		D	X	X	D	P	X	X	D	X	X	X	
Single Bedroom Dwelling	D ²	X		D ²	X	X	D ²	X	D ²	X	D ²	P	X	D ²	
Single House	D ²	X		D ²	X	X	D ²	X	D ²	X	D ²	P	X	D ²	
Storage (Outdoor)	X	X		X	X	P	X	D	X	X	X	X	X	X	
Tavern	X	X		A	P	X	A	D	A	X	D	X	X	D	
Telecommunications Infrastructure	D	D		D	D	D	D	D	D	D	D	A	D	D	
Trade Display	X	X		A	X	P	A	P	A	X	A	X	X	X	
Transport Depot	X	X		X	X	P	X	X	X	X	X	X	X	X	
Veterinary Centre	D	X	D	X	X	D	D	D	X	D	X	X	X		
Warehouse	X	X	X	X	P	X	P	X	X	X	X	X	X		
Wrecking	X	X	X	X	A	X	X	X	X	X	X	X	X		

- Note: 1. Multiple Dwellings not permitted in areas coded R35 or below.
 2. Not permitted on the ground floor fronting a street.
 3. Limited to a maximum net lettable area of 150m²

4.4 Interpretation of the Table 1—Zoning Table

4.4.1 Where a specific use is mentioned in the Table 1—Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Table 1—Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Council may—

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 Additional Uses

Despite anything contained in the Table 1—Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

Note: An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.

4.6 Restricted Uses

Despite anything contained in the Table 1—Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

Note: A restricted use is the only use or uses that is permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

4.7 Special Use Zones

4.7.1 Special use zones are set out in Schedule 4 and are in addition to the zones in the Table 1—Zoning Table.

4.7.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

4.8 Non-Conforming Uses

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent—

- (a) the continued use of any premises for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to Schedule 8 Clause 8.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

Note: "Land" has the same meaning as in the Act and includes houses, buildings and other works and structures.

4.9 Extensions and Changes to a Non-Conforming Use

4.9.1 A person must not—

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use,

without first having applied for and obtained planning approval under the Scheme.

4.9.2 An application for planning approval under Clause 4.9 is to be advertised in accordance with Clause 9.4.

4.9.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the Council is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing nonconforming use and is, in the opinion of the Council, closer to the intended purpose of the zone.

4.10 Discontinuance of Non-Conforming Use

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

4.11 Termination of a Non-Conforming Use

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

Note: Section 13 of the Act enables the Council to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

4.12 Destruction of Non-Conforming Use Buildings

If a building used for a non-conforming use is destroyed, demolished or damaged to 75% or more of its value, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the planning approval of the Council.

Note: Destruction of non-conforming residential buildings refer clause 5.3.3

4.13 Development on No Zoned Land

Subject to the provisions of clause 8.1.2, where land classified as 'No Zone' has been amalgamated with abutting zoned or reserved land, all development shall be in accordance with the standards and requirements of the abutting zoned or reserved land to which it has been amalgamated.

PART 5—GENERAL DEVELOPMENT REQUIREMENTS

5.1 Compliance with Development Standards and Requirements

5.1.1 Any development of land is to comply with the provisions of the Scheme and have due regard for any relevant Local Planning Policies effective under the Scheme.

5.1.2 Unless otherwise specified in the Scheme development requirements shall be determined by Council having regard to any relevant Local Planning Policies adopted under the Scheme.

5.2 Residential Design Codes

5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the City.

5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.

5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Design Code density, as being contained within the area defined by the centre-line of those borders.

5.3 Special Application of Residential Design Codes

5.3.1 Except as otherwise required in the Scheme or a Local Planning Policy, non-residential development within the Residential Zone is to comply with the requirements of the relevant R-Code of the Residential Design Codes.

5.3.2 Except as otherwise required in the Scheme or a Local Planning Policy, residential development not in the Residential Zone is to comply with the requirements of multiple dwellings under the R80 R-Code.

5.3.3 Notwithstanding any other provision of the Scheme, where a site has been developed (as approved by the Council) for residential purposes at a greater density than that permitted under the relevant R-Code applicable under the Scheme, the Council may permit the site to be redeveloped up to the same density, provided it is satisfied that the standard of development will be significantly improved as a result.

5.4 Restrictive Covenants

5.4.1 Subject to Clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.4.2 The provisions of Clause 5.4.1 do not apply to any lots contained within the areas defined in Schedule 9.

Note 1 While it is not proposed that applicants be required to provide an up-to-date copy of the Certificate of Title with every application for planning approval involving more than one dwelling on a lot, applications for planning approval require (under 'property details') the identification of any title encumbrances, including restrictive covenants. Where no such covenants have been identified, it will be taken that none are registered on title.

Note 2 The purpose of restrictive covenants in those areas delineated in Schedule 9 is to restrict the number of dwellings to one on a lot.

5.4.3 Clause 5.4.1 applies whether the restrictive covenant was made before or after the commencement of this Scheme.

5.5 Variations to Site and Development Standards and Requirements

5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

5.5.2 In considering an application for planning approval under Clause 5.5.1, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the Council is to—

- (a) consult the affected parties by following one or more of the provisions for advertising uses under Clause 9.4; and
- (b) have regard to any expressed views prior to making its determination to grant the variation.

5.5.3 Where—

- (a) An application for planning approval requires the exercise of Council's discretion under clause 5.5.1; and
- (b) In the opinion of Council, there is significant non-compliance with the standard or requirement;

Council may impose conditions on its approval requiring the provision of specified community facilities at the applicants cost.

Note 1 It is the intention of the Council to require the provision of community facilities where there has been a significant increase in demand for that facility as a direct result of the proposed development.

Note 2 Definition of community facilities is contained within Schedule 1.

5.5.4 The power conferred by Clause 5.5.1 may be exercised only if the Council is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 10.2; and
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

5.6 Environmental Conditions

There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme.

5.7 Development Requirements

5.7.1 Determination of Standards

Where a particular requirement is not readily determined from a study of the Scheme, Residential Design Codes or a Local Planning Policy, such requirement shall be determined by the Council.

5.7.2 Advertisements and Advertising Signs

The placement, erection or display of an advertisement or advertising sign, including—

- (a) advertising signs that do not require planning approval under clause 8.2.1(o); and
- (b) the use of any land, building or structure for that purpose,

shall be in accordance with Schedule 8 of the Scheme.

5.8 Cash-in-lieu of Car Parking

5.8.1 Subject to the remaining provisions of this clause 5.8, an applicant for planning approval for a non-residential development or use may, if Council agrees, make a cash payment to the Council in lieu of providing all or any of the number of car parking spaces required under a Local Planning Policy for the development or use for which planning approval has been sought by the applicant.

5.8.2 Before Council agrees to accept a cash-in-lieu payment under clause 5.8.1, it must have—

- (a) a reasonable expectation that a cash payment can be applied to provide additional transport infrastructure in the vicinity of the development site.

5.8.3 The amount of the cash-in-lieu payment shall be the cost estimated by Council to provide and construct the number of car parking spaces comprising the difference between the number of car parking spaces required under the Local Planning Policy (as may be varied by Council under clause 5.5.1) and the number of car parking spaces to be provided on the development site. The estimated cost of providing the car parking spaces may include—

- (a) the cost of land on which the car parking spaces are to be constructed, to be estimated by a licensed valuer appointed by the Council;
- (b) the cost of constructing the car parking spaces; and
- (c) the cost of constructing or installing signs, facilities or equipment to regulate the permissible period during which a vehicle may occupy the car parking spaces.

5.8.4 Any costs incurred by Council in estimating the cost of providing the car parking spaces shall be paid by the applicant.

5.8.5 The cash-in-lieu payment shall be payable in such a manner and at such time as Council determines.

5.8.6 If an applicant does not pay the cash-in-lieu payment and the costs referred to in clause 5.8.4 in the manner or at the time determined by Council, Council may revoke the planning approval granted for the development or use to which the cash-in-lieu payment relates.

5.8.7 Cash-in-lieu payments received by a Council under this clause 5.8 shall be paid into appropriate funds to be used for the provision and maintenance of transport infrastructure within reasonable proximity to the development. The cash-in-lieu payment may be used to reimburse Council for any expenses, including loan repayments, which it incurs in providing and maintaining car parking spaces or facilities.

5.8.8 Where this Scheme or a local planning policy made under this Scheme contains provisions concerning the payment of cash-in-lieu of car parking spaces in particular parts of the Scheme area, those provisions shall apply to the exclusion of the provisions of clause 5.8.

5.9 Reciprocal Car Parking

5.9.1 Subject to the remaining provisions of this clause 5.9, where an application for planning approval is made for a non-residential development or use which does not provide the number of car

parking spaces required by the Local Planning Policy, Council may permit the car parking spaces for that development or use to be provided jointly with one or more other developments or uses whether or not those other developments or uses have the number of car parking spaces required by the Local Planning Policy.

5.9.2 In considering an application under clause 5.9.1, Council shall be satisfied—

- (a) that the peak hours of operation of the developments or uses which are the subject of the application and the developments or uses with which it is proposed to jointly provide car parking spaces are different and do not substantially overlap;
- (b) that the number of car parking spaces to be provided by the development or use which is not the subject of the application does not exceed the number of car parking spaces reasonably anticipated to be in excess of the requirement of that development or use during its off-peak hours of operation; and
- (c) any other matters which, in the circumstances of a proposed development or use, are considered relevant by Council.

5.9.3 Council may require, and the applicant shall provide, information concerning the matters referred to in clause 5.9.2.

5.9.4 Where Council exercises its discretion under clause 5.9.1, it may require the owner of the land to which the application relates and the owner of the land which is not the subject of the application and which is to provide car parking spaces and any other person specified by the City, to enter into a legal agreement, to which the City may also be a party, which provides for the provision and use of car parking spaces. The legal agreement—

- (a) must be to Council's satisfaction;
- (b) must be prepared at the expense of the applicant;
- (c) must, if required by Council, provide for easements, restrictive covenants, rights of way and reciprocal access and circulation arrangements; and
- (d) must ensure that the agreement and any easement, restrictive covenant, right of way or reciprocal access and circulation arrangement made under the agreement are not amended, removed or terminated without the prior consent of the Council.

5.9.5 If—

- (a) a restrictive covenant, easement or right of way is made with respect to any land or building pursuant to an agreement entered into under clause 5.9.4; and
- (b) that land or building is subject to another restrictive covenant, easement or right of way which—
 - (i) exists for the purpose of regulating the parking, access or circulation of vehicles; and
 - (ii) is inconsistent with the restrictive covenant, easement or right of way referred to in clause 5.9.5(a),

then the restrictive covenant, easement or right of way (as the case may be) referred to in clause 5.9.5(b) is hereby extinguished or varied to the extent that it is inconsistent with the restrictive covenant, easement or right of way referred to in clause 5.9.5(a).

5.10 Parking and Access Plans

5.10.1 Council may prepare a Parking and Access Plan with respect to any land or building for the better provision and coordination of parking, access or circulation of vehicles on that land or within that building or within the area in which the land or building is located.

5.10.2 A Parking and Access Plan may include details as to—

- (a) the location and form of access to or egress from the land or building;
- (b) the circulation of vehicles on the land or within the building;
- (c) the parking of vehicles on the land or within the building; and
- (d) the integration of parking, vehicle access and circulation with other land or buildings within the area.

5.10.3 A Parking and Access Plan may relate to more than one lot, building or survey or survey strata lot.

5.10.4 A Parking and Access Plan may extinguish or vary any restrictive covenant, easement or right of way. The extinguishment or variation of the restrictive covenant, easement or right of way shall take effect upon adoption of the Parking and Access Plan by Council under clause 5.10.7(b).

5.10.5 Council may give notice of a Parking and Access Plan in one or more of the ways referred to in clause 9.4.3 as if the Parking and Access Plan was an application for planning approval.

5.10.6 Any person may inspect the Parking and Access Plan referred to in the notice and any material accompanying that Parking and Access Plan at the offices of the Council.

5.10.7 After the expiry of the period within which submissions may be made, the Council is to—

- (a) review the proposed Parking and Access Plan in light of any submissions made; and
- (b) resolve to adopt the Parking and Access Plan with or without modifications or not to proceed with the Parking and Access Plan.

5.10.8 If Council resolves to adopt the Parking and Access Plan, it is to publish notice of the Parking and Access Plan once in a newspaper circulating in the Scheme area.

5.10.9 A Parking and Access Plan may be modified in the same manner as a Parking and Access Plan is prepared and adopted under clauses 5.10.1 to 5.10.8.

5.10.10 Council shall have due regard to a Parking and Access Plan which affects any land or building which is the subject of an application for planning approval.

5.11 Ceding of Rights-Of-Way Widening

The owner of any site affected by a right of way widening under the Local Planning Policy relating to Right of Ways shall cede such right of way widening free of cost as a condition of development approval or as a condition of subdivision or strata subdivision supported by the Council.

5.12 Requirement to Prepare a Detailed Area Plan

Council may require the preparation of a Detailed Area Plan for any lot or lots in accordance with Clause 6A.16.

PART 6—SPECIAL CONTROL AREAS

6.1 Operation of Special Control Areas

6.1.1 The following Special Control Areas are shown on the Scheme Maps—

- Careniup Swamp
- Coastal Height Limit Non-Residential Zones
- Glendalough Station
- Gwelup Water Protection Area
- Heritage Protection Area
- Main Street Plaza
- Mirrabooka Regional Centre
- Scarborough

6.1.2 In respect of a Special Control Area shown on the Scheme Maps, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

6.2 Careniup Swamp Special Control Area

Note: In addition to the following provisions, the provisions of Clause 6A and Schedule 10 also apply to the Careniup Swamp Special Control Area

6.2.1 Objectives

- (a) To ensure orderly subdivision of the Special Control Area;
- (b) To ensure the ceding of Public Open Space;
- (c) To ensure water quality standards;
- (d) To ensure wildlife protection;
- (e) To control filling; and
- (f) To manage stormwater.

6.2.2 Special Control Area

The Careniup Swamp Special Control Area (“the Area”) is all that land delineated on the Scheme Maps. In broad terms it is bounded by Balcatta Road, Mitchell Freeway, Erindale Road and North Beach Road.

6.2.3 Implementation of Development Proposals

- (a) All subdivision and development within the Area shall have regard to the requirements set out in clause 6.2 and the Rehabilitation Plan provided however that any development proposal not in conformity with clause 6.2 may be carried out with the approval of Council. Council may seek input from the Western Australian Planning Commission, Water Corporation and the Department of Environment and Conservation.
- (b) When considering any application for approval to commence development, subdivision, strata subdivision or the amendment of the Scheme within the Area, the Council and the applicant shall have due regard to the provisions contained within clause 6.2.
- (c) When considering any application for subdivision or strata subdivision approval within the Area, the Council shall inform the Western Australian Planning Commission of the Rehabilitation Plan and the Rehabilitation Strategy, particularly when determining any public open space contribution required as a condition of a subdivision or a strata subdivision approval.

6.2.4 Ceding of Land and Cash Payments in Lieu

- (a) Upon any amendment of the Scheme in respect of land within the Area, or the granting of approval to subdivide any land within the Area, whichever shall first occur, the following provisions shall take effect—
 - (i) Where any portion of land is within the Core Area delineated on the Rehabilitation Plan, such portion shall be ceded to the State for vesting in the City by the owner free of costs and without any entitlement on the part of the owner or any other person with any interest therein to be paid compensation pursuant to the Public Works Act otherwise;

- (ii) If no portion of the land is within the Core Area delineated by the Rehabilitation Plan, the owner of such land shall pay to the City a sum equal to ten per centum (10%) of the market value of the land calculated as at the date of the gazettal of the amendment, the granting of approval to subdivide such land, or the granting of approval to commence development on such land as the case may be.

6.2.5 Water Quality Standards

(a) Objectives

The Careniup Swamp and adjacent area is utilised by the Water Corporation as a compensating basin and it is important to maintain sufficient capacity of not less than 26,000 cubic metres within the Core Area as a modified wetland to satisfy drainage and compensation requirements. It is also vital for wildlife retention to retain permanent water throughout the Area of modified wetland, with minimum summer depths being sufficient to maintain landscape and water quality.

(b) Development and Subdivision Criteria

In order to satisfy the objectives set out in the preceding sub-clause hereof, development shall conform with the following criteria and Council will recommend to the Commission in responding to a subdivision application that—

- (i) The lake be designed on the basis that the area has a maximum water level of RL 7.0 metres AHD and a minimum water level of RL 6.3 metres AHD; and
- (ii) The moat and lake beds referred to in the Rehabilitation Plan shall be constructed to RL 4.1 metres AHD in order to maintain a minimum water depth of 1.0 metre during the summer period.

6.2.6 Wildlife Protection Requirements

(a) Objectives

Although the number and diversity of wildlife habitats has declined in past years in the Area due to filling of the Careniup Swamp at the margin, it is considered essential to reverse this trend and maximise the length of vegetated wetland foreshore, establish a system of islands within the modified wetland of the Core Area, maximise shading of water surfaces and conversely limit the extent of unshaded open water, control access to the wildlife/bird habitat areas and maximise habitat availability for water and roosting birds (with particular preference to perching and wading birds rather than swimming birds).

(b) In order to satisfy the objectives set out in the preceding sub-clause hereof, the following criteria or requirements shall apply—

- (i) Satisfactory provision must be made when it is practical and feasible to do so, for planting of foreshore areas by Council with native vegetation species listed in the Dames & Moore Report “Conceptual Development Plan for the Area within the System 6 Boundary—Careniup Swamp” (November 1987), with particular emphasis on the Paperbark (*Melaleuca Raphiophylla*) and Flooded Gum (*Eucalyptus Rudis*); and
- (ii) Four islands specified in the Rehabilitation Plan shall, when it is practical and feasible to do so, be constructed by Council and planted with native vegetation species as determined in the Design and Management Plan.
- (iii) The timing of the aforementioned works shall be specified in the Design and Management Plan.

Note: The Design and Management Plan is to be prepared and adopted by Council to outline the location of the islands, plantings, and other relevant works in accordance with clause 6.2.8 (b).

6.2.7 Maintenance of The Core Area

(a) Objectives

In order to satisfy the objectives set out in the two preceding clauses hereof, the Core Area delineated in the Rehabilitation Plan must not be the subject of indiscriminate filling and infiltration of nutrients and the integrity of the Core Area as a whole must be maintained.

(b) In order to satisfy the objectives set out in the preceding sub-clause hereof, the following criteria or requirements shall apply in respect of development within the Area—

- (i) No person shall fill or deposit or cause to be filled or deposited any substance in the Core Area delineated in the Rehabilitation Plan except in accordance with a development plan approved by the Council and the Western Australian Planning Commission in consultation with the Water Corporation and the Environmental Protection Authority;
- (ii) Council shall recommend to the Western Australian Planning Commission that stormwater from subdivisions should be disposed of on site to the extent that a one in ten year storm event is retained for three to four days;
- (iii) Subdivision design should be in accordance with the principles and practices detailed in the “Planning and Management Guidelines for Water Sensitive Urban (Residential) Design”, published by the Western Australian Planning Commission in June 1994.

6.2.8 Rehabilitation Programme

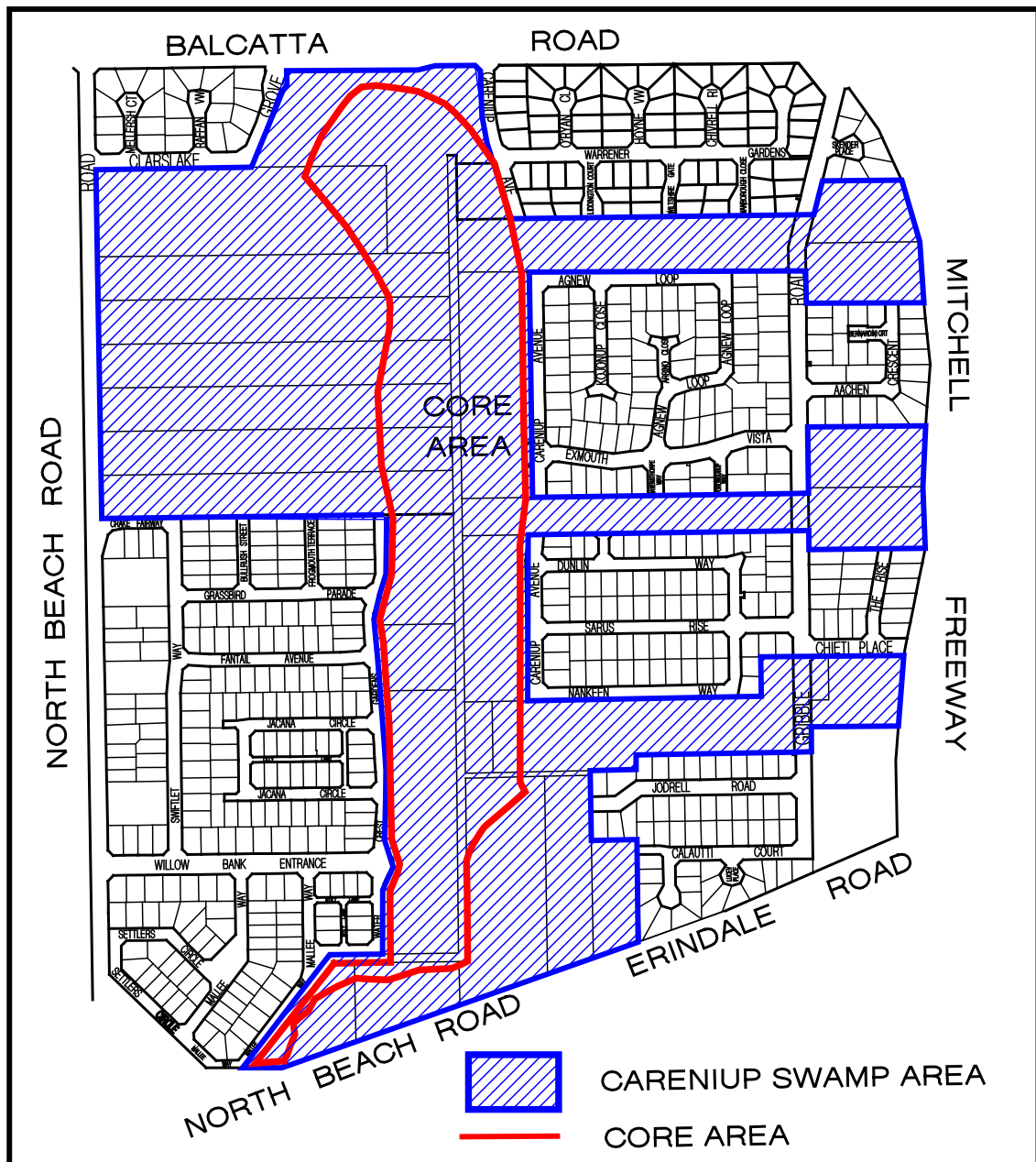
(a) Objectives

The Core Area delineated in the Rehabilitation Plan is proposed to ultimately be vested in the Council, which intends to rehabilitate it in an orderly and comprehensive manner in accordance with the Rehabilitation Plan. A Design and Management Plan for the entire Core

Area is to be prepared by the Council addressing issues such as midge and mosquito control, moat depth profiles, peat removal for housing and stormwater drainage prior to commencement of rehabilitation works.

- (b) The Design and Management Plan shall be prepared when sufficient land in the Core Area has been ceded to the Crown and vested in the Council to enable rehabilitation to commence in an orderly manner or at such earlier time as determined by Council.
- (c) In respect of those portions of the Core Area ultimately vested in the Council, it shall be the responsibility of the Council to carry out over time the rehabilitation of the Core Area referred to in the Rehabilitation Plan.

PLAN 1—Careniup Swamp Rehabilitation Plan



6.3 Coastal Height Limit—Non Residential Zones Special Control Area

6.3.1 Objective

To ensure that buildings over 12 metres in height do not have a detrimental impact on the amenity of the Special Control Area or adjoining sites.

6.3.2 Special Control Area

The Coastal Height Limit—Non Residential Zones Special Control Area is all that land delineated as such on the Scheme Maps.

6.3.3 Approval

- (a) An application requiring the approval of the Council under Clause 8.1 of the Scheme shall include information which addresses the impact of the proposal having regard to matters

such as amenity, overshadowing, wind impacts and building design, siting, bulk, scale and colour.

- (b) Before determination of an application requiring the approval of the Council under Clause 8.1 of the Scheme, the Council shall cause the provisions of Clause 9.4 of the Scheme to be invoked in respect of the application.

6.4 Glendalough Station Special Control Area

6.4.1 Objectives

- (a) The development of land within the Glendalough Station Special Control Area shall comply with the adopted Structure Plan and Local Planning Policy for this area.
- (b) To encourage development which capitalises on the strategic advantages of the Special Control Area's excellent public transport, accessibility and proximity to the Central Business District.
- (c) To create a more economically, socially and environmentally sustainable City.
- (d) To create a pedestrian friendly environment by having buildings with nil setbacks and weather protection.

Note: The Glendalough Station Special Control Area is zoned Industry, however it is the intention of Council to rezone this area in the future to enable the transformation to a Transit Orientated Development with a mixture of uses.

6.4.2 Special Control Area

The Glendalough Station Special Control Area is that land delineated as such on the Scheme Maps.

6.4.3 Development

Development shall have a nil setback to street frontages and include weather protection for pedestrians.

6.5 Gwelup Water Protection Area Special Control Area

6.5.1 Objectives

- (a) To provide a basis for the protection of the water resource through the control of activities which have the potential to adversely affect the quality of water supplies for public use.
- (b) To manage the risk of pollution of the water source, which is required to co-exist with other land uses such as residential, commercial and industrial development.

6.5.2 Special Control Area

The Gwelup Water Protection Area Special Control Area is that land delineated as such on the Scheme Maps in accordance with the Priority 3 classification applied by the Water and Rivers Commission.

6.5.3 Development

In its determination of any application for planning approval and its advice in relation to land subdivision for industry noxious or the use or storage of any hazardous goods of such quantities as require licensing under the Hazardous and Dangerous Goods Act and associated Regulations, the Council is to have particular regard to—

- (a) the Water and Rivers Commission Water Quality Protection Note: *Land Use Compatibility in Public Drinking Water Source Areas*, and any advice received from the Commission;
- (b) the requirements of Statement of Planning Policy No. 2.7 *Public Drinking Water Source Policy*;
- (c) the potential impact of the proposal on the quality of the water resource;
- (d) the practicability and cost of any ameliorative measures proposed for the protection of the resource;
- (e) the existing level of protection of the resource provided, with reference to management of land and location of development;
- (f) the nature, location and performance of any existing or proposed effluent disposal system; and
- (g) the drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.

Note: The above Water Quality Protection Note identifies three levels of compatibility for land uses, namely: Incompatible (generally not acceptable); Conditional (may be acceptable subject to conditions); and Compatible (generally acceptable provided the use is conducted within the bounds of acceptable environmental practice).

6.5.4 Approval

In respect to the Gwelup Water Protection Area Special Control Area the Council may refuse any application for planning approval or impose conditions on any planning approval so as to—

- (a) protect the resource; and
- (b) require the registration of notification on title giving notice of any limitations or constraints associated with the protection of resources.

Note: There is a general presumption against development or use of land, which is not compatible with Public Drinking Water Source Areas or which involves a significant risk to the resource. The onus will be on the proponent of development to demonstrate that the proposed activity will not prejudice the resource.

6.6 Heritage Protection Area Special Control Area**6.6.1 Objectives**

- (a) To ensure the conservation and retention of buildings within the Heritage Protection Area Special Control Area dating from the early 1900s to the 1950s where the architectural style of the building is generally intact;
- (b) To ensure the retention of existing buildings referred to in (a) above to maintain the existing character of the streetscape;
- (c) To ensure that new buildings (where permitted), alterations, additions to existing buildings, carports, garages and front fences are in keeping with the heritage character of the area, respect the scale and proportions of surrounding buildings, and are designed to fit into the existing streetscape;
- (d) To maintain and improve existing street trees, grass verges and front gardens; and
- (e) To retain mature trees wherever possible.

6.6.2 Special Control Area

The Heritage Protection Area Special Control Area is that land delineated as such on the Scheme Maps.

6.6.3 Development

All development shall conform with the following—

- (a) the objectives of the Heritage Protection Area Special Control Area (clauses 6.6.1); and
- (b) the Local Planning Policy adopted for the Heritage Protection Area Special Control Area (Character Guidelines Mt Lawley, Menora and Inglewood).

6.7 Main Street Plaza Special Control Area**6.7.1 Objective**

To permit development of office and/or residential uses contingent upon the provision of an integrated car parking and landscaping facility.

6.7.2 Special Control Area

The Main Street Plaza Special Control Area is the land delineated as such on the Scheme Maps.

6.7.3 Development

No development, except for maintenance of existing buildings, shall be approved by the Council until a Detailed Area Plan and a Development Contribution Plan for the Special Control Area has been adopted by the Council in accordance with Parts 6A and 6B of the Scheme and payment of a development contribution in accordance with the adopted Development Contribution Plan.

All development shall conform with the Detailed Area Plan and a Development Contribution Plan adopted by the Council for the Special Control Area.

6.8 Mirrabooka Regional Centre Special Control Area**6.8.1 Objectives**

- (a) To provide a sound, coordinated strategy for the integrated development of public and private land to facilitate the creation of a safe, successful, vibrant centre.
- (b) Facilitate more residential and mixed use development.

6.8.2 Special Control Area

The Mirrabooka Regional Centre Special Control Area is the land delineated as such on the Scheme Maps.

6.8.3 Development

The development of land within the Mirrabooka Regional Centre Special Control Area shall comply with the adopted Structure Plan, Detailed Area Plans, Local Planning Policy and the Scheme for this Area.

6.8.4 Structure Plan and Detailed Area Plan

For the purpose of promoting the highest standard of development within the Mirrabooka Regional Centre Special Control Area the Council may adopt an appropriate Structure Plan for the Mirrabooka Regional Centre Special Control Area in accordance with Part 6A of the Scheme.

The Council may require the preparation of a Detailed Area Plan for a particular lot or lots within the Mirrabooka Regional Centre Special Control Area in accordance with Part 6A of the Scheme.

6.8.5 Subdivision

The subdivision and development of land within the Mirrabooka Regional Centre Special Control Area is to generally be in accordance with the adopted Structure Plan and Detailed Area Plan that applies to that land.

6.8.6 Parking

In order to promote multi-use trips and increased pedestrian activity within the Mirrabooka Regional Centre Special Control Area, the Council will facilitate Reciprocal Access Rights and Reciprocal Parking Rights whereby persons are able to access and park their vehicles on land not directly associated with the place they wish to go.

6.8.7 Existing Reciprocal Access Rights and Reciprocal Parking Rights

The land within the Mirrabooka Regional Centre Special Control Area indicated on Plan 2 is land that is subject to existing agreements providing for rights of Reciprocal Access Rights and Reciprocal Parking Rights.

- (a) Reciprocal Access Rights shall apply in relation to each lot comprising the land indicated on Plan 2; and
- (b) Reciprocal Parking Rights shall apply in relation to all parking on each lot comprising the land indicated on Plan 2.

Reciprocal Access Rights and Reciprocal Parking Rights pursuant to clauses 6.8.7.a and 6.8.7.b shall apply notwithstanding any existing agreement, except to development for residential purposes, as determined by the Council.

6.8.8 Reciprocal Access Rights and Reciprocal Parking Rights—New Developments

- (a) Subject to clause 6.8.8.c) below, upon the approval by the Council of any development within the Mirrabooka Regional Centre Special Control Area:-
 - (i) Reciprocal Access Rights shall apply in relation to the lot the subject of the development; and
 - (ii) Reciprocal Parking Rights shall apply in relation to all parking on the lot the subject of the development, whether that parking is approved as part of the development or is existing as part of any existing development of the lot.
- (b) Reciprocal Access Rights and Reciprocal Parking Rights pursuant to clause 6.8.8.a shall apply notwithstanding any agreement or arrangement entered into by the owner or occupier of the lot relating to access and/or parking in relation to the lot, including an agreement referred to in clause 6.8.9.b.ii below.
- (c) Clause 6.8.8.a does not apply:-
 - (i) to development for residential purposes, as determined by the Council; or
 - (ii) if the Council is satisfied, because of exceptional circumstances relating to particular parking, that Reciprocal Access Rights and/or Reciprocal Parking Rights would be inappropriate in those circumstances.

6.8.9 Reduction of On-Site Parking Requirements Due to Reciprocal Access Rights and Reciprocal Parking Rights

Council may exercise its discretion to reduce the on-site parking requirements otherwise applicable to a development where the Council is satisfied—

- (a) that the parking requirements otherwise applicable to the development can be met by parking provided on other lots within the Mirrabooka Regional Centre Special Control Area in the vicinity of the lot by reason of—
 - (i) differing times of operation according to the use of the lot the subject of the development and the use of the other lots;
 - (ii) differing peak demand times according to the use of the lot the subject of the development and the use of the other lots;
 - (iii) excess parking capacity on the other lots;
 - (iv) a verifiable reduction in parking demand within the Mirrabooka Regional Centre Special Control Area over time; and/or
 - (v) any other criteria acceptable to the Council, and
- (b) that the other lots on which parking is to be provided are subject to:-
 - (i) Reciprocal Access Rights and Reciprocal Parking Rights pursuant to clause 6.8.7 or clause 6.8.8.a above; or
 - (ii) legal agreements, to the satisfaction of the Council, providing for Reciprocal Access Rights and Reciprocal Parking Rights.

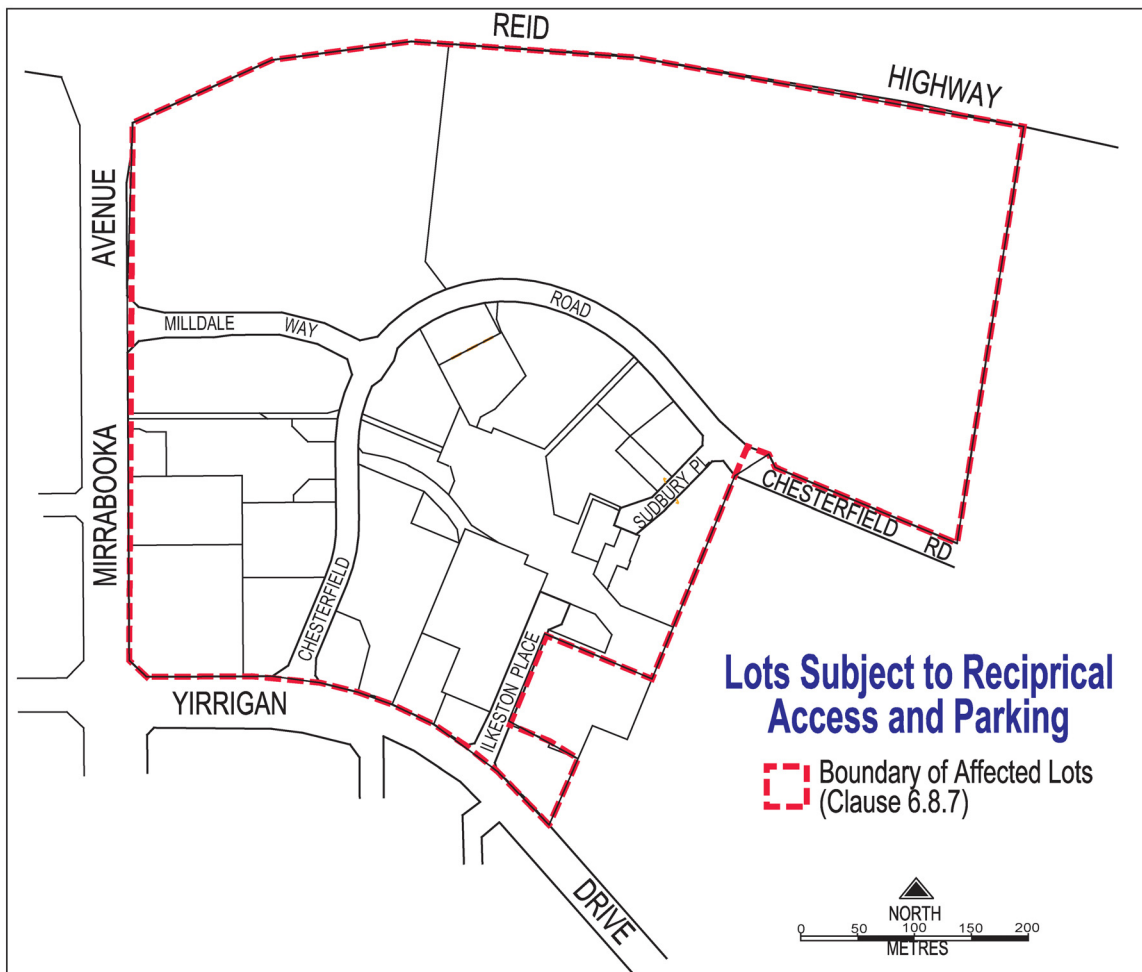
6.8.10 Record of Reciprocal Access Rights and Reciprocal Parking Rights

The City shall keep a record of all lots to which Reciprocal Access Rights and Reciprocal Parking Rights apply pursuant to clause 6.8.7, clause 6.8.8.a or clause 6.8.9.b.ii.

6.8.11 Extinguishment of Rights-of-Way, Easements or Restrictive Covenants

A right of way, easement or restrictive covenant affecting any land in the Mirrabooka Regional Centre Special Control Area which provides for reciprocal parking rights and/or reciprocal access rights is extinguished in respect of any land to which Reciprocal Access Rights and Reciprocal Parking Rights apply pursuant to clause 6.8.7, clause 6.8.8.a or clause 6.8.9.b.ii.

Plan 2—Mirrabooka Regional Centre Special Control Area—Lots Affected By Clause 6.8.7



6.9 Scarborough Special Control Area

6.9.1 Objectives

- (a) Recognise the uniqueness and suitability of this area for development as a significant tourism and recreational destination in the Metropolitan Coastline.
- (b) To provide a sound, coordinated strategy for the integrated development of public and private land to facilitate the creation of a safe, vibrant mixed use centre based on 'main street' design principles.
- (c) Development of a range of commercial facilities that will contribute towards economic development, local employment and the viability of the area as a commercial centre servicing residents, visitors and the local workforce.
- (d) Development of a range of versatile, medium and high density accommodation suitable for both tourists and permanent residents, so as to maximise accessibility to the foreshore and enhance the level of support for a wide range of commercial and recreational facilities.
- (e) Buildings designed to contribute towards a distinctive urban-coastal character and sense of place, and which are evocative of a beach-side town.
- (f) Buildings designed to capitalise on the vistas and climatic attributes of the location, but which will respect the visual amenities of the street and locality.
- (g) Buildings designed to provide an attractive visual frame and sense of enclosure for the adjacent street but which are in 'scale' with the adjoining public spaces.
- (h) Buildings designed to provide safe and efficient vehicular and pedestrian access and egress along the streets and to the foreshore.

6.9.2 Special Control Area

The Scarborough Special Control Area is the land delineated as such on the Scheme Maps.

The Scarborough Special Control Area comprises the 'Special Beach Development Zone' as shown on the Scheme Maps, as well as five 'Sub-Areas' as shown in Plan 6.9.2 below—

Plan 6.9.2—Scarborough Special Control Area 'Sub-Areas'



6.9.3 Development

The development of all land within the Scarborough Special Control Area shall comply with any Structure Plan or Development Contribution Plan that is adopted under or for the purposes of this Scheme.

6.9.4 Lot 11 Corner West Coast Highway and Scarborough Beach Road Scarborough

- Development of the existing seventeen storey building on the site is restricted to a hotel development and any incidental use associated with hotel activity.
- If the building is destroyed, demolished or damaged to 75% or more of its value, the predominant use of the site should be for tourist accommodation with no more than 25% of total dwelling units on site to be provided for permanent residential accommodation.

A variation to this provision may be approved by the Council provided it can be demonstrated that the objectives for retaining the tourism focus and planning for tourism development on the site can be accommodated to the satisfaction of the Western Australian Planning Commission.

6.9.5 Plot Ratio

- (a) In the Special Beach Development Zone, the following plot ratio requirements apply—
- (i) Subject to clause 6.9.5.a.ii below, the total plot ratio of any development within the Special Beach Development Zone shall not exceed 2.0:1;
 - (ii) For any development with a plot ratio of 2.0:1 or less the following shall apply—
 - the provision of a minimum of 0.5:1 of non-residential plot ratio at ground level (included in the total plot ratio permitted); and
 - a maximum of 1.0:1 of non residential plot ratio (included in the total plot ratio permitted).
 - (iii) Notwithstanding clauses 6.9.5.a.i and 6.9.5.a.ii above, the plot ratio of any development within the Special Beach Development Zone may be increased to a maximum of 3.0:1, but only subject to—
 - the provision of a minimum of 0.5:1 of non-residential plot ratio at ground level (included in the total plot ratio permitted); and
 - a maximum of 1.0:1 of non residential plot ratio (included in the total plot ratio permitted).
 - compliance with clause 6.9.7.a ‘Dwelling Unit Size and Occupancy’ of the Scheme, without modification;
 - compliance with the payment of cash-in-lieu in accordance with clause 6.9.9 ‘Cash-in-lieu for Parking’ of the Scheme, without modification; and
 - payment of an infrastructure contribution in accordance with Development Contribution Schedule in the Scheme for the Special Beach Development Zone Area, without modification.
- (b) In the Mixed-Use ‘Lower Scarborough Beach Road’ and Mixed-Use ‘West Coast Highway’ Sub-Areas, the following plot ratio requirements apply—
- (i) The total plot ratio of any development within the Mixed-Use Sub-Areas (Lower Scarborough Beach Road and West Coast Highway) shall not exceed 2.0:1;
 - (ii) The plot ratio referred to in clause 6.9.5.b.i above may be increased to a maximum of 3.0:1, but only subject to—
 - provision of commercial floor space at ground level with a plot ratio area of at least 0.2:1;
 - compliance with clause 6.9.7.b ‘Dwelling Unit Size and Occupancy’ of the Scheme, without modification; and
 - payment of an infrastructure contribution in accordance with Schedule 11 of the Scheme, without modification.
 - (iii) For the purposes of determining the plot ratio area for a particular site, where land is or has been ceded free of cost to the Crown for public access (including road widening), the area of land so ceded shall be deemed to remain part of the development site;
 - (iv) Where a public parking facility is provided on a site designated for public parking in the ‘Scarborough Design Guideline Area Access and Parking Map’ contained within the Scarborough Design Guidelines, and is provided in accordance with clause 6.9.10 ‘Public Parking Facilities’ of the Scheme, those public parking facilities shall be excluded from the plot ratio calculation for the site.
 - (v) Where a public parking facility is provided on a site designated for public parking on the ‘Scarborough Design Guideline Area Access and Parking Map’ contained within the Scarborough Design Guidelines, and is provided in accordance with clause 6.9.10 ‘Public Parking Facilities’ of the Scheme, the Council may allow an increase in the maximum permitted 3.0:1 plot ratio, provided the increased floor space does not exceed the amount of floor space allocated to the public parking facility to a maximum plot ratio of 1.0:1.

Note: The intention of the above two clauses iv) and v), is to facilitate the development of public parking facilities without unduly prejudicing the development potential of the site, and to provide an additional incentive for the provision of such facilities. Where such a concession is provided, it should be reflected in any payment to secure the provision of public parking facilities.

- (c) In the Mixed-Use ‘Upper Scarborough Beach Road’ Sub-Area, the following plot ratio requirements apply—
- (i) The overall plot ratio shall not exceed 1.0:1 plus any ground level commercial floor space;
 - (ii) For the purposes of determining the plot ratio area for a particular site, where land is ceded free of cost to the Crown for public access (including road widening, the area of land so ceded shall be deemed to remain part of the development site.

Note: The intention of this provision, is to facilitate the designated widening of roads, and the provision of supplementary vehicular access where required, without unduly prejudicing the development potential of the affected sites.

- (d) In the Residential Sub-Areas, the following plot ratio requirements apply—
- (i) In the Residential (Inner) Sub-Area, the overall plot ratio of development shall not exceed 2.0:1 provided that any increase above a plot ratio of 1.5:1 shall be conditional upon payment of an infrastructure contribution in accordance with Schedule 11 of the Scheme.
 - (ii) In the case of the portion of land within the Residential (Inner) Sub-Area on Lot 1 (HN 242) West Coast Highway, the allowable plot ratio floor area may be transferred to the Mixed-Use (West Coast Highway) portion of the site on the basis that the portion of land on the Residential (Inner) Sub-Area (exclusive of the 7-metre public access thoroughfare) be developed and maintained as an area of open space accessible to the public to the satisfaction of the City.
 - (iii) In the case of land within the Residential (Outer) sub-area, the overall plot ratio of development shall not exceed 1.0:1.
 - (iv) For the purposes of determining the plot ratio area for a particular site, where land is ceded free of cost to the Crown for public access (including road widening), the area of land so ceded shall be deemed to remain part of the development site.

Note: The intention of this provision, is to facilitate the designated widening of roads, and the provision of supplementary vehicular access where required, without unduly prejudicing the development potential of the affected sites.

6.9.6 Residential Density

For the purposes of this clause, the definition of 'short stay accommodation' in Schedule 1 of the Scheme shall include a hotel room.

- (a) In the Special Beach Development Zone, the following residential density requirements apply—
- (i) A maximum residential density of R-160 shall apply, based on the number of dwelling units other than short stay accommodation.
 - (ii) Single bedroom dwellings with a plot ratio area up to 60m² and aged or dependent persons' dwellings with a plot ratio area up to 80m² will be subject to the standard density bonus provisions of the Residential Design Codes.
- (b) In the Mixed-Use 'Lower Scarborough Beach Road' and Mixed-Use 'West Coast Highway' Sub-Areas, the following residential density requirements apply—
- (i) A maximum residential density of R-160 shall apply, based on the total number of dwelling units other than short stay accommodation;
 - (ii) Single bedroom dwellings with a plot ratio area up to 60m² and aged or dependent persons' dwellings with a plot ratio area up to 80m² will be subject to the standard density bonus provisions of the Residential Design Codes; and
 - (iii) For the purposes of determining the permissible number of dwellings for a particular site, where land is ceded free of cost to the Crown for public access (including road widening), the area of land so ceded shall be deemed to remain part of the development site.

Note: The intention of this provision is to facilitate the designated widening of roads, and the provision of supplementary vehicular access where required, without unduly prejudicing the development potential of the affected sites.

- (c) In the Mixed-Use 'Upper Scarborough Beach Road' Sub-Area, the following density requirements apply—
- (i) A maximum residential density of R-80 shall apply, based on the total number of dwelling units irrespective of the nature of occupancy.
 - (ii) Single bedroom dwellings with a plot ratio area up to 60m² and aged or dependent persons' dwellings with a plot ratio area up to 80m² will be subject to the standard density bonus provisions of the Residential Design Codes.
 - (iii) For the purposes of determining the permissible number of dwellings for a particular site, where land is ceded free of cost to the Crown for public access (including road widening), the area of land so ceded shall be deemed to remain part of the development site.

Note: The intention of this provision, is to facilitate the designated widening of roads, and the provision of supplementary vehicular access where required, without unduly prejudicing the development potential of the affected sites.

- (d) In the Residential Sub-Areas, the following density requirements apply—
- (i) In the case of land within the Residential (Inner) sub-area, a maximum residential density of R-160 shall apply, based on the total number of dwelling units irrespective of the nature of occupancy;
 - (ii) In the case of land within the Residential (Outer) sub-area, a maximum residential density of R-80 shall apply, based on the total number of dwelling units irrespective of the nature of occupancy;
 - (iii) Single bedroom dwellings with a plot ratio area up to 60m² and aged or dependent persons' dwellings with a plot ratio area up to 80m² will be subject to the standard density bonus provisions of the Residential Design Codes; and

- (iv) For the purposes of determining the permissible number of dwellings for a particular site, where land is ceded free of cost to the Crown for public access (including road widening), the area of land so ceded shall be deemed to remain part of the development site.

Note: The intention of this provision, is to facilitate the designated widening of roads, and the provision of supplementary vehicular access where required, without unduly prejudicing the development potential of the affected sites.

6.9.7 Dwelling Unit Size and Occupancy

For the purposes of this clause, the definition of 'short stay accommodation' in Schedule 1 of the Scheme shall include a hotel room.

- (a) In the Special Beach Development Zone, the following dwelling unit size and occupancy requirements apply—

- (i) Of the total number of dwellings on any development site, a minimum of—
- 10 per cent shall be single bedroom dwellings, with a maximum plot ratio area of 60m²;
 - 25 per cent, which may include the single bedroom dwellings referred to in the sub-paragraph immediately above, shall be designed and occupied for short stay accommodation, with a maximum plot ratio area of 85m²; and
 - 10 per cent shall be designed for occupancy on a permanent basis, with a maximum plot ratio area of 85m².

Note: For the purposes of determining the percentage of dwellings for short stay accommodation, dwellings capable of separate access and occupancy (separately keyed) shall be deemed to be separate dwellings, notwithstanding that they may be available for occupation on a combined basis, e.g. twin key apartments.

- (ii) Dwellings required to be allocated for short stay accommodation—

- shall be so designed as, in the opinion of the Council, to satisfactorily limit conflict with, or disturbance of the occupants of any dwelling (other than caretaker accommodation) available for occupancy on a permanent basis;

Note: Areas of potential conflict between permanent residents and the occupants of short stay accommodation are generally related to different expectations concerning noise, privacy, and behaviour. Minimisation of conflicts relating to these matters will generally require some degree of segregation, and may also require design features to reduce the transmission of noise and limit visual intrusion.

- shall be available for tenancy on a short-term basis, not exceeding a period of more than six weeks at any one time by the occupier or occupiers; and
- shall be subject to a management agreement providing for occupancy controls, to the satisfaction of the Council.

Note: It is anticipated that the required management agreement would be incorporated as a Management Statement as provided for under the Strata Titles Act, and be subject to enforcement as part of the By-Laws of the relevant Strata company. Under these circumstances, any amendment or repeal of the Management Statement would require the consent of the Council.

- (b) In the Mixed-Use 'Lower Scarborough Beach Road' and Mixed-Use 'West Coast Highway' Sub-Areas, the following dwelling unit size and occupancy requirements apply—

- (i) Of the total number of dwellings on any development site, a minimum of—
- 10 per cent shall be single bedroom dwellings, with a maximum plot ratio area of 60m²;
 - 25 per cent, which may include the single bedroom dwellings referred to in the sub-paragraph immediately above, shall be designed and occupied for short stay accommodation, with a maximum plot ratio area of 85m²; and
 - 10 per cent shall be designed for occupancy on a permanent basis, with a maximum plot ratio area of 85m².

Note: For the purposes of determining the percentage of dwellings for short stay accommodation, dwellings capable of separate access and occupancy (separately keyed) shall be deemed to be separate dwellings, notwithstanding that they may be available for occupation on a combined basis, e.g. twin key apartments.

6.9.8 Building Height

- (a) In the Special Beach Development Zone, the following building height requirements apply—

- (i) Subject to clauses 6.9.8.a.ii and 6.9.8.a.iii below, the building height of any development shall not exceed 8 storeys or 32 metres (whichever is the lesser);

Note: Height in relation to a 'building' refers to the vertical distance at any point from natural ground level to the uppermost part of the building above that point, and shall include all lift motor rooms, lift overruns, and architectural features.

- (ii) No part of any development shall extend above the level of the existing building at Lot 11 corner West Coast Highway and Scarborough Beach Road Scarborough (i.e. the Rendezvous Hotel);

- (iii) The wall height of any development adjoining or immediately adjacent to any street shall be between 10 metres and 15 metres (3-4 storeys), above which there shall be a setback in accordance with the setback requirements applicable to this Zone so as to create a podium for any extension of height above this level;
 - (iv) All developments shall include distinguishable roofing to a height of between 3 metres and 5 metres above the highest point of the wall to which it relates, and within the overall maximum permitted height;
 - (v) The minimum floor to ceiling heights of any development shall be 3.5 metres for the ground floor, and 3.0 metres for all other floors.
- (b) In the Mixed-Use 'Lower Scarborough Beach Road' and Mixed-Use 'West Coast Highway' Sub-Areas, the following building height requirements apply—
- (i) Subject to clause 6.9.8.b.ii below, the maximum building height of any building shall be limited to 8 storeys or 32 metres above natural ground level or 47 metres AHD (whichever is the lesser), except—
 - where such a limit would otherwise restrict the building height to less than 14 metres above natural ground level or 3 storeys, in which case a 14 metres above natural ground level or 3 storey (whichever is the lesser) height limit shall apply;
 - where a public parking facility is provided on a site designated for a Public Parking Facility on the 'Scarborough Design Guideline Area Access and Parking Map' contained within the Scarborough Design Guidelines, and is provided in accordance with clause 6.9.10 'Public Parking Facilities' of the Scheme, a height bonus to a maximum building height of 44 metres above natural ground level or 12 storeys (whichever is the lesser), may be allowed provided the plot ratio floor area of the building above 32 metres above natural ground level is no more than the floor area allocated for the public parking facility; or
 - where a 7 metre public access thoroughfare is provided connecting Hastings Street and West Coast Highway as designated on the 'Scarborough Design Guideline Area Access and Parking Map' contained within the Scarborough Design Guidelines, and is provided in accordance with clause 6.9.11.a 'New Access Ways' of the Scheme, a height bonus to a maximum building height of 44 metres above natural ground level or 12 storeys (whichever is the lesser) may be allowed on that site.

Note: The height cap of 47 metres AHD is based on a standard 32 metre building height above a nominal 15 metre AHD ground level. Where the natural ground level is above 15 metres AHD, the building height limit referred to above, shall be commensurately reduced.

Note: Height in relation to a 'building' refers to the vertical distance at any point from natural ground level to the uppermost part of the building above that point, and shall include all lift motor rooms, lift overruns, and architectural features.

- (ii) The wall height of any development adjoining or immediately adjacent to any street shall be between 6.5 metres and 10 metres (2-3 storeys), above which there shall be a setback in accordance with the setback requirements applicable to these Sub-Areas so as to create a podium for any extension of height above this level;
 - (iii) All developments shall include distinguishable roofing to a height of between 3 metres and 5 metres above the highest point of the wall to which it relates, and within the overall maximum permitted height specified in clause 6.9.8.b.i above;
 - (iv) The minimum floor to ceiling heights of any development shall be 3.5 metres for the ground floor, and 3.0 metres for all other floors.
- (c) In the Mixed-Use 'Upper Scarborough Beach Road' Sub-Area, the following building height requirements apply—
- (i) The maximum building height of any building shall be limited to 17 metres above natural ground level or 4 storeys or 47 metres AHD (whichever is the lesser), except where such a limit would otherwise restrict the height to less than 14 metres above natural ground level or 3 storeys, in which case a 14 metres above natural ground level or 3 storey (whichever is the lesser) height limit shall apply; and

Note: The height cap of 47 metres AHD is based on a standard 32 metre building height above a nominal 15 metre AHD ground level. Where the natural ground level is above 15 metres AHD, the building height limit referred to above, shall be commensurately reduced.

Note: Height in relation to a 'building' refers to the vertical distance at any point from natural ground level to the uppermost part of the building above that point, and shall include all lift motor rooms, lift overruns, and architectural features.
 - (ii) All developments shall include a distinguishable roof element to a height of between 3 metres and 5 metres above the highest point of the wall to which it relates, and within the maximum permitted building height specified above.
- (d) In the Residential Sub-Areas, the following building height requirements apply—
- (i) In the Residential (Inner) Sub-Area, the maximum building height shall be 32 metres above natural ground level or 8 storeys or 47 metres AHD (whichever is the lesser), except where such a limit would otherwise restrict the height to less than 14 metres

above natural ground level or 3 storeys, in which case a 14 metres above natural ground level or 3 storey (whichever is the lesser) height limit shall apply;

- (ii) In the Residential (Outer) Sub-Area, the maximum building height shall be 17 metres above natural ground level or 4 storeys or 47 metres AHD (whichever is the lesser), except where such a limit would otherwise restrict the height to less than 14 metres above natural ground level or 3 storeys, in which case a 14 metres above natural ground level or 3 storey (whichever is the lesser) height limit shall apply;
- (iii) All developments shall include distinguishable roofing to a height of between 3 and 5 metres above the highest point of the wall to which it relates, and within the maximum permitted building height specified in clauses 6.9.8.d.i and 6.9.8.d.ii.

Note: The height cap of 47 metres AHD is based on a 32 metre building height above a nominal 15 metre AHD ground level. Where the natural ground level is above 15 metres AHD, the building height limit referred to above, shall be commensurately reduced.

Note: Height in relation to a 'building' refers to the vertical distance at any point from natural ground level to the uppermost part of the building above that point, and shall include all lift motor rooms, lift overruns, and architectural features.

6.9.9 Cash-in-lieu for Car Parking

A proportion of the required parking shall be subject to a cash-in-lieu contribution as provided for under paragraphs a), b) and c) below, and where cash-in-lieu is required, the number of on-site parking spaces required shall be reduced by the number of spaces for which cash-in-lieu is payable.

- (a) In the Special Beach Development Zone, the following cash-in-lieu contributions apply—
 - (i) In the case of residential development, the cash-in-lieu contribution shall be 10 per cent of the total number of parking spaces required for the residential development;
 - (ii) In the case of residential development, on-site parking spaces may be allocated for the exclusive use of the occupiers of individual dwellings, but there must remain unallocated a number of parking spaces equivalent to at least 10% of the total number of parking spaces required for the residential development;
 - (iii) In the case of non-residential development the cash-in-lieu contribution shall be in respect of 50 per cent of the total number of parking spaces required for the relevant use;
 - (iv) The amount of the cash-in-lieu contribution payable shall be determined by the Council on the basis of the estimated cost of providing an equivalent number of parking spaces in the form of decked parking, and for non-residential development the amount payable shall be reduced by half.
- (b) Other Zones within the Scarborough Special Control Area, the following cash-in-lieu contributions apply—
 - (i) In the case of residential development, the cash-in-lieu contribution shall be 10 per cent of the total number of parking spaces required for the residential development;
 - (ii) In the case of residential development, car parking bays in excess of the required 90 per cent may be allocated for the exclusive use of the occupiers of individual dwellings, provided that additional common parking bays shall be provided on site to the same amount as those bays allocated for exclusive use to the residential occupants in excess of the 90 per cent;
 - (iii) In the case of non-residential development the cash-in-lieu contribution shall be 25 per cent of the total number of parking spaces required for the relevant use;
 - (iv) The amount of cash-in-lieu contribution payable for development shall be determined by Council on the basis of the estimated cost of providing an equivalent number of commercial parking spaces and manoeuvring areas in the form of decked parking in terms of land and construction cost, and for non-residential development the amount payable shall be reduced by half.

Note: This means that where for example, 25% of the total non-residential parking requirement is to be subject to a cash-in-lieu payment, the actual cash payable will be based on only 12.5% of the requisite number of parking spaces.

- (c) The following general provisions apply to all development within the Scarborough Special Control area—
 - (i) Where cash-in-lieu of parking is payable, there shall be no reduction in parking standards otherwise applicable under the Scheme, except for the reduction in on-site parking as a consequence of the contribution to the cost of off-site parking;

Note: The purpose of this provision is to avoid a shortfall in parking contributions which would otherwise arise from a reduction in parking requirements based on assumptions of shared use of on-site parking facilities. This reduction has already been accounted for by the 50% reduction in contributions for non-residential parking.
 - (ii) The Council may agree to a cash-in-lieu contribution in respect of a greater proportion of the total number of required parking spaces in circumstances where the provision of additional parking on-site is considered undesirable or not practicable;
 - (iii) Cash-in-lieu of required parking shall be placed in a trust account for use in the provision of transport infrastructure (in accordance with a Transport Infrastructure Strategy adopted by the Council) within the Scarborough Special Control area, or land

adjacent to this area which may take the form of additional on-street parking or a public parking facility.

6.9.10 Public Parking Facilities

These clauses apply to all land outside of the Special Beach Development Zone within the Scarborough Special Control Area.

- (a) For the purposes of clause 6.9.5.b 'Plot Ratio' and clause 6.9.8.b 'Building Height' of the Scheme, the term 'public parking facility' shall mean land used for the purpose of parking vehicles by members of the public, where the site on which it is located (which may comprise one or more lots) is used primarily for other purposes; and is not used as a car parking station;
- (b) The clauses mentioned above shall only apply where the public parking facility—
 - (i) is to be located on land shown as the location of a public parking facility on the 'Scarborough Design Guidelines Access and Parking Map';
 - (ii) is separate from any parking spaces provided on the land in relation to other uses of the land; and
 - (iii) is not reserved for use in relation to the other uses of the land;
- (c) Where Council grants approval for a public parking facility it may impose a condition requiring the owner of the land to enter into an agreement with the City in relation to the operation of the public parking facility specifically in relation to the hours of operation, long-term maintenance, and the level and nature of security measures provided for the public parking facility;
- (d) The public parking facility shall be operated in accordance with the terms of any agreement entered into.

6.9.11 New Access Ways

These clauses apply to all land outside of the Special Beach Development Zone within the Scarborough Special Control Area.

- (a) A new 7 metre public access thoroughfare (5.5 metre two-way vehicle access, 1.5 metre pedestrian access) shall be provided for in accordance with the Scarborough Design Guidelines Access and Parking Map contained within the Scarborough Design Guidelines and in accordance with clause 6.9.8.b 'Building Height' for the Mixed-Use West Coast Highway Sub-Area of the Scheme;

Note: Such access may take the form of either a public road or an easement-in-gross and is intended to be provided in conjunction with the re-development of the land on which it is situated. Where ceded free of cost to the Crown by the owner/developer the area of land so ceded shall be deemed to remain part of the original development site for the purposes of determining the site's development potential (plot ratio and residential density).

- (b) A new 5.5 metre wide vehicular accessways depicted on the Scarborough Design Guidelines Access and Parking Map contained within the Scarborough Design Guidelines shall be created by the creation of public access easements in gross.

Note: In relation to the clause above, accessways that are not required for the full length of the sites as shown on the Access and Parking Map, must have a minimum length of 25 metres to ensure that the accessway is continued to the rear of ground floor commercial tenancies and provide enough length for on-site circulation and manoeuvring.

6.9.12 Road Widening Requirements

The owner of any site affected by a road widening reservation under the Metropolitan Region Scheme shall cede such road widening free of cost on the date on which, in the opinion of the City, the development, subdivision or strata subdivision of the lot the subject of the road widening requirement, is commenced.

The owner of any site affected by a right of way widening under the Local Planning Policy relating to Right of Ways shall cede such right of way widening free of cost as a condition of development approval or subdivision or strata title approval recommended by the City.

PART 6A—DEVELOPMENT (STRUCTURE PLAN) AREAS

Note: The purpose of this Part is to enable Structure Plans to be prepared and adopted prior to subdivision, use or development of land, where comprehensive planning is required to coordinate such subdivision, use or development.

6A.1 Interpretation

In clause 6A, unless the context otherwise requires—

'**Owner**' means an owner or owners of land in the Development Area; and

'**Structure Plan**' means a structure plan that has come into effect in accordance with clause 6A.12.1.

6A.2 Purpose of Development Areas

6A.2.1 The purpose of Development Areas are to—

- (a) Identify areas requiring comprehensive planning; and
- (b) Coordinate subdivision and development in areas requiring comprehensive planning.

6A.2.2 Schedule 10 describes the Development Areas in detail and sets out the specific purposes and requirements that apply to Development Areas.

Note: Development Areas are shown on the Scheme Map, with the exception of 'Careniup Swamp' which is shown as a 'Special Control Area' (refer Clause 6.2)

6A.3 Subdivision and Development in Development Areas

6A.3.1 The development of land within a Development Area is to comply with Schedule 10.

6A.3.2 The subdivision and development of land within a Development Area is to be generally in accordance with any structure plan that applies to that land.

6A.4 Structure Plan Required

6A.4.1 The Council is not to—

- (a) Consider recommending subdivision; or
- (b) Approve development

of land within a Development Area unless there is a structure plan for the Development Area or for the relevant part of the Development Area.

6A.4.2 Notwithstanding clause 6A4.1, the Council may recommend subdivision or approve the development of land within a Development Area prior to a structure plan coming into effect in relation to that land, if the Council is satisfied that this will not prejudice the specific purposes and requirements of the Development Area.

6A.5 Preparation of Structure Plans

6A.5.1 A proposed structure plan may be prepared by—

- (a) The Council; or
- (b) An owner.

6A.6 Details of Proposed Structure Plan

6A.6.1 A proposed structure plan is to contain the following details—

- (a) A map showing the area to which the proposed structure plan is to apply;
- (b) A site analysis map showing the characteristics of the site including—
 - (i) Landform, topography and land capability;
 - (ii) Conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserves and any environmental policy areas;
 - (iii) Hydrogeological conditions, including approximate depth to water table;
 - (iv) Site and features of Aboriginal and European heritage value.
- (c) A context analysis map of the immediate surrounds to the site including—
 - (i) The pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres;
 - (ii) Transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, strategic cycle routes, bus stops and rail stations;
 - (iii) Existing and future land use.
- (d) For district structure plans a map showing proposals for—
 - (i) The pattern of neighbourhoods around town and neighbourhood centres;
 - (ii) Arterial routes and neighbourhood connector streets;
 - (iii) The protection of natural features such as water courses and vegetation;
 - (iv) Major open spaces and parklands;
 - (v) Major public transport routes and facilities;
 - (vi) The pattern and disposition of land uses; and
 - (vii) Schools and community facilities.
- (e) For local structure plans a map showing proposals for—
 - (i) Neighbourhoods around proposed neighbourhoods and town centres;
 - (ii) Existing and proposed commercial centres;
 - (iii) Natural features to be retained;
 - (iv) Street block layouts;
 - (v) The street network including street types;
 - (vi) Transportation corridors, public transport network, and cycle and pedestrian networks;
 - (vii) Land uses including residential densities and estimates of population;
 - (viii) Schools and community facilities;
 - (ix) Public parklands; and
 - (x) Urban water management areas.
- (f) A written report to explain the mapping and to address the following—
 - (i) The planning framework for the structure plan including any applicable regional or district structure plans, and any policies, strategies and scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;

- (ii) The site analysis including reference to the matters listed in clause 6A.6.1 b) above and, in particular, the significance of the conservation, environmental and heritage values of the site;
- (iii) The context analysis including reference to the matters listed in clause 6A.6.1 c) above;
- (iv) How planning for the structure plan area is to be integrated with the surrounding land;
- (v) The design rationale for the proposed pattern of subdivision, land use and development;
- (vi) Traffic management and safety;
- (vii) Parkland provision and management;
- (viii) Urban water management;
- (ix) Proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services;
- (x) The proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.

6A.6.2 The maps referred to in clause 6A.6.1 are to—

- (a) Be drawn to a scale that clearly illustrates the details referred to in clause 6A.6.1; and
- (b) Include a north point, visual bar scale, key street names and a drawing title and number.

6A.6.3 A proposed structure plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and where the proposed structure plan becomes a structure plan, the Council is to have due regard to such reserves, zones or Residential Design Codes when recommending subdivision or approving development of land within a Development Area.

6A.6.4 A proposed structure plan must, in the opinion of the Council, be consistent with orderly and proper planning.

6A.7 Submission to Council and Commission

6A.7.1 A proposed structure plan prepared by an owner is to be submitted to the Council.

6A.7.2 Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, the Council is to forward a copy of the proposed structure plan to the Commission.

6A.7.3 The Commission is to provide comments to the Council as to whether it is prepared to endorse the proposed structure plan with or without modifications.

6A.7.4 The Commission must provide its comments to the Council within 30 days of receiving the proposed structure plan.

6A.8 Advertising of Structure Plan

6A.8.1 Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 6A.6 and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and the Council), the Council is to—

- (a) Advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection by one or more of the following ways—
 - (i) Notice of the proposed structure plan published in a newspaper circulating in the Scheme area;
 - (ii) A sign or signs displaying notice of the proposed structure plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed structure plan applies; and
- (b) Give notice or require the owner who submitted the proposed structure plan to give notice, in writing to—
 - (i) All owners whose land is included in the proposed structure plan;
 - (ii) All owners and occupiers who, in the opinion of the Council, are likely to be affected by the adoption of the proposed structure plan;
 - (iii) Such public authorities and other persons as the Council nominates.

6A.8.2 The advertisement and notice are to—

- (a) Explain the scope and purpose of the proposed structure plan;
- (b) Specify when and where the proposed structure plan may be inspected; and
- (c) Invite submissions to the Council by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

6A.9 Adoption of Proposed Structure Plan

6A.9.1 The Council is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to—

- (a) Adopt the proposed structure plan, with or without modifications; or
- (b) Refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.

6A.9.2

- (a) In making a determination under clause 6A.9.1, the Council is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan; and

- (b) If the Commission requires modifications to the proposed structure plan, the Council is to consult with the Commission prior to making a determination under clause 6A.9.1.

6A.9.3 If the Council, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, the Council may—

- (a) Readvertise the proposed structure plan; or
(b) Require the owner who submitted the proposed structure plan to readvertise the proposed structure plan;

and thereafter, the procedures set out in clause 6A.8.1 onwards are to apply.

6A.9.4 If within the period referred to in clause 6A.9.1, or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and the Council, the Council has not made a determination under clause 6A.9.1, the Council is deemed to have refused to adopt the proposed structure plan.

6A.10 Endorsement by Commission

6A.10.1 If the proposed structure plan proposes the subdivision of land, then within 7 days of making its determination under clause 6A.9.1, the Council is to forward the proposed structure plan to the Commission for its endorsement.

6A.10.2 As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.

6A.10.3 The Commission is to notify the Council of its determination under clause 6A.10.2.

6A.11 Notification of Structure Plan

6A.11.1 As soon as practicable after adopting a proposed structure plan under clause 6A.9.1 and if clause 6A.10 applies, as soon as practicable after being notified of the Commission's decision under clause 6A.10.3, the Council is to forward a copy of the structure plan to—

- (a) Any public authority or person that the Council thinks fit; and
(b) Where the structure plan was submitted by an owner, to the owner.

6A.12 Operation of Structure Plan

6A.12.1 A structure plan comes into effect—

- (a) Where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 6A.10.2; or
(b) On the day on which it is adopted by the Council under clause 6A.9.1 in all other cases.

6A.12.2 If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.

6A.13 Inspection of Structure Plan

6A.13.1 The structure plan and the Commission's notification under clause 6A.10.3 is to be kept at the Council's administrative offices, and is to be made available for inspection by any member of the public during office hours.

6A.14 Variation to Structure Plan

6A.14.1 The Council may vary a structure plan—

- (a) By resolution if, in the opinion of the Council, the variation does not materially alter the intent of the structure plan;
(b) Otherwise, in accordance with the procedures set out in clause 6A.6 onwards.

6A.14.2 If the Council varies a structure plan by resolution, and the variation does not propose the subdivision of land, the Council is to forward a copy of the variation to the Commission within 10 days of making the resolution.

6A.14.3 If the Council varies a structure plan by resolution, and the variation proposes the subdivision of land, the Council is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.

6A.14.4 As soon as practicable after receiving the copy of the variation referred to in clause 6A.14.3, the Commission is to determine whether to endorse the proposed variation.

6A.14.5 The Commission is to notify the Council of its determination under clause 6A.14.4.

6A.14.6 A variation to a structure plan by resolution comes into effect—

- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 6A.14.4; or
(b) on the day on which the Council resolves to make the variation under clause 6A.14.1 a).

6A.15 Existing Approved Structure Plans

6A.15.1 Any Structure Plan or Outline Development Plan duly approved by the Council and the Commission under the provisions of District Planning Scheme No.2, is to have the full force and effects as if it were approved as a Structure Plan under the Scheme;

6A.15.2 Any Structure Plan or Outline Development Plan that, on the Gazettal date, is being prepared under the provisions of District Planning Scheme No. 2, may continue to be prepared in the manner required under that scheme, and following approval by the Council and the Commission, is to have the full force and effects as if it were approved as a Structure Plan or Outline Development Plan under the Scheme.

6A.16 Detailed Area Plan

6A.16.1 Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan or in other circumstances for a particular lot or lots, a detailed area plan may be prepared by—

- (a) The Council; or
- (b) An owner.

6A.16.2 A detailed area plan may include details as to—

- (a) Building envelopes;
- (b) Distribution of land uses within a lot;
- (c) Private open space;
- (d) Services;
- (e) Vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) The location, orientation and design of buildings and the space between buildings;
- (g) Advertising signs, lighting and fencing;
- (h) Landscaping, finished site levels and drainage;
 - (i) Protection of sites of heritage, conservation or environmental significance;
 - (j) Special development controls and guidelines; and
- (k) Such other information considered relevant by the Council.

6A.16.3 When a proposed detailed area plan is prepared under clause 6A.16.1, the Council is to—

- (a) Advertise, or require the owner who submitted the proposed detailed area plan to advertise, the proposed detailed area plan for public inspection by one or more of the following ways—
 - (i) Notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;
 - (ii) A sign or signs displaying notice of the proposed detailed area plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed detailed area plan applies; and
- (b) Give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to—
 - (i) All owners whose land is included in the proposed detailed area plan;
 - (ii) All owners and occupiers who, in the opinion of the Council, are likely to be affected by the adoption of the proposed detailed area plan;
 - (iii) Such public authorities and other persons as the Council nominates.

6A.16.4 The advertisement and notice are to—

- (a) Explain the scope and purpose of the proposed detailed area plan;
- (b) Specify when and where the proposed detailed plan may be inspected; and
- (c) Invite submissions to the Council by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

6A.16.5 The Council is to consider all submissions received and—

- (a) Approve the detailed area plan with or without conditions; or
- (b) Refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.

6A.16.6 If within 60 days of receiving a detailed area plan prepared under clause 6A.16.1(b), or such longer period as may be agreed in writing between the owner and the Council, the Council has not made one of the determinations referred to in clause 6A.16.5, the Council is deemed to have refused to approve the detailed area plan.

6A.16.7 Once approved by the Council, the detailed area plan constitutes a variation of the structure plan.

6A.16.8 The Council may vary a detailed area plan in accordance with the procedures set out in clause 6A.16 onwards provided such variations do not prejudice the intention of any related structure plan.

6A.17 Appeal

6A.17.1 An owner who has submitted a proposed structure plan under clause 6A.7.1 may appeal, under Part 14 of the Planning and Development Act—

- (a) Any failure of the Council to advertise, or require the owner to advertise, a proposed structure plan within the required time period under clause 6A.8.1;
- (b) Any determination of the Council—
 - (i) To refuse to adopt a proposed structure plan (including a deemed refusal); or
 - (ii) To require modifications to a proposed structure plan that are unacceptable to that owner.

6A.17.2 An owner who has submitted a detailed area plan in accordance with clause 6A.16 may appeal, in accordance with Part 14 of the Planning and Development Act, any discretionary decision made by the Council under clause 6A.16.

PART 6B—DEVELOPMENT CONTRIBUTION AREAS

6B.1 Interpretations

In clause 6B.1, unless the context otherwise requires—

- “**Administrative Costs**” means such costs as are necessary for the implementation of the Development Contribution plan;
- “**Borrowing Costs**” means the costs incurred or expected to be incurred by the City in borrowing money to meet the costs of and incidental to the carrying out by the City of the infrastructure works;
- “**Cost Apportionment Schedule**” means a schedule prepared and distributed in accordance with clause 6B.10;
- “**Cost Contribution**” means the contribution to the cost of Infrastructure and Administrative Costs;
- “**Development Contribution Area**” means an area identified on the Scheme Map as a Development Contribution Area;
- “**Infrastructure**” means services and facilities which a Development Contribution Plan requires an owner to make a Cost Contribution;
- “**Infrastructure Costs**” means the costs of and incidental to the carrying out by the City of the infrastructure works, including borrowing costs;
- “**Infrastructure Works**” means the works carried out, contracted or undertaken by the City or proposed to be carried out, contracted or undertaken; and
- “**Owner**” means an owner of land that is located within a Development Contribution Area.

6B.2 Purpose

The purpose of having Development Contribution Areas is to—

- (a) Provide for the equitable sharing of the costs of Infrastructure and Administrative Costs between Owners;
- (b) Ensure that Cost Contributions are reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and
- (c) Coordinate the timely provision of Infrastructure.

6B.3 Development Contribution Plan Required

A Development Contribution Plan is required to be prepared for each Development Contribution Area.

6B.4 Development Contribution Plan Part of Scheme

The Development Contribution Plan does not have effect until it has been incorporated in Schedule 11 as part of the Scheme.

6B.5 Subdivision and Development

6B.5.1 Subject to clause 6B5.2, the Council is not to—

- (a) Consider recommending subdivision; or
- (b) Approve development;
 - of land within a Development Contribution Area until—
 - (i) A Development Contribution Plan is in effect; or
 - (ii) The owner in respect of whose land an application for a subdivision or development approval has been made, has made arrangements in accordance with clause 6B.14 for the payment of the Owner’s Cost Contribution.

6B.5.2 Where a Development Contribution Plan is not in effect, the Council may support subdivision or approve development where the Owner has made other arrangements satisfactory to the Council with respect to the Owner’s contribution towards the provision of Infrastructure and Administrative Costs in the Development Contribution Area.

6B.6 Guiding Principles for Development Contribution Plans

The Development Contribution Plan for any Development Contribution Area is to be prepared in accordance with the following principles—

- (a) It is to provide for Cost Contributions to only the cost of such Infrastructure and Administrative Costs as fairly and reasonably relate to, and are reasonably required as a result of, the subdivision and development of land in the Development Contribution Area;
- (b) It is to provide for Cost Contributions generally in accordance with the Commission’s policies on developer contributions for Infrastructure; and
- (c) Matters requiring land contribution, such as public open space, are to be treated as the cost of Infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent.

6B.7 Recommended Content of Development Contribution Plans

6B.7.1 The Development Contribution Plan is to specify—

- (a) The Development Contribution Area to which the Development Contribution Plan applies;

- (b) The Infrastructure and Administrative Costs to be funded through the Development Contribution Plan;
- (c) The method of determining the Cost Contribution of each Owner; and
- (d) The priority and timing for the provision of Infrastructure.

6B.7.2 The Development Contribution Plan may make provisions for cost contributions based on estimated costs of Infrastructure and Administration Costs which are to apply instead of clause 6B.11.

6B.8 Period of Development Contribution Plan

A Development Contribution Plan may specify the period during which it is to operate.

6B.9 Land Excluded

In calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided in that Development Contribution Area for—

- (a) Roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;
- (b) Existing public open space;
- (c) Government primary and secondary schools; and
- (d) Such other land as is set out in the Development Contribution Plan, is to be excluded.

6B.10 Cost Apportionment Schedule

6B.10.1 Within 90 days of the Gazettal date of the Development Contribution Plan, the Council is to distribute a Cost Apportionment Schedule to all Owners in the Development Contribution Area.

6B.10.2 The Cost Apportionment Schedule sets out in detail the calculation of the Cost Contribution for each Owner in the Development Contribution Area.

6B.10.3 The Cost Apportionment Schedule does not form part of the Scheme.

6B.11 Cost Contributions Based on Estimates

6B.11.1 The value of Infrastructure and Administrative Costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the Council.

6B.11.2 Where a Cost Apportionment Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the Council—

- (a) In the case of land to be acquired, in accordance with clause 6B.12
- (b) In all other cases, in accordance with the best and latest information available to the Council, until the expenditure on the relevant item of Infrastructure or Administrative Costs has occurred.

6B.11.3 The Council is to have such estimated costs independently certified by an appropriate qualified person and must provide such independent certification to an Owner where requested to do so.

6B.11.4 Where any Cost Contribution has been calculated on the basis of an estimated cost, the Council—

- (a) Is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs; and
- (b) May accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the Owner accordingly.

6B.11.5 Where an Owner's Cost Contribution is adjusted under clause 6B.11.4, the Council, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.

6B.11.6 Where Council makes a decision to accept a Cost Contribution under clause 6B.11.4.b the Owner must pay the cost contribution within 30 days of the City issuing a notice in writing informing the Owner of Council's decision.

6B.12 Valuation

6B.12.1 Clause 6B.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

6B.12.2 In clause 6B.12—

'Value' means fair nett expectance value which is to be calculated by determining the highest and best use of the land in its inglobo state either on its own or with other land ripe for subdivision and adding the margin for profit foregone had the land been able to be subdivided in its optimum form including allowances for all usual costs and expenses attributed to that land required to carry out such an exercise but not including an allowance for risk as might otherwise have been made.

'Profit' is to be 10% calculated by the difference between—

- (a) The gross realisation of the lots or part lots yielded from the subject land less the advertising and legal expenses so required to sell the lots; and
- (b) The amount of (a) divided by 1.1.

'**Valuer**' means a licensed valuer agreed by the Council and the Owner, or where the Council and the Owner are unable to reach agreement, a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

6B.12.3 If an Owner objects to a valuation made by the Valuer, the Owner may give notice to the Council requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value.

6B.12.4 If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined—

- (a) By any method agreed between the Council and the Owner; or
- (b) If the Council and the Owner cannot agree, by arbitration in accordance with the Commercial Arbitration Act 1985.

6B.13 Liability for Cost Contributions

6B.13.1 An Owner is required to make a Cost Contribution in accordance with the applicable Development Contribution Plan and the provisions of clause 6B.3.

6B.13.2 An Owner's liability to pay the Owner's Cost Contribution to the Council arises on the earlier of—

- (a) The Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the Owner's land within the Development Contribution Area;
- (b) Where a Development Contribution Plan provides for an Owner's liability to make a Cost Contribution to arise upon the occurrence of an event different to those specified in clause 6B.13.2.a), then upon the occurrence of that event.
- (c) The commencement of any development on the Owner's land within the Development Contribution Area; or
- (d) The time of applying to the Council or Commission for approval of any development on the Owner's land within the Development Contribution Area.

6B.13.3 Subject to any contrary provision in a development contribution plan concerning the payment of cost contributions, an Owner shall not be liable to pay a Cost Contribution under clause 6B.13.2 if the Owner commences development of a first single house on an existing lot which has not been subdivided since the gazettal of the Development Contribution Plan; and

The Council may waive an Owners liability to pay a Cost Contribution where an amount equivalent to that Cost Contribution has been paid in respect of the infrastructure to which the Cost Contribution relates. Without affecting the generality of this clause, the equivalent payment may be made in payment of a differential rate imposed by Council under the Local Government Act, 1995.

6B.14 Payment of Cost Contribution

6B.14.1 The Owner, with the agreement of the Council, is to pay the Owner's Cost Contribution by—

- (a) Cheque or cash;
- (b) Transferring to the Council or a public authority land in satisfaction of the Cost Contribution;
- (c) Some other method acceptable to the Council; or
- (d) Any combination of these methods.

6B.14.2 The Owner, with the agreement of the Council, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner acceptable to the Council.

6B.14.3 Payment by an Owner of the Cost Contribution, including a Cost Contribution based upon estimated costs, constitutes full and final discharge of the Owner's liability under the Development Contribution Plan.

6B.14.4 Unless an agreement is entered into under clause 6B.14.2, the payment of an Owners Cost Contribution shall be made to the Council within 30 days of the event which under clause 6B.13.1 gave rise to the liability to make payment.

6B.15 Charge on land

6B.15.1 The amount of any Cost Contribution for which an Owner is liable under clause 6B.13, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the Council may lodge a caveat, at the Owner's expense, against the Owner's title to that land.

6B.15.2 The Council, at the Owner's expense and subject to such other conditions as the Council thinks fit, is to withdraw a caveat lodged under clause 6B.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.

6B.15.3 If the Cost Contribution is paid in full, and if requested to do so by the Owner, the Council, at the expense of the Owner, is to withdraw any caveat lodged under clause 6B.15.

6B.15.4 Interest shall be paid on any Cost Contribution which is due at the maximum rate of interest prescribed to the purposes of section 6.13 of the Local Government Act ,1995.

6B.15.5 Interest payable under clause 6B.15.4 shall be paid from the date an Owner becomes liable for a Cost Contribution to the date on which the Cost Contribution, or unpaid portion of the Cost Contribution (as the case may be) is paid.

6B.16 Administration of Funds

6B.16.1 The Council is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for the cost of

Infrastructure and Administrative Costs within that Development Contribution Area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.

6B.16.2 Interest earned on Cost Contributions credited to a reserve account in accordance with clause 6B.16.1 is to be applied in the Development Contribution Area to which the reserve account relates.

6B.16.3 The Council is to provide to every Owner who has a liability to make a Cost Contribution an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

6B.17 Shortfall or Excess in Cost Contributions

6B.17.1 If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Council may—

- (a) Make good the shortfall from its municipal fund;
- (b) Enter into agreements with Owners to fund the shortfall; or
- (c) Raise loans or borrow from a financial institution,

but nothing in paragraph 6B.17.1(a) restricts the right or power of the Council to impose a differential rate to a specified Development Contribution Area in that regard.

6B.17.2 If there is an excess in funds available to the Development Contribution Area when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Council is to apply the excess funds for the provision of additional facilities or improvements in that Development Contribution Area.

6B.18 Powers of the Council

The Council in implementing the Development Contribution Plan has the power to—

- (a) Acquire any land or buildings within the Scheme area under the provisions of the Town Planning Act; and
- (b) Deal with or dispose of any land which it has acquired under the provisions of the Town Planning Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

6B.19 Arbitration

Subject to clause 6B.12.4, any dispute between an Owner and the Council in connection with the Cost Contribution required to be made by an Owner is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.

6B.20 Not a Requirement Prescribed under the Scheme

For the purpose of clause 5.5, the provision of this part 6B and Cost Contributions payable under those provisions, are not a standard or requirement prescribed under the Scheme.

PART 7—HERITAGE PROTECTION

7.1 Heritage List

7.1.1 The Council is to establish and maintain a Heritage List to identify those places within the Scheme Area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2 In the preparation of the Heritage List the Council is to—

- (a) have regard to the municipal inventory prepared by the Council under section 45 of the Heritage of Western Australia Act 1990; and
- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

7.1.3 In considering a proposal to include a place on the Heritage List the Council is to—

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

7.1.4 Where a place is included on the Heritage List, the Council is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

7.1.5 The Council is to keep a copy of the Heritage List with the Scheme documents for public inspection.

7.1.6 The Council may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

Note: 1. *The purpose and intent of the heritage provisions are—*

- (a) *to facilitate the conservation of places of heritage value; and*
- (b) *to ensure as far as possible that development occurs with due regard to heritage values.*

2. A "place" is defined in Schedule 1 and may include works, buildings and contents of buildings.
3. Clause 9.4.1 (f) requires all development on a property listed on the heritage list to be advertised and Council shall have regard to clause 10.2 (h) when determining an application to commence development.

7.2 Designation of a Heritage Area

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

7.2.2 The Council is to—

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

7.2.3 If the Council proposes to designate an area as a heritage area, the Council is to—

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

7.2.4 Notice of a proposal under Clause 7.2.3(b) is to specify—

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

7.2.5 After the expiry of the period within which submissions may be made, the Council is to—

- (a) review the proposed designation in the light of any submissions made; and
- (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.

7.2.6 If the Council resolves to adopt the designation, the Council is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.

7.2.7 The Council may modify or revoke a designation of a heritage area.

7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

7.3 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. Detailed provisions relating to heritage agreements are set out in the Heritage of Western Australia Act 1990.

7.4 Heritage Assessment

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

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

Where desirable to—

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under Clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under Clause 7.2.1,

the Council may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in Clause 5.5.2.

PART 8—DEVELOPMENT OF LAND**8.1 Requirement for Approval to Commence Development**

8.1.1 Subject to Clause 8.2, all development on land zoned or reserved under the Scheme requires the prior approval of the Council. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the Council under Part 9.

8.1.2 All development on land classified as 'No Zone' under the provisions of clause 4.1.3, requires the prior approval of the Council except where such development is for public works. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the Council under Part 9.

- Note:*
1. *The planning approval of the Council is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).*
 2. *Development includes the erection, placement and display of any advertisements (subject to clause 8.2.1).*
 3. *Approval to commence development may also be required from the Commission under the Metropolitan Region Scheme.*
 4. *The provisions of clause 8.1.2 are intended to require development approval for proposed development on unzoned land such as may occur in road, ROW and PAW closures from time to time (refer clauses 4.1.3 and 4.13).*

8.2 Permitted Development

8.2.1 Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of the Council—

- (a) Demolition of a building except where the building is—
 - (i) included in the Heritage List;
 - (ii) located on land within a Heritage Protection Area;
 - (iii) located in a place that has been entered in a Register of Heritage Places under the Heritage of Western Australia Act, 1990; or
 - (iv) the subject of an order under Part 6 of the Heritage of Western Australia Act, 1990.
- (b) The carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where—
 - (i) the building is—
 - located in a place that has been entered in the register of places under the Heritage of Western Australia Act, 1990;
 - the subject of an order under Part 6 of the Heritage of Western Australia Act, 1990
 - included in the Heritage List; or
 - (ii) the building or work—
 - is to be undertaken in relation to a building used for office, commercial, industrial or recreational purposes; and
 - would result in an increase in the gross floor area of the building or a use within a building.
- (c) Incidental structures constructed of lightweight materials (not including bricks or masonry) and not located within the street setback area of any land used for residential purposes (with the exception of landscaping and letterboxes).
- (d) Outbuildings, but only where outbuildings comply with all acceptable development requirements of the R-Codes.
- (e) Use of land for the purposes of a family day care centre, but only where—
 - (i) the land is not included in the Heritage List; and
 - (ii) the number of children cared for in the family day care centre does not exceed 4 children at any one time.
- (f) Fences, but only where the fence—
 - (i) does not exceed 1.2 metres in height above natural ground level if in the street setback area of any land;
 - (ii) does not exceed 0.6 metres above natural ground level if in the street setback area of land used for residential purposes within a heritage protection area;
 - (iii) is not located on land included in the Heritage List; and
 - (iv) is not located within a visual truncation specified in the R-Codes.
- (g) Home office.
- (h) Retaining walls that comply with all acceptable development requirements of the R-Codes.
- (i) The filling of land where it complies with all acceptable development requirements of the R-Codes.
- (j) Swimming pools not available for use by the public.
- (k) Tennis courts (including chain link fencing surrounding and associated with these, additional to otherwise permissible fencing, to a total maximum height of 5.0 metres) not available for use by the public and not located within the front setback area

- (l) Temporary buildings.
- (m) Patios which comply with the acceptable development requirements of the R-Codes.
- (n) Parking of commercial vehicles on private land except where it is related to the use of that land as transport depot or it is located within a residential zone.
- (o) Advertising Signs that comply with the provisions of the Local Planning Policy relating to Advertising Signs.

8.2.2 Notwithstanding that a particular use or development may not require the planning approval of the Council, the provisions of the Scheme shall apply to such use or development.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under section 20D of the Act.

8.3 Amending or Revoking a Planning Approval

8.3.1 The Council may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.

8.3.2 Notwithstanding clause 8.3.1 above, if a Home Business, Home Occupation, Home Office or the Parking of a Commercial Vehicle in the Residential Zone has been carried on with the approval of the Council and if in the opinion of the Council such Home Business, Home Occupation, Home Office or the Parking of a Commercial Vehicle in a Residential Zone is causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, the Council may rescind the approval granted by it and after such rescission, no person shall upon the land subject of a resolution for rescission, carry on a Home Business, Home Occupation, Home Office or the Parking of a Commercial Vehicle in the Residential Zone unless approval to do so shall subsequently be granted by the Council.

8.4 Unauthorised Existing Developments

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

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

Note: 1. Applications for approval to an existing development are made under Part 9.

2. The approval by the Council of an existing development does not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.

8.5 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.

PART 9—APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of Application

9.1.1 An application for approval for one or more of the following—

- (a) a use or commencement of development on a Local Reserve under Clause 3.4;
- (b) commencement of a 'P' use which does not comply with all relevant development standards and requirements of the Scheme as referred to in Clause 4.3.2;
- (c) commencement of a 'D' use or an 'A' use as referred to in Clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under Clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under Clause 4.9;
- (f) a change of a non-conforming use under Clause 4.9;
- (g) continuation of a non-conforming use under Clause 4.12;
- (h) variation of a site or development requirement under Clause 5.5;
- (i) commencement of development under Clause 8.1;
- (j) continuation of development already commenced or carried out under Clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under Clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

is, subject to Clause 9.1.2, to be made in the form prescribed in Schedule 5 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

9.1.2 An application for the erection, placement or display of an advertisement is to be accompanied by the additional information set out in the form prescribed in Schedule 8.

Note: 1. Under the provisions of the Metropolitan Region Scheme, an application for planning approval in respect of land which is wholly within a regional reserve is to be referred by the local government to the Commission for determination. No separate determination is made by the local government.

2. *An application for planning approval in respect of land which is wholly within the management area of the Swan River Trust is to be referred by the local government to the Swan River Trust for determination by the Minister responsible for the Swan River Trust Act 1988.*
3. *An application for planning approval in respect of land which is zoned under the Metropolitan Region Scheme and is—*
 - (a) *affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme;*
 - (b) *within or partly within a planning control area declared by the Commission under section 35C of the Metropolitan Region Town Planning Scheme Act 1959 or section 37B of the Western Australian Planning Commission Act 1985;*
 - (c) *partly within the management area of the Swan River Trust or which abuts waters that are in that area; or*
 - (d) *affected by a notice of delegation published in the Gazette by the Commission under section 20 of the Western Australian Planning Commission Act 1985 and is not of a type which may be determined by the local government under that notice,*

is to be referred by the local government to the Commission in accordance with the requirements of the Metropolitan Region Scheme and notice of delegation. Separate determinations are made by the local government under the Scheme and the Commission under the Region Scheme.

9.2 Accompanying Material

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

- (a) a plan or plans to a scale of not less than 1:500 showing—
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (v) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
 - (viii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) any specialist studies that Council may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the Council may require to enable the application to be determined.

9.3 Additional Material for Heritage Matters

Where an application relates to a place entered on the Heritage List or within a heritage area, the Council may require an applicant to provide one or more of the following to assist the Council in its determination of the application—

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

9.4 Advertising of Applications

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

- (a) an 'A' use as referred to in Clause 4.3.2;
- (b) a use not listed in Table 1—Zoning Table;
- (c) a change of non-conforming use as referred to in Clause 4.9;
- (d) the parking of a commercial vehicle within the Residential Zone;

- (e) development that exceeds 12m in height in a Non Residential Zone and within the Coastal Height Limit—Special Control Area; or
- (f) Development of a property listed on the Heritage List;

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

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

9.4.3 The Council may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways—

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the granting of planning approval, stating that submissions may be made to the Council by a specified date being not less than 14 days from the day the notice is served;
- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the Council by a specified day being not less than 14 days from the day the notice is published;
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

9.4.4 The notice referred to in Clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 7 with such modifications as are considered appropriate by the Council.

9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the Council.

9.4.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the Council is to consider and determine the application.

PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with Other Authorities

10.1.1 In considering an application for planning approval the Council may consult with any other statutory, public or planning authority it considers appropriate.

10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the Council is to consult that authority before making its determination.

10.2 Matters to be Considered by the Council

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

- (a) the aims and provisions of the Scheme and the objectives of the relevant zone and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the Environmental Protection Act 1986;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by Council under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other structure plan, detailed area plan or guidelines adopted by the Council under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the Heritage of Western Australia Act 1990, or which is included in the Heritage List under Clause 7.1, and the effect of the proposal on the character or appearance of a heritage area and the following—
 - (i) the effect of the proposed development on the heritage significance of the place;
 - (ii) the measures proposed to conserve the heritage place;
 - (iii) if the proposal involves demolition, whether the heritage place is reasonably capable of conservation, and whether or not the place is structurally sound;
 - (iv) whether the character, design and aesthetics of any proposed replacement building and its relationships to character of adjacent buildings are appropriate.
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;

- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under Clause 10.1.1;
- (za) any other planning consideration the Council considers relevant.

10.3 Determination of Applications

10.3.1 Subject to clause 6B5.1, in determining an application for planning approval the Council may—

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

10.3.2 Without limiting the generality of clause 10.3.1(a), the Council may impose conditions on a planning approval relating to—

- (a) the density and/or intensity of development, including the number of dwellings, floor space and occupancy;
- (b) the location and arrangement of development, including setbacks, coverage, open space and car parking areas;
- (c) design of buildings and associated development, including architectural character, floor levels, height, facades and roofing;
- (d) use and occupation of premises including the nature of tenancies, control of access, limitation of occupancy and control of noise;
- (e) site works, including fill, retention of excavation, paving, drainage and fencing;
- (f) advertising, directional signage and lighting, including the location, number, height, extent, location, design, timing and duration;
- (g) access, parking and servicing, including facilities for pedestrians, cyclists and people with disabilities;
- (h) landscaping and/or the preservation of any existing vegetation;
- (i) hours of operation and/or occupation of premises or defined areas or activities;
- (j) contributions towards the cost of works and/or infrastructure required to service the proposed development or which will provide a benefit to the occupiers and/or users of the development site;
- (k) setting aside or giving up of land or property rights for public purposes;
- (l) notification of constraints or impacts likely to affect the use and development of land, including the registration of memorials or notices on title;
- (m) contribution of cash-in-lieu of parking required to service the proposed development, or which will provide a benefit to the occupiers and/or users of the development site; and
- (n) retention or demolition of buildings and the repair, refurbishment and maintenance of premises.

Note: The conditions imposed by the Council on a planning approval should not change the nature of the application (for example, where an application is for 5 grouped dwellings a condition restricting the number of dwellings below five is not appropriate—rather, the application should be refused).

10.4 Form and Date of Determination

10.4.1 As soon as practicable after making a determination in relation to the application, the Council is to convey its determination to the applicant in the form prescribed in Schedule 7 and the date of determination is to be the date given in the notice of the Council's determination.

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

10.5 Term of Planning Approval

10.5.1 Where the Council grants planning approval for the development of land—

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

10.5.2 A written request may be made to the Council for an extension of the term of planning approval at any time prior to the expiry of the approval period in Clause 10.5.1.

10.6 Temporary Planning Approval

Where the Council grants planning approval, the Council may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the Council grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

10.7 Scope of Planning Approval

10.7.1 Planning approval may be granted—

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

10.7.2 Notwithstanding clause 10.7.1 above, a planning approval granted by the Council for a Home Business, Home Occupation, Home Office or for the Parking of a Commercial Vehicle in the Residential Zone—

- (a) is personal to the person to whom it was granted and shall apply only to the site in respect of which it was granted;
- (b) cannot be transferred or assigned to any other person; and
- (c) cannot be applied or transferred to another site.

10.8 Approval Subject to Later Approval of Details

10.8.1 Where an application is for a development that includes the carrying out of any building or works, the Council may grant approval subject to matters requiring the subsequent planning approval of the Council. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the Council thinks fit.

10.8.2 In respect of an approval requiring subsequent planning approval, the Council may require such further details as it thinks fit prior to considering the application.

10.8.3 Where the Council has granted approval subject to matters requiring the later planning approval of the Council, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

10.9 Deemed Refusal

10.9.1 Subject to Clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the Council within 60 days of the receipt of the application by the Council, or within such further time as is agreed in writing between the applicant and the Council.

10.9.2 An application for planning approval which is the subject of a notice under Clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the Council within 90 days of the receipt of the application by the Council, or within such further time as is agreed in writing between the applicant and the Council.

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

10.10 Application for a Review

An applicant aggrieved by a determination of the Council in respect of the exercise of a discretionary power under the Scheme may appeal under Part 14 of the Act.

PART 11—ENFORCEMENT AND ADMINISTRATION**11.1 Powers of the Council**

11.1.1 The Council in implementing the Scheme has the power to—

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

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

11.2 Advertisements

The power to control Advertisements is contained within Schedule 8 of the Scheme.

11.3 Delegation of Functions

11.3.1 The Council may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the Local Government Act 1995, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

11.3.2 The CEO may delegate to any employee of the Council the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under Clause 11.3.1.

11.3.3 The exercise of the power of delegation under Clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the Local Government Act 1995.

11.3.4 Sections 5.45 and 5.46 of the Local Government Act 1995 and the regulations referred to in section 5.46 apply to a delegation made under this Clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.

11.4 Person Must Comply with Provisions of Scheme

A person must not—

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area—
 - (i) otherwise than in accordance with the Scheme;
 - (ii) unless all approvals required by the Scheme have been granted and issued;
 - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the Council under the Scheme with respect to that building or that use.

Note: Section 214 of the Act provides that a person who—

- (a) contravenes or fails to comply with the provisions of a town planning scheme; or*
- (b) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,*
is guilty of an offence.

Penalty: \$50 000, and a daily penalty of \$5 000.

11.5 Compensation

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Part 11 of the Act—

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the Town Planning Regulations 1967; or
- (b) where the land has been reserved for a public purpose and
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
 - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

not later than 6 months after the application is refused or the permission granted.

11.5.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under Clause 11.5.1.

Note: A claim for compensation in respect of the refusal of planning approval or the imposition of conditions on land reserved under the Metropolitan Region Scheme should be made under the (Planning and Development Act 2005).

A claim for compensation under Part 11 of the Act may be made in the Form No. 7 in Appendix A of the Town Planning Regulations 1967.

11.6 Purchase or Taking of Land

11.6.1 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.

11.6.2 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: Schedule 7 of the Act empowers the Council to purchase or compulsorily acquire land comprised in a scheme.

11.7 Notice for Removal of Certain Buildings

11.7.1 Under section 214 of the Act, 60 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The Council may recover expenses under section 215 of the Act in a court of competent jurisdiction.

SCHEDULES

- Schedule 1: Dictionary of Defined Words and Expressions
- Schedule 2: Additional Uses
- Schedule 3: Restricted Uses
- Schedule 4: Special Use Zones
- Schedule 5: Form of application for Planning Approval
- Schedule 6: Notice of Public Advertisement of Planning Proposal
- Schedule 7: Notice of Determination on Application for Planning Approval
- Schedule 8: Advertising Signs
- Schedule 9: Restrictive Covenants
- Schedule 10: Development Areas (Structure Plan)
- Schedule 11: Development Contribution Areas

SCHEDULE 1: DICTIONARY OF DEFINED WORDS AND EXPRESSIONS [CL. 1.7]

1. General Definitions

WORD / EXPRESSION	DEFINITION
Act:	means the Planning and Development Act 2005;
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 purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising; <i>Note—for particular Sign types, refer specific definitions listed under "Advertising Signs".</i>
Advertiser:	means any person or any group comprised of the landowner, occupier, licensee or other person having an interest in or drawing benefit from the display of the advertising sign concerned.
Advertising Signs:	<u>Community Service Sign</u> means an advertising sign which is a temporary non-illuminated sign that advertises nonprofit, short-term events such as a fete, fair, or festival for charitable, religious, education, sporting organisations or the like. <u>Construction Site / Development Sign and Real Estate Sign</u> means an advertising sign which is displayed only for the duration of the construction, development or transaction period. <u>Created Roof Sign</u> means an advertising sign which is affixed to the fascia or parapet, or forms part of a projection above the eaves or

WORD / EXPRESSION	DEFINITION
	<p>ceiling of the building and complements the architectural style of the building, but does not include a Roof Sign.</p> <p><u>Display Home Sign</u> means an advertising sign which is displayed for the period over which homes are on display for public inspection.</p> <p><u>Ground Based Sign</u> means an advertising sign which is not attached or otherwise affixed to a building and no portion of which is higher than 1.2 metres above natural ground level.</p> <p><u>Hoarding Sign</u> means an advertising sign which is affixed to a structure having one or more supports where the overall height (inclusive of the supports) is less than the sign's horizontal dimension and portion of the sign is greater than 1.2 metres above natural ground level.</p> <p><u>Monolith Sign</u> means an advertising sign which is not attached to a building or any other structure and with its largest dimension being vertical. Such a sign may consist of a number of modules and is uniform in shape from ground level to the top of the sign and is greater than 1.2m in height.</p> <p><u>Panel Sign</u> means an advertising sign which is affixed to a panel / fence and is greater than 1.2 metres above natural ground level, but does not include a Pylon or Monolith Sign.</p> <p><u>Product / Vehicle Display Sign</u> means an advertising sign which is either—</p> <ul style="list-style-type: none"> (i) a product or object which is displayed for the purposes of advertisement; or (ii) an advertisement sign which is applied or otherwise attached or placed on a vehicle. For the purposes of this term a vehicle includes a; car, truck, boat, trailer, caravan, machinery, and the like whether moveable or not. <p><u>Projecting Sign</u> means an advertising sign which is attached to a projection or projects more than 300mm from a wall of the building below the eaves or ceiling height.</p> <p><u>Pylon Sign</u> means an advertising sign which is affixed to a structure having one or more supports where the overall height (inclusive of the supports) is greater than the sign's horizontal dimension and portion of the sign is greater than 1.2 metres above natural ground level, but does not include a Monolith Sign.</p> <p><u>Roof Sign</u> means an advertising sign which protrudes above the normal roof line or is on the roof with little or no relation to the architectural design of the building, but does not include a Created Roof Sign.</p> <p><u>Tethered Sign</u> means an advertising sign which is suspended from or tethered to any structure, tree or pole (with or without supporting framework) and made of paper, plastic, fabric or similar materials. The term includes lighter than air aerial devices, inflatables, bunting, banners, flags and kites.</p> <p><u>Wall Sign</u> means an advertising sign which is affixed to the external part of a wall of the building but does not project more than 300mm from the wall and no part of which is above the lowest point of the eaves or ceiling of the building.</p> <p><u>Window Sign</u> means an advertising sign which is affixed to either the interior or exterior of the glazed area of a window.</p>
Amenity:	means all those factors which combine to form the character of an area and include the present and likely future amenity;
Building:	has the same meaning as in the Residential Design Codes 2002;
Building Envelope:	means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;
CEO:	means the Chief Executive Officer of the Council of Stirling;
City:	means the City of Stirling;
Civic Use:	means premises used by a government department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purposes;
Clause:	means a Clause of the Scheme;
Commission:	means the Western Australian Planning Commission;

WORD / EXPRESSION	DEFINITION
Community Facilities:	<p>Public Space means plazas, courts, pedestrian squares, pedestrian retreats and parks on private land for public use.</p> <p>Pedestrian Facilities means pedestrian paths, walkways, arcades, tunnels and bridges on private land.</p> <p>Public Art means permanent structures of an artistic nature or the like that are in public spaces.</p> <p>Specific Facilities on Private Land means public toilets, change rooms, child care facilities, cultural facilities, performing arts facilities, educational facilities, or other facilities as determined by Council.</p> <p>Off-Site Civic Works means streetscape works adjacent the site, upgrading of adjacent right of ways, public toilets, public artworks, road improvements and other civic improvements in the public domain.</p>
Conservation:	has the same meaning as in the Heritage of Western Australia Act 1990;
Council:	means the Council of the City of Stirling;
Development:	has the same meaning as the Planning and Development Act 2005;
District:	means the district of the City of Stirling;
Fence:	<p>means an upright structure erected or placed on land for the purpose of—</p> <ul style="list-style-type: none"> (i) enclosing an area of land; (ii) separating that land from other land; or (iii) preventing or controlling access to the land. For the purposes of this definition, 'fence' includes gates, except gates that restrict access to four or more car parking bays, but excludes retaining walls.
Floor Area:	has the same meaning as in the Building Code of Australia published by the Australian Building Codes Board;
Frontage:	<p>when used in relation to a building that is used for—</p> <ul style="list-style-type: none"> (a) residential purposes, has the same meaning as in the Residential Design Codes; and (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;
Gazettal Date:	in relation to a Scheme, means the date on which the Scheme is published in the Gazette under section 87 of the Act;
Height:	<p>when used in relation to a building that is used for—</p> <ul style="list-style-type: none"> (a) residential purposes, has the same meaning as in the Residential Design Codes; or (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;
Heritage List:	means the heritage list referred to in Clause 7.1 of the Scheme;
Incidental Use:	means a use of premises which is ancillary and subordinate to the predominant use;
Incidental Structure:	<p>means—</p> <ul style="list-style-type: none"> (a) a dog house, domestic animal or bird enclosure or a cubby house which— <ul style="list-style-type: none"> • does not exceed 3.0 metres in height above natural ground level; • does not have any part of its structure located within 1.0 metres of the boundary with an adjoining lot; • does not have a floor area greater than 6.0 square metres; and • is constructed on a lot used solely for residential purposes; (b) a tree house which— <ul style="list-style-type: none"> • as a structure, does not exceed 3.0 metres in height; • does not have a floor area greater than 4.0 metres; and • is constructed in a tree on a lot used solely for residential purposes;

WORD / EXPRESSION	DEFINITION
	<p>(c) a flag pole which does not exceed 6.0 metres in height above natural ground level;</p> <p>(d) a satellite dish located on a lot used solely for residential purposes which—</p> <ul style="list-style-type: none"> • does not exceed 0.9 metres in diameter; • is not located in the street setback area; and • is not located on a dwelling roof that directly faces a street; <p>(e) a satellite dish located on a lot used for purposes other than residential purposes which does not exceed 2.0 metres in diameter;</p> <p>(f) television aerial or radio antenna which does not exceed 3.0 metres in height above the ridge of the roof on which it is located or, if located on the ground, not more than 6.0 metres from natural ground level;</p> <p>(g) an air conditioner;</p> <p>(h) a solar panel;</p> <p>(i) a water tank which does not exceed 3.0 metres in height above natural ground level;</p> <p>(j) plumbing vents and pipes</p> <p>(j) an external hot water heater;</p> <p>(k) shading structures, such as sails and pergolas but only where they are located outside the street setback area, are less than 4.0 metres in height and the roof component is setback a minimum of 1.0 metres from the boundary;</p> <p>(l) screening which—</p> <ul style="list-style-type: none"> • is not a fence, as defined in this Schedule; • is not greater than 3.0 metres in height above natural ground level; and • constitutes a visually permeable structure; <p>(m) any pole, tower or device used for the purpose of providing outdoor lighting which is—</p> <ul style="list-style-type: none"> • constructed on a lot used solely for residential purposes; and • no more than 4.5 metres in height above natural ground level; <p>(n) any pole, tower or device used for the purpose of providing outdoor lighting which is—</p> <ul style="list-style-type: none"> • constructed on a lot used for purposes other than residential purposes; and • no more than 6.0 metres in height above natural ground level. <p>(o) landscaping;</p> <p>(p) letter boxes; and</p> <p>(q) clothes lines.</p>
Local Government:	means the City of Stirling;
Local Planning Strategy:	means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the Town Planning Regulations 1967 and amended from time to time;
Lot:	has the same meaning as in the Act but does not include a strata or survey strata lot;
Municipal Inventory:	means the inventory of buildings compiled and maintained by the City pursuant to section 45 of the <i>Heritage of Western Australia Act, 1990</i> ;
Natural Ground Level:	has the same meaning as in the <i>Residential Design Codes</i> ;
Net Lettable Area (NLA):	<p>means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—</p> <p>(a) all stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;</p> <p>(b) lobbies between lifts facing other lifts serving the same floor;</p> <p>(c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;</p>

WORD / EXPRESSION	DEFINITION
	(d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;
Non-Conforming Use:	has the same meaning as it has in section 174 of the Act;
Owner:	<p>in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity—</p> <p>(a) is entitled to the land for an estate in fee simple in possession;</p> <p>(b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;</p> <p>(c) is a lessor or licensee from the Crown; or</p> <p>(d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;</p>
Place:	in Part 7 (Heritage Protection) has the same meaning as it has in the <i>Heritage of Western Australia Act 1990</i> ;
Plot Ratio:	means the ratio of the gross total of the areas of all floors of buildings on a site to the area of land within the site boundaries. For this purpose, such areas shall include the area of any walls but not include the areas of lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, non habitable space that is wholly below natural ground level, areas used exclusively for the parking of wheeled vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs open on at least two sides;
Predominant Use:	means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;
Premises:	means land or buildings;
Reciprocal Access Rights:	means rights to access and cross a lot as a pedestrian or in a vehicle, at any time, in order to access any other lot;
Reciprocal Parking Rights:	means rights to park a vehicle in a parking area on a lot, at any time, in order to attend that lot or any other lot;
Residential Design Codes:	means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No.1, as amended from time to time;
Retail:	means the sale or hire of goods or services to the public;
Retaining Wall:	means a structure to be erected for the purpose of supporting land at a level higher than land immediately adjacent to it;
Storey:	means that portion of a building which is situated between the top of any floor and the top of the next floor 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 storey having 50% or more of its volume below natural ground level.
Substantially Commenced:	means that work or development the subject of planning approval has begun by the performance of some substantial part of that work or development;
Temporary Building:	<p>means any structure whether fixed or moveable which is placed or erected on land—</p> <p>(a) for a period not exceeding 48 hours and used for a purpose incidental to a public or private event; or</p> <p>(b) for a purpose incidental to the carrying out of another approved development where the structure is—</p> <ul style="list-style-type: none"> • to be removed at the completion of that other approved development; and • not placed or erected on land for a period greater than 6 months.
Transport Infrastructure:	<p>means the works and undertakings described below for the purpose of providing public transport infrastructure, walking and cycling infrastructure, parking infrastructure and demand management—</p> <p>(a) public transport stops, shelters and stations, signs, public transport lanes, vehicles, track and catenary, priority signals and any associated works/designs;</p>

WORD / EXPRESSION	DEFINITION
	<p>(b) paths, signs, bikes, end of trip facilities (showers and lockers), pedestrian and cycling crossings and any associated works/designs;</p> <p>(c) on and off street parking bays, parking machines, parking signs, shelters and any associated works/designs and technologies;</p>
Utility:	means any works or undertaking constructed or maintained by a public authority, private company or the Council, as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services;
Wholesale:	means the sale of goods or materials to be sold by others;

2. Land Use Definitions

WORD / EXPRESSION	DEFINITION
Aged or Dependent Persons Dwelling:	has the same meaning as in the Residential Design Codes;
Amusement Parlour:	means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;
Bed and Breakfast:	means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;
Betting Agency:	means an office or totalisator agency established under the <i>Totalisator Agency Board Betting Act 1960</i> ;
Boarding House:	means any building, in which provision is made for lodging or boarding for more than four persons with a keeper located on the premises (usually long term) exclusive of the family of the keeper if any, which may or may not form part of a dwelling, for hire or reward, but does not include a hotel, motel, residential building, hospital, institutional building or institutional home;
Car Park:	means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;
Caravan Park:	has the same meaning as in the <i>Caravan Parks and Camping Grounds Act 1995</i> ;
Caretaker's Dwelling:	means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;
Child Care Premises:	has the same meaning as in the <i>Community Services (Child Care) Regulations 1988</i> ;
Cinema / Theatre:	means premises where the public may view a motion picture or theatrical production;
Civic Use:	means the use of land by a Government Department, instrumentality of the Crown or Council for administrative, recreational or other purposes;
Club Premises:	means premises used by a legally constituted club or association or other body of persons united by a common interest;
Community Purposes:	means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;
Consulting Rooms:	means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;
Convenience Store:	<p>means premises—</p> <p>(a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents;</p> <p>(b) operated during hours which include, but may extend beyond, normal trading hours;</p> <p>(c) which provide associated parking; and</p> <p>(d) the floor area of which does not exceed 300 square metres net lettable area;</p>
Corrective Institution:	means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;

WORD / EXPRESSION	DEFINITION
Drive Through Fast Food Outlet:	means a fast food outlet which includes the sale and serving of food or beverages direct to persons driving or seated in motor vehicles. The term may or may not include the preparation of food for sale and consumption within the building, or portion thereof;
Educational Establishment:	means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;
Exhibition Centre:	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;
Family Day Care:	means premises used to provide family day care within the meaning of the <i>Community Services (Child Care) Regulations 1988</i> ;
Fast Food Outlet:	means premises used for the preparation, sale and serving of food or beverages to customers in a form ready to be eaten without further preparation, primarily off the premises;
Fuel Depot:	means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;
Funeral Parlour:	means premises used to prepare and store bodies for burial or cremation;
Garden Centre:	means premises used for the growing of trees, plants, shrubs or flowers for sale and includes the sale of associated gardening supplies;
Grouped Dwelling:	has the same meaning as in the <i>Residential Design Codes</i> ;
Hardware Showroom:	means premises used for the display and sale of goods and products of a hardware nature used for house, garden, and industrial trade purposes being primarily tools, implements, fittings, trade supply items, paints, equipment, construction materials, outdoor furniture and the like, and excludes food;
Home Business:	<p>means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—</p> <ul style="list-style-type: none"> (a) does not employ more than 2 people not members of the occupier's household; (b) will not cause injury to or adversely affect the amenity of the neighbourhood; (c) does not occupy an area greater than 50 square metres; (d) does not involve the retail sale, display or hire of goods of any nature; (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and (f) does not involve the use of an essential service of greater capacity than normally required in the zone;
Home Occupation:	<p>means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—</p> <ul style="list-style-type: none"> (a) does not employ any person not a member of the occupier's household; (b) will not cause injury to or adversely affect the amenity of the neighbourhood; (c) does not occupy an area greater than 20 square metres; (d) does not display a sign exceeding 0.2 square metres; (e) does not involve the retail sale, display or hire of goods of any nature; (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

WORD / EXPRESSION	DEFINITION
Home Office:	means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not— (a) entail clients or customers travelling to and from the dwelling; (b) involve any advertising signs on the premises; or (c) require any external change to the appearance of the dwelling;
Home Store:	means any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling;
Hospital:	means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;
Hostel:	means a lodging house which is not open to the public generally but is reserved for use solely by students and staff of educational establishments, members of societies, institutes or associations;
Hotel:	means premises providing accommodation the subject of a hotel licence under the <i>Liquor Licensing Act 1988</i> , and may include a betting agency on those premises, but does not include a tavern or motel;
Industry:	means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for— (a) the storage of goods; (b) the work of administration or accounting; (c) the selling of goods by wholesale or retail; or (d) the provision of amenities for employees, incidental to any of those industrial operations;
Industry—Cottage:	means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which— (a) does not cause injury to or adversely affect the amenity of the neighbourhood; (b) where operated in a residential zone, 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 zone in which it is located may be put; (d) does not occupy an area in excess of 50 square metres; and (e) does not display a sign exceeding 0.2 square metres in area;
Industry—Extractive:	means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry—mining;
Industry—General:	means an industry other than a cottage, extractive, light, mining, noxious, rural or service industry;
Industry—Light:	means an industry— (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality; (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;
Industry—Mining:	means land used commercially to extract minerals from the land;
Industry—Noxious:	means an industry which— (a) is specifically listed as an offensive trade under Schedule 2 of the Health Act 1911, excluding cleaning establishments and laundries, or

WORD / EXPRESSION	DEFINITION
	(b) is specifically listed as a prescribed premises under Schedule 1 of the Environmental Protection Regulations 1987, excluding those industries encompassed by the definition of <i>agriculture—intensive, animal husbandry—intensive or industry—rural</i> .
Industry—Rural:	means— (a) an industry handling, treating, processing or packing rural products; or (b) a workshop servicing plant or equipment used for rural purposes;
Industry—Service:	means— (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;
Institutional Building:	means land and building used or designed for use wholly or principally for the purpose of a rehabilitation centre or home for alcoholics, drug addicts, persons released from penal institutions or other persons requiring treatment as provided by such a centre.
Institutional Home:	means a building used for the residence of or for the care and maintenance of children, State wards or orphans.
Market:	means premises used for the display and sale of goods from stalls by independent vendors;
Media Establishment:	means premises used for radio, television, film and allied media industries including, but without limiting the foregoing, the electronic media other than telecommunications, and such other administrative and entertainment activities as would normally be associated with the operation or public image of such industries but does not include such amusements as could normally be provided on other land in the Scheme Area and does not include printing presses or activities normally associated with the printed media;
Medical Centre:	means premises, other than a hospital, used by more than two health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counseling) and allows for ancillary services such as a chemist;
Motel:	means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the <i>Liquor Licensing Act 1988</i> ;
Motor Vehicle Repair:	means premises used for or in connection with— (a) electrical and mechanical repairs, or overhauls, to vehicles; or (b) repairs to tyres, but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;
Motor Vehicle Wash:	means premises where the primary use is the washing of motor vehicles;
Motor Vehicle, Boat or Caravan Sales:	means premises used to sell or hire motor vehicles, boats, caravans, trailers or the like;
Multiple Dwelling:	has the same meaning as in the <i>Residential Design Codes</i> ;
Night Club:	means premises— (a) used for entertainment with or without eating facilities; and (b) licensed under the <i>Liquor Licensing Act 1988</i> ;
Nursing Home:	means premises used for the care and maintenance of the aged or infirm or persons with physical or intellectual disabilities;
Office:	means premises used for administration, clerical, technical, professional or other like business activities;
Park Home Park:	has the same meaning as in the <i>Caravan Parks and Camping Grounds Regulations 1997</i>

WORD / EXPRESSION	DEFINITION
Personal Care Services:	means premises used for the provision of services of a personal nature involving care and/or treatment of clients, and includes hairdressing, beauty therapy, manicure and massage, but does not include consulting rooms, medical centre or sex services involving prostitution;
Personal Services:	means premises in which maintenance, repair or adornment of personal apparel or equipment is provided to members of the public and which do not adversely affect the amenity of the locality, and include dry cleaners, laundromats, watch repairers, tailors, embroiderers, key cutters and engravers;
Place of Worship:	means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;
Reception Centre:	means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;
Recreation—Private:	means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;
Restaurant:	means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988;
Residential Building:	has the same meaning as in the Residential Design Codes;
Restricted Premises:	means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of— <ul style="list-style-type: none"> (a) publications that are classified as restricted under the Censorship Act 1996; (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;
Retirement Complex	means a development containing accommodation for aged or dependent persons together with amenities incidental and ancillary to the provision of such accommodation.
Rural Pursuit:	means any premises used for— <ul style="list-style-type: none"> (a) the rearing or agistment of animals; (b) the stabling, agistment or training of horses; (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or (d) the sale of produce grown solely on the lot, but does not include agriculture—extensive or agriculture—intensive;
Salvage Yard:	means any premises used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats;
Service Station:	means premises used for— <ul style="list-style-type: none"> (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;
Shop:	means premises used to sell goods by retail, or hire goods, but does not include a showroom or fast food outlet;
Short Stay Accommodation:	means a dwelling designed or intended to be used for the purpose of human habitation on a temporary basis for a single person or single family, and includes a serviced apartment, but does not include a Residential Building, Hotel or Motel;
Showroom:	means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;
Single Bedroom Dwelling:	has the same meaning as in the Residential Design Codes;
Single House:	has the same meaning as in the Residential Design Codes;

WORD / EXPRESSION	DEFINITION
Storage—Outdoor:	means premises used for the outdoor storage of goods, equipment, plant, materials or containers;
Tavern:	means premises licensed as a tavern under the Liquor Licensing Act 1988 and used to sell liquor for consumption on the premises;
Telecommunications Infrastructure:	means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;
Trade Display:	means premises used for the display of trade goods and equipment for the purpose of advertisement;
Transport Depot:	means premises designed and used, or which is adapted for use for one or more of the following purposes— <ul style="list-style-type: none"> (a) for the parking or garaging of more than one commercial vehicle; or (b) for the transfer of goods or passengers from one vehicle to another vehicle; and may include the maintenance, mechanical repair or refueling of the vehicles referred to in (a) or (b) above;
Veterinary Centre:	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;
Warehouse:	means premises used to store or display goods and may include sale by wholesale;
Wrecking:	means any premises used for the breaking up or dismantling of vehicles or equipment, and includes the storage and sale of associated material and parts.

SCHEDULE 2—ADDITIONAL USES [CL 4.5]

Note: Where there is an inconsistency between the identification of a particular site in this Schedule and the Scheme Map, the Scheme Map shall prevail.

No.	Description of Land	Additional Uses	Conditions
A1	Lot 157 (Hse No 8) Walcott Street Mount Lawley	Consulting Rooms	<ol style="list-style-type: none"> 1. The Consulting Room being restricted to one practitioner; 2. Retention of the existing dwelling; 3. The Consulting Room being restricted to three days per week, between the hours of 9am and 5pm; and 4. The rear car park shall be enclosed with a security fence, which shall be locked after business hours.
A2	Portion of Swan Location 1313 and being Lot 2 on Plan 9062 284 Alexander Drive Dianella	Medical Centre and Office	
A3	Portion of Swan Location 1419 and being Lot 159 on Plan 3670 16 Alga Street, Scarborough	Short Stay Accommodation	
A4	Portion of Swan Location Y and being Lot 2 on Plan D 9465 822 Beaufort Street Inglewood	Office	
A5	Portion of Swan Location Y and being Lot 16 on Plan 2473 779 Beaufort Street (cnr Third Avenue) Mt. Lawley	Medical Centre	
A6	Portion of Swan Location Y and being Lot 89 on Plan 2473 816 Beaufort Street, Inglewood	Veterinary Centre	

No.	Description of Land	Additional Uses	Conditions
A7	Portion of Swan Location Z1 and being Lots 375 and 376 on Plan 2343 690/692 Beaufort Street, Mt. Lawley	Personal Care Services and Offices	
A8	Lots 419 and 420 Karrinyup Road, Karrinyup	Consulting Rooms, Medical Centre	The development shall have due regard for the requirements of the Karrinyup Regional Centre Guidelines
A9	Portion of Swan Location Y and being Lot 15 on Plan 2671 99 Central Avenue Inglewood	Medical Centre	
A10	Portion of Swan Location 1315 and being Lot 118 on Diagram 44371. 29 Culloton Crescent, Balga	Motor Vehicle Repair	
A11	Portion of Swan Location 566 being Lot 35 on Plan 11535 157 Duffy Road (cnr Monyash Road) Carine	Medical Centre	
A12	Portion of Swan Location 1106 and being Lot 29 on Plan 5023. 212 Flinders Street Yokine	Medical Centre	
A13	Portion of Perthshire Location W and being Lot 4 on Diagram 87589 294 Grand Promenade Dianella	Medical Centre	
A14	Portion of Perthshire Location Au and being Lots 103 and 504 on Diagrams 63517 and 55169. 569 Karrinyup Road Stirling	Medical Centre	
A15	Portion of Perthshire Location Au and being Lot 63 on Diagram 65221 46 Main Street Osborne Park	Hardware Showroom	
A16	Lot 25 (HN 3A) Hutton Street, Osborne Park	Motor vehicle, boat or caravan sales	
A17	Portion of Perthshire Location At and being Lot 51 on Diagram 39118 782 North Beach Road Gwelup	Hardware Showroom	
A18	Portion of Perthshire Location Au and being Lot 113 on Diagram 51693 42 Osborne Place Stirling	Medical Centre	
A19	Portion of Swan Location 968 and being portion of Lot 2 on Diagram 72594 5 Parkland Road (cnr Harborne Street) Glendalough	Educational Establishment	
A20	Portion of Swan Location 959 and being Lot 4 on Plan 48119. 196 Scarborough Beach Road Doubleview	Offices	
A21	Lot 21 (HN 23) Hastings Street, Scarborough	Hotel	
A22	Portion of Swan Location Z and being Lot 4 on Diagram 59974 256 Walcott Street Menora	Offices	
A23	Portion of Swan Location Z and being portion of Lot 19 on Diagram 14632 52 Walcott Street Mt. Lawley	Consulting Rooms	
A24	Portion of Location AUB and being Lot 671 on Diagram 93401 116 Wanneroo Road (cnr Lawley Street) Yokine	Motor Vehicle Wash	
A25	Portion of Swan Location 7529 and being Lot Pt. 25 on Plan 9759 31 Williamson Way, Trigg	Offices	

No.	Description of Land	Additional Uses	Conditions
A26	Portion of Swan Location 1296 and being Lot 422 on Plan 4106 260 Woodside Street, Doubleview	Offices	
A27	Portion of Perthshire Location Au being Lot 1 on Diagram 56336 210 Amelia Street Balcatta	Consulting Rooms and Offices	
A28	Portion of Swan Location K being Lots 2, 100, 204 and 207 on Plan 8893 and Diagrams 69645 and 93220 97 Princess Road Balga	Medical Centre	
A29	Portion of Location 1296 being Lot 10 on Plan 32901 177 Scarborough Beach Road Scarborough	Veterinary Centre	
A30	Portion of location 1152 being Lot 300 on Diagram Plan 25709 116 Flora Terrace North Beach	Consulting Rooms, Offices, Shop, Restaurant and Personal Services	Non-residential uses restricted to a total maximum of 200m ² gross floor area
A31	Lot 10 on Plan 9310 698 North Beach Road, Gwelup	Consulting Rooms	
A32	Lot 391 on Plan 209699 5 Cheddar Place Karrinyup	Medical Centre	
A33	Portion of Location Y being Lot 17 on Plan 2437 781 Beaufort Street Mt. Lawley	Medical Centre	
A34	Lot 11 on Diagram Plan 39403 168 Karrinyup Road Karrinyup	Medical Centre	
A35	Lot 8, 14 Green Street, Joondanna	Consulting rooms	
A36	Portion of Location Z being Lot 700 on Plan 36121 696 Beaufort Street Mt. Lawley	Offices	
A37	Portion of Location 1419 being Lot 99 on Plan 3670 205 West Coast Highway, Scarborough	Service Station	
A38	Portion of Location 798 being Lot 122 on Plan 3500 209 West Coast Highway, Scarborough	Service Station	
A39	Lot 21, 64 Stanley Street, Scarborough	Four grouped dwellings in addition to those existing on the site at the date of gazettal of Amendment 407	
A40	Lot 10 (HN 74) Scarborough Beach Road (corner Joyce Street), Scarborough	Service Station	
A41	Lot 40, 16 Frobisher Road, Osborne Park	Showroom	
A42	Lot 340 (HN 34) Nollamara Ave, Nollamara	Educational Establishment	
A43	Lot 349 Karrinyup road and Lot 6 Francis Avenue, Karrinyup	Consulting Rooms, Medical Centre	The development shall have due regard for the requirements of the Karrinyup Regional Centre Guidelines
A44	Lot 561 (HN 2) Morris Road, Innaloo	Office	
A45	Lot 88, 818 Beaufort Street, Inglewood	Shop, Consulting Rooms and Offices	
A46	Lots 365 and 366 (HN 120 and 122) Main Street, Osborne Park	Restaurant and Offices	
A47	Lots 20 and 21 Sixth Avenue, Inglewood	Office	

No.	Description of Land	Additional Uses	Conditions
A48	Lot 100 (HN 304) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A49	Lot 103 (HN 300) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A50	Lot 21 (HN 296) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A51	Lot 1 (HN 286) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A52	Lot 1420 (HN 274) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A53	Pt Lot 19 (HN 86) Hasler Road, Osborne Park	Motor vehicle, boat or caravan sales	
A54	Lot 100 (HN 397) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A55	Lot 15 (HN 435) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A56	Lot 246 (HN 474) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A57	Lot 245 (HN 472) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A58	Lot 10 (HN 462) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A59	Lot 11 (HN 460) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A60	Lot 23 (HN 432) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A61	Lot 18 (HN 430) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A62	Lot 21 (HN 384) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A63	Lot 20 (HN 380) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A64	Lot 801 (HN 362) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A65	Lot 41 (HN 359) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A66	Lot 803 (HN 354) Scarborough Beach Road, Osborne Park	Motor vehicle, boat or caravan sales	
A67	Lot 802 (HN 9) Frobisher Street, Osborne Park	Motor vehicle, boat or caravan sales	
A68	Lot 24 (HN 3) Hutton Street, Osborne Park	Motor vehicle, boat or caravan sales	

SCHEDULE 3—RESTRICTED USES [CL 4.6]

Note: Where there is an inconsistency between the identification of a particular site in this Schedule and the Scheme Map, the Scheme Map shall prevail.

No.	Description of Land	Restricted Use	Conditions
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Note: There are no Restricted Uses at the time of Gazettal.

SCHEDULE 4—SPECIAL USE ZONES [CL 4.7.1]

Note: Where there is an inconsistency between the identification of a particular site in this Schedule and the Scheme Map, the Scheme Map shall prevail.

No.	Description of Land	Special Use Zone	Conditions
S1	Portion of Swan Location K and being Lot 9000 on Diagram 39498 37 Old Balcatta Road Gwelup [Note—Part of Lot Only, refer Scheme Map]	Caravan Park	
S2	Lot 99 (HN 33) Blythe Avenue, Yokine and Lots 1-6 on Survey Strata Plan 51396.	Uses as per the Local Centre zone	Development of the site is to be in accordance with a Concept Plan adopted by the City to guide the future development and use of the site.
S3	Lots 502, 503 and 50 (HN's 467 and 477) North Beach Road, Gwelup	Caravan Park and Civic Use	1. The use shall cease by 6 February 2029. 2. The north-south road as indicated on the adopted Concept Plan (an extension of Water Crescent Gardens as indicated on Plan 1) is to be constructed to the City's satisfaction, excised from the property and transferred to Council free of cost, all at the owners cost upon cease of the additional use within a maximum of 20 years from the date of gazettal or upon the date of change of ownership of the land, whichever is the sooner.
S4	Portion of Location 1323 being Lot 55 on Diagram 74500 55 Cottonwood Crescent Dianella	Media Establishment	
S5	Portion of Location V being Lot 1 on Diagram 64079 2 Gay Street Dianella	Media Establishment	
S6	Portion of Location 4834 being Lot 2 on Diagram 45395 10 Gay Street Dianella	Media Establishment	
S7	Portion of Location 1115 being Lot 3 on Plan 7363 7 Gay Street Dianella	Media Establishment	
S8	Portion of Location 1115 being Lot 9 on Diagram 70559 15 Osborne Road Dianella	Media Establishment	
S9N	Portion of Location 1110 being Lot 13 on Diagram 67549 27 Dianella Drive Dianella (<i>Note: North portion of site</i>)	Media Establishment	
S9S	Portion of Location 1110 being Lot 13 on Diagram 67549 27 Dianella Drive Dianella (<i>Note: South portion of site</i>)	Media Establishment	
S10	Portion of Location U being Lot 56 on Diagram 74500 23 Cottonwood Crescent Dianella	Media Establishment	
S11	Portion of Location 1419 being Lot 51 on Diagram 62755 22 Wheatcroft Street, Scarborough	Short Stay Accommodation	
S12	Portion of Location 1419 being Lot 180 on Plan 1825 26 Wheatcroft Street, Scarborough	Short Stay Accommodation	

No.	Description of Land	Special Use Zone	Conditions
S13	Lot 1, House Number 59, Gribble Road, Gwelup	Uses as per Residential Zone	Residential Density shall not exceed R30. Subdivision is to be in accordance with a subdivision concept plan, adopted by the Council, which improves road connectivity to the locality and addresses the nature of surrounding development.
S14	Portion of Perthshire Location Au and being Lot 21 Scarborough Beach Rd and Lot 22 Selby Street on Diagram 2840 505 Scarborough Beach Road, Osborne Park	Showroom	
S15	Portion of Perthshire Location Au and being Lot 7 on Diagram 23731 419 Scarborough Beach Road, Osborne Park	Showroom	
S16	Portion of Swan Location 1419 and being Lot 46 on Diagram 34162 469 Scarborough Beach Road Osborne Park	Showroom	
S17	Portion of Perthshire Location Au and being Lot 7 on Diagram 34162 470 Scarborough Beach Road, Osborne Park	Showroom	
S18	Portion of Perthshire Location Au and being Lot 7 on Diagram 72270 on Plan 6256 443 Scarborough Beach Road, Osborne Park	Showroom	
S19	Portion of Perthshire Location Au and being Lots 601, 43 and 86 on Diagram 34698 and Plan 3670 405 Scarborough Beach Road, Osborne Park	Showroom	
S20	Portion of Perthshire Location Au and being Lot 800 on Plan 29734 392 Scarborough Beach Road, Osborne Park	Showroom	
S21	Portion of Perthshire Location Au and being Lot 3 on diagram 100146 381 Scarborough Beach Road, Osborne Park	Showroom	
S22	Strata Plan 26221 on Lot 501 Scarborough Beach Road (corner King Edward Road), Osborne Park	Showroom	

SCHEDULE 5—FORM OF APPLICATION FOR PLANNING APPROVAL [CL 9.1.1]
APPLICATION FOR PLANNING APPROVAL

Owner Details

Name:

Address—

Postcode:

Phone: (work)—
(home)—
(mobile):

Fax:

E-mail:

Contact person:

Signature:

Date:

Signature:

Date:

The signature of the owner(s) is required on all applications. This application will not proceed without that signature.

Applicant Details

Name:

Address:

Postcode:

Phone: (work)—
(home)—
(mobile):

Fax:

E-mail:

Contact person for correspondence:

Signature:

Date:

Property Details

Lot No:

House/Street No:

Location No:

Diagram or Plan No:

Certificate of Title Vol. No:

Folio:

Diagram or Plan No:

Certificate of Title Vol. No:

Folio:

Title encumbrances (e.g. easements, restrictive covenants):

Street name:

Suburb:

Nearest street intersection:

Existing Building/Land Use:

Description of proposed Development and/or Use—

Nature of any existing buildings and/or use:

Approximate Cost of proposed Development:

Estimated time of completion:

OFFICE USE ONLY

Acceptance Officer's initials:

Date received—

Local Government Reference No—

SCHEDULE 6—NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

[CL 9.4.4]

Planning and Development Act 2005

City of Stirling

Notice of Public Advertisement of Planning Proposal

The Council has received an application to use and/or develop land for the following purpose and public comments are invited.

Lot No: Street: Suburb:

Proposal:

.....

.....

Details of the proposal are available for inspection at the Council office. Comments on the proposal may be submitted to the Council in writing on or before the day of 20.....

Signed:

Dated—

.....

for and on behalf of the City of Stirling

SCHEDULE 7—NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

[CL 10.4.1]

Planning and Development Act 2005

City of Stirling

Determination on Application for Planning Approval

Location:
Lot: Plan/Diagram:
Vol. No. Folio No:
Application Date: Received on:
Description of proposed development:.....

The application for planning approval is—

Granted subject to the following conditions—

Refused for the following reason(s)—

Conditions/reasons for refusal—

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development shall be carried out without the further approval of the Council having first been sought and obtained.

Note 3: If an applicant is aggrieved by this determination there is a right of appeal under Part V of the Planning and Development Act 2005. An appeal must be lodged within 28 days of the determination.

Signed:

Dated—

for and on behalf of the City of Stirling

SCHEDULE 8—ADVERTISING SIGNS [CL 5.7.2]

1. Purpose

1.1 The purpose of this Schedule is to ensure that the display of advertisements and advertising signs on private sites does not adversely impact on the amenity of surrounding land while providing appropriate exposure of activities or services.

1.2 In interpreting and applying the provisions of this Schedule regard shall be had to the Local Planning policy relating to Advertising Signs.

2. Approvals

2.1 Subject to Clause 8.2.1 all advertising signs require approval to commence development.

2.2 Applications required under Clause 2.1 of this Schedule, which do not comply with all applicable provisions of the Scheme or local planning policy, shall include a sign strategy for the whole of the subject site.

Note: Specific requirements for a sign strategy are outlined in the Local Planning Policy relating to advertising signs.

2.3 Notwithstanding Clause 6 of this Schedule, in considering an approval to commence development for an advertising sign on a lot and the Council may require the removal of existing signs.

2.4 An application for an advertisement sign on a lot in respect of which there is an approved sign strategy shall be in accordance with the approved sign strategy or shall include a new sign strategy.

3. Advertising Sign Definitions

Definitions for advertising signs are contained within Schedule 1 of the Scheme.

4. Sign Zoning Table

4.1 Subject to the provisions of the Scheme, the Advertising Sign Zoning Table prescribes the advertising sign types which may be permitted (P) in each zone. The applicability is determined by cross reference between the list of “Sign Types” on the left hand side of the Table and the list of “Zones” on the top of the Table.

4.2 Where a lot has a non-conforming use in accordance with the provisions of the Scheme, the Sign Zoning Table does not apply in order to prescribe the advertising sign types which may be permitted. The Council shall determine in each case which sign is permitted or not permitted.

4.3 If a person proposes to erect any sign of a type that is not specifically listed in the Advertising Sign Zoning Table and cannot reasonably be determined as falling within one of the listed advertising sign definitions, the Council may determine the advertising sign—

- (a) is consistent with the objectives of the particular zone and is permitted;
- (b) is not consistent with the objectives of the particular zone and is not permitted.

Advertising Sign Zoning Table

ZONE \ SIGN TYPE	ZONE														
	Business	Civic	Development Area ³	District Centre	Hotel	Industry	Local Centre	Mixed Business	Mixed Use	Private Institutions	Regional Centre	Residential	Service Station	Special Beach Development	Special Use
Community Service	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Construction Site / Development / Real Estate	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Created Roof	P	X	X	P	P	P	P	P	P	X	P	X	P	P	P
Display Home	P	X	X	P	X	X	P	X	P	X	P	X	P	X	X
Ground Based	P	P	X	P	P	P	P	P	P	P	P	P	P	P	P
Hoarding	P	P	X	P	P	P	P	P	P	X	P	X	P	X	P
Monolith	P	P	X	P	P	P	P	P	X	X	P	X	P	P	P
Panel	P	X	X	P	P	P	P	P	P	X	P	P	P	P	P
Product Display	X	X	X	X	X	P	X	X	X	X	X	X	X	X	X
Projecting	P	P	X	P	P	P	P	P	P	P	P	X	P	X	P
Pylon	P	P	X	P	P	P ¹	P	P	X	X	P	X	P	X	P
Roof	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tethered	P ²	X	X	P ²	P ²	X	P ²	P ²	X	X	P ²	X	P ²	P ²	P ²
Wall	P	P	X	P	P	P	P	P	P	P	P	P	P	P	P
Window	P	P	X	P	P	P	P	P	P	P	P	X	P	P	P

Note: 1. Pylon signs are not permitted in the Herdsman Precinct.

2. Blimps, bunting, kites and lighter than air devices are not permitted in any zones.

3. Permissibility determined with reference to appropriate adopted Structure Plan. Where there is no adopted Structure Plan for a particular area, all Advertising signs are not permitted.

5. Standards

The location, size and number of advertising signs which may be permitted on a site is specified in the Council's Local Planning Policy.

6. Existing Advertising Signs

6.1 Non Conforming Signs—

Advertising signs which—

- (a) were lawfully erected, placed or displayed prior to the approval of this Schedule; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the Council prior to the gazettal date of this Schedule;

(hereinafter in this Clause referred to as 'existing advertising signs') may, except as otherwise provided in the Scheme, continue to be displayed or to be erected in accordance with the appropriate licence or approval.

7. Discontinuance

7.1 Notwithstanding the provisions of Clause 6, where an existing advertising sign at, or at any time after, the coming into force of the Scheme, is, in the opinion of the Council, in conflict with the amenity of the locality, the Council may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertising sign.

8. Maintenance of Advertising Signs

8.1 Where, in the opinion of the Council, an advertising sign has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the Council may by written notice require the advertiser to—

- (a) repair, repaint or otherwise restore the advertising sign to a standard specified by the Council in the notice; or
- (b) remove the advertising sign.

9. Removal of Advertising Signs

9.1 An employee of the City may remove any advertising sign erected, placed or displayed contrary to the Scheme.

9.2 The City may serve on the owner or occupier of any premises on which an advertising sign is erected, placed or displayed contrary to the Scheme, the Council may by written notice (giving clear reasons) require the advertiser to remove the advertising sign within such time as may be specified in the notice and if the notice is not complied with, an employee of the City may remove the advertising sign, the subject of the notice.

9.3 An employee of the City may remove any advertising sign which, in the opinion of that employee, is dangerous to persons or vehicles.

9.4 The City may dispose of any advertising sign removed under this clause without being liable in damages or otherwise.

9.5 The City may recover in a Court of competent jurisdiction—

- (a) the costs of removing an advertising sign under clause 9.1, disposing of that advertising sign under clause 9.4 and any works required to reinstate the building, from the person responsible for erecting, placing or displaying the advertising sign;
- (b) the costs of removing an advertising sign under clause 9.2 and disposing of that advertising sign under clause 9.4, from the owner or occupier served with the notice; and
- (c) the costs of removing an advertisement sign under clause 9.3 and disposing of that advertising sign under clause 9.4, from the owner or occupier of the premises on which the advertising sign was erected, placed or displayed or from the person responsible for erecting, placing or displaying the advertising sign.

10. Notices

10.1 For the purpose of Clauses 7.1, 8.1 and 9.2 any notice is to be served on the advertiser and is to specify—

- (a) the advertising sign the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, being not less than 60 days from the date of the Council’s determination, within which the action specified is to be completed by the advertiser.

10.2 Any person upon whom a notice is served pursuant to this Schedule may, within a period of 60 days from the date of the notice, appeal in accordance with Part 14 of the Act. Where any such appeal is lodged, the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

10.3 Any person who fails to comply with the requirements of a notice served pursuant to this Schedule commits an offence and is liable to the penalties prescribed in section 214 of the Act.

10.4 If a person whom a notice has been served under this Schedule fails to comply with the requirements of the notice the Council may by its servants or agents enter upon the land on which the advertising sign the subject of the notice is situated and carry out the requirements of the notice.

10.5 The Council may recover the costs of anything it does under Clause 10.4 of this Schedule as a debt from the person who failed to comply with the notice.

11. Additional information for Advertisements [cl. 9.1.2]

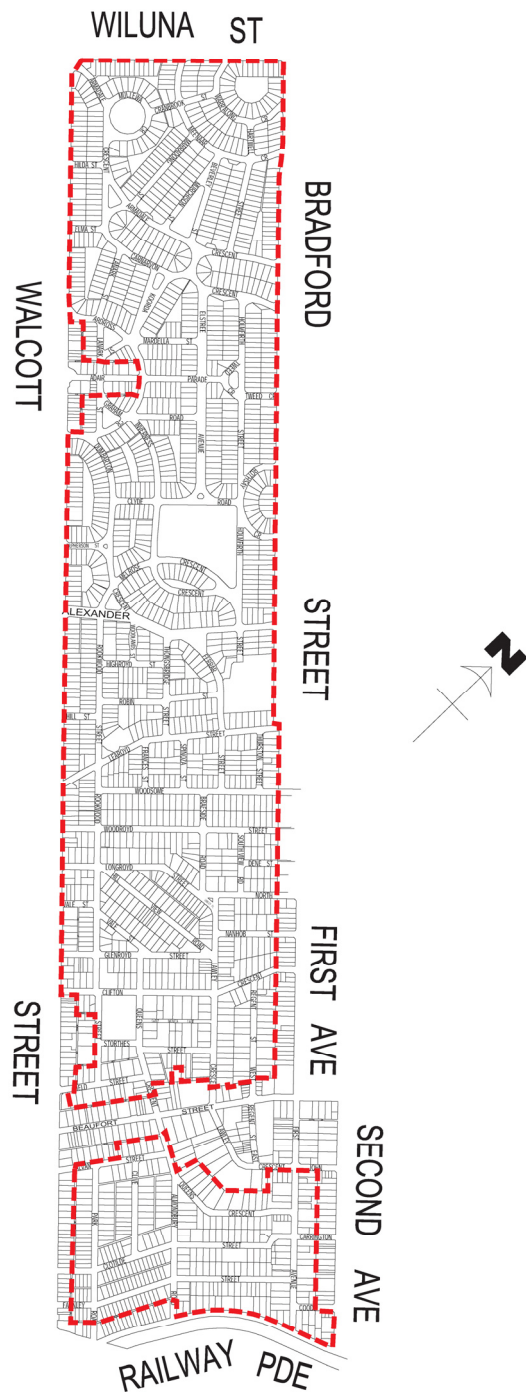
Note: to be completed in addition to the Application for Planning Approval form

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property—
2.	Details of proposed sign— (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): (b) Height: Width: Depth: (c) Colours to be used:..... (d) Height above ground level— • (to top of advertisement): • (to underside):..... (e) Materials to be used: Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source—
3.	Period of time for which advertisement is required:

4.	Details of signs (if any) to be removed if this application is approved—
<p><i>Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.</i></p> Signature of advertiser(s): (if different from land owners) Date:	

SCHEDULE 9—RESTRICTIVE COVENANTS

[CL 5.4.2]



SCHEDULE 10—DEVELOPMENT (STRUCTURE PLAN) AREAS [CL 6A]

Note: The following table details the areas where structure plans have either been adopted by Council and the Commission or are required as per Clause 6A. The boundaries of these Development Areas are shown on the Scheme Map, with the exception of 'Careniup Swamp' which is shown as a 'Special Control Area' (refer clause 6.2).

Name of Structure Plan	Purpose	Requirements
Careniup Swamp, Gwelup	To facilitate development and protect wetland.	As per clause 6.2.
East Roselea, Balcatta	To facilitate development of a variety of medium to high density residential lots and open space.	As per clause 6A.
Edith Cowan University, Churchlands	To facilitate development of a variety of residential densities.	As per adopted Structure Plan.
Herb Graham, Mirrabooka	To facilitate development of a variety of high-density residential lots, mixed use lots and regional open space.	As per clause 6A.
Roselea, Stirling	To facilitate development of low to medium density residential lots.	As per adopted Structure Plan.
Princeton, Stirling	To facilitate development of low to medium density residential lots.	As per adopted Structure Plan.
Carine TAFE, Carine	To facilitate the development of— <ol style="list-style-type: none"> 1. Aged or Dependent Persons Dwellings 2. A Nursing home 3. Ancillary facilities and services associated with Aged or Dependent Persons dwelling and the Nursing Home. 4. A range of residential densities to facilitate a broad mix and type of housing 5. Mixed use development with a range of commercial uses and child care 	<ol style="list-style-type: none"> 1. As per Clause 6A. 2. A minimum 10% affordable housing is to be provided. The Structure Plan is to specify measures for achieving this. 3. Future subdivision and development must ensure that the existing vegetation continues to contribute to local biodiversity and local landscape characteristics of the area and provides an attractive setting for the redevelopment of the site.

SCHEDULE 11—DEVELOPMENT CONTRIBUTION AREAS [CL 6B]

Note: The following table details the areas in which infrastructure contributions are required, the infrastructure to which developer contributions relate and the basis upon which developer contributions will be determined.

No.	Description of land	Infrastructure to which cost sharing arrangements relate	Cost sharing arrangement
1	All land within the Special Beach Development Zone	<ul style="list-style-type: none"> • Infrastructure headworks and overheads; • Preliminaries; • Demolition and earthworks; • Temporary roadworks, access and management; • Roadworks; • Pedestrian and cycle paving and edges; • Steps; • Walls; • Stormwater drainage; 	<p>1. Development Contribution</p> <p>A development contribution in accordance with this Part shall be required in respect of any development with a plot ratio (excluding 0.5:1 of ground level commercial plot ratio floor space), as determined by the City, of more than 1.5.</p> <p>2. Estimate of Infrastructure Costs</p> <p>The City's initial estimate of the Infrastructure Costs is set out by reference to the development works referred to in the Design Guidelines adopted for this zone.</p>

No.	Description of land	Infrastructure to which cost sharing arrangements relate	Cost sharing arrangement
		<ul style="list-style-type: none"> • CCTV security system and reticulation; • Lighting and electrical; • Structures (note—not all items costed/included); • Facilities; • Signage (excluding road signage); • Furniture; • Mains water and plumbing fixtures; • Irrigation; • Soil preparation; • Planting; • Grass; • Public art; • Sinking Scarborough Beach Road West; • Interim and Abortive works; • Maintenance and contingencies; and • Fees. 	<p>3. Calculation of Development Contribution</p> <p>The development contribution for each development shall be calculated as follows—</p> $\left(\frac{\text{Site additional plot ratio area}}{\text{Total additional plot ratio area}} \times 50\% \text{ Infrastructure costs} \right)$ <p>where—</p> <p>“Site additional plot ratio area” is the area of the lot on which the development is proposed, multiplied by the amount of the plot ratio of the development above 1.5 (excluding 0.5:1 of ground level commercial plot ratio floor space);</p> <p>“Total additional plot ratio area” is the total area of land within the Special Beach Development zone excluding roads and reserved lands (75,950m²), multiplied by the maximum available plot ratio above 1.5 (excluding 0.5:1 of ground level commercial plot ratio floor space);</p> <p>4. Payment of Development Costs</p> <p>Payment is required in accordance with clause 6B.14 of the scheme.</p> <p>5. Staging</p> <p>Staging of the Infrastructure Works are to be in accordance with the adopted Scarborough Beach Urban Design Masterplan.</p>
2	All land within the Main Street Special Control Area	<ul style="list-style-type: none"> • Road Works • Landscaping • Paving • Furniture • Irrigation 	<p>1. Development Contribution</p> <p>In accordance with the adopted Implementation Strategy for this area.</p> <p>2. Payment of Development Costs</p> <p>Payment is required in accordance with clause 6B.14 of the scheme.</p>
3	All land within the Scarborough Development Contribution Area	<ul style="list-style-type: none"> • Site preparation; • Road Works; • Signage;; • Services; • Landscaping; • Paving; • Furniture; • Irrigation; • Public Art; • Contingencies and Fees <p>The infrastructure works will be undertaken on the following streets located within the Scarborough Development Contribution Area—</p> <ul style="list-style-type: none"> • West Coast Highway, between Reserve Street and Brighton Road; • West Coast Highway, between Contacio Cove and Reserve Street (51,723m² total area); • West Coast Highway, between Contacio Cove and Reserve Street (16,412m² total area) 	<p>1. Development Contribution</p> <p>A development contribution in accordance with this Part shall be required in respect of any development with a plot ratio as determined by the City, of more than 1.5 (excluding 0.5:1 of ground level commercial plot ratio floor space).</p> <p>2. Estimate of Infrastructure Costs</p> <p>The City’s initial estimate of the Infrastructure Costs is set out by reference to the development works referred to in the Scarborough Design Guidelines adopted for this area.</p> <p>3. Calculation of Development Contribution</p> <p>(a) The development contribution for each development shall be calculated as follows—</p> $\left(\frac{\text{Development Site Area}}{\text{Total of all sites on relevant street}} \times 50\% \right)$ <p>(b) In the case of sites which have frontage to more than one street to which developer contributions apply—</p> <p>(i) the ‘development site area’ (referred to in 3a</p>

No.	Description of land	Infrastructure to which cost sharing arrangements relate	Cost sharing arrangement
		<ul style="list-style-type: none"> • Scarborough Beach Road between West Coast Highway and Hastings Street (16,412m² total area); • Brighton Road, between The Esplanade and West Coast Highway (4371m² total area); • Brighton Road, between West Coast Highway and Hastings Street (7376m² total area); • Hastings Street, between Scarborough Beach Road and Brighton Road (32,015m² total area); • Filburn Street, between Scarborough Beach Road and Reserve Street (25,586m² total area); • Manning Street, between West Coast Highway and Filburn Street (4094m² total area); • The Esplanade, from Brighton Road to its termination (1653m² total area); • Reserve Street, between The Esplanade and West Coast Highway (6331m² total area) • Reserve Street, between West Coast Highway and Filburn Street (2490m² total area); 	<p>above) shall be reduced by, the percentage to which the particular street frontage bears to the total of all frontages on that street where contribution requirements apply; and</p> <p>(ii) the amount of contribution payable shall be reduced accordingly in respect of each street.</p> <p>Example—</p> <ul style="list-style-type: none"> • Site A' has an area of 1000m² with a street frontage of 25m to Road X and a street frontage of 40m to Road Y. • The total of all street frontages to Road X where contributions apply is 210m. • The total of all street frontages to Road Y where contributions apply is 430m. • Therefore, Site A has 11.9% of Road X frontage and 9.3% of Road Y frontage. • Therefore, Site A has a 'development site area' of 881m² when calculating developer contributions to Road X, and a 'development site area' of 907m² when calculating developer contributions to Road Y. <p><i>Note: Total area of lots on relevant section of street (as shown in column to left) which are subject to developer contributions</i></p> <p>4. Payment of Development Costs Payment is required in accordance with clause 6B.14 of the Scheme.</p> <p>5. Staging Staging of the Infrastructure Works are to be in accordance with the adopted Scarborough Beach Urban Design Masterplan</p>

ADOPTION (REGULATION 13(1))—

Adoption by resolution of the Council of the City of Stirling at the meeting of the Council held on the 19th day of September 2006.

D. BOOTHMAN, Mayor.

Dated 10 July 2010.

STUART JARDINE, Chief Executive Officer.

Dated 14 July 2010.

FINAL APPROVAL—

Adopted for final approval by resolution of the City of Stirling at the meeting of the Council held on the 16th day of March 2010 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of—

D. BOOTHMAN, Mayor.
STUART JARDINE, Chief Executive Officer.

Recommended/Submitted for Final Approval—

MARK SZABO, Deleted under S.16 of Planning and Development Act 2005.

Dated 19 July 2010.

Final Approval granted—

JOHN DAY, Minister for Planning.

Dated 19 July 2010.
