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TOWN OF COTTESLOE

Local Planning Scheme No. 3

Updated to include AMD 15 GG 23/01/2026

Updated March 2024 to include reference to the Deemed provisions

GOVERNMENT OF WESTERN AUSTRALIA

Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal
1 August 2014

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Consultation with the respective local government authority should be made to view a legal version of the Scheme. Please advise the Department of Planning, Lands and Heritage of any errors or omissions in this document.

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TOWN OF COTTESLOE LPS 3 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
	1/8/14	14/1/14	MD	New Local Planning Scheme 3
1	24/3/15	28/4/15	MLD	Added new clause 5.7.5. Added to clause 6.3.6. Deleted words in clause 7.5. Added reference to clauses in Schedule 13.
2	29/05/15	23/06/15	MLD	Added wording to Scheme Text in clause 6.4.3.1(a). Amend Schedule 15 Building Design Controls & Diagrams for Special Control Area 2. Added wording to clause 6.4.3.1. New Additional Use A8 in Schedule 2: Additional uses. Added wording to clause 5.12 Added wording to clause 6.4.3.3 Added wording to clause 6.4.3.5(a) Added wording to clause 6.4.3.5(b)
3	14/07/15	27/07/15	MLD	Amend clause 5.7.2 - Building Height
4	27/05/16	30/05/16	RO	Amend the Scheme Text in clause 5.3 Special Application of Residential Design Codes, by adding new sub-clauses 5.3.8 and 5.3.8.1
6	04/11/16	20/12/16	GM	Amending the Scheme Text to refine particular residential height provisions in clause 5.7.5
5	27/10/17	31/10/17	MLD	Amend the residential density of Lots 24 and 25, corner of Railway and Congdon Street, Cottesloe, from R20 to R60. Insert the following Special Provisions into Schedule 12 - Lots 24 and 25 Railway Street. Insert the following Special Provisions into Schedule 2: (A9) Lots 24 and 25 Railway Street. Amend the Scheme Map accordingly.
7	13/07/18	23/07/18	GM	Amending the Scheme Text to refine a particular provision in relation to residential building height, in clause 5.3.5 second paragraph.
10	29/11/19	03/12/19	GM	Amend Schedule 2 – Additional Uses – by adding A10, Lot 50 (No. 36) Eric St, Cottesloe. Modifying the scheme map by designating Additional Use No. 10 over Lot 50 Eric Street, Cottesloe, in accordance with the scheme amendment map.
9	11/12/19	11/12/19	GM	Insert a new subclause 3(b) under Schedule 15 – Lot 92 Marine Parade, Cottesloe (Seapines Site). Renumber subsequent subclauses, 'b)' to 'c)' and 'c)' to 'd)', respectively.
8	16/06/2020	18/6/2020	MLD	Zoning a portion of Lot 14 (No. 28) Albion Street, Lots 18-20 (No. 35-38) Boreham Street, Lot 3 (No. 3) Congdon Street, Lot 60 (No. 10) and 61 (No. 12) Dalgety Street, Lot 63 (No. 13) Edward Street, Lot 10 (No. 119) Eric Street; and Lots 70 (No. 108) and 71 (No. 106) Napier Street, Cottesloe 'Residential Zone' with a density code of R20; Zoning Lots 21 (No. 2) Gordon Street; Lots 3 (No. 2A), 4 (No. 2B) and 52-55 (No. 2-8) Dalgety Street; Lots 4 (No. 40) and 100 (No. 39) Boreham Street; Lot 9 (No. 121) Eric Street, Lot 2 (No. 26) and 56 (No. 25) Burt Street; Lot 22 (No. 16) and 64 (No. 15) Edward Street; Lot 69 (No. 110) Napier Street; Lots 1 (No. 471, 473), 2 (No. 475 and 483), 3 (No. 477), 4 (No. 479), 5 (No. 465), 6 (No. 463), 51 (No. 515), 57 (No. 505), 59 (No. 511), 65 (No. 483), 67 (No. 487), 68 (No. 489), 100 (No. 459), 101 (No. 461) and 800 (No. 485) Stirling Highway; Cottesloe 'Residential Zone' with a density code of R20/60; Zoning Lot 64 (No. 28) Burt Street, Lot 2 (No. 105) Napier Street, Lot 1 (No. 493) Stirling Highway, Cottesloe and a portion of Lot 4 (No. 103) Napier Street and Lot 100 (No. 3) Rockett Lane, Cottesloe 'Residential Zone' with a density code of R30/60; Zoning portions of Lots 14 (No. 28) and 88 (No. 31) Albion Street, and Lots 89 (No. 6) and 90 (No. 4) Vera Street, Cottesloe 'Residential Zone' with a density code of R35; Zoning a portion of Lot 2 (No. 116) and 3 (No. 118) Forrest Street and Lot 401 (No. 1) Vera Street 'Residential Office Zone' with a density code of R40; Zoning Lots 1 (No. 39), 2 (No.37), 20 (No. 35) and 91 (No. 33) Albion

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		WHEN	BY	
				Street and 90 (No. 4) Vera Street, Cottesloe 'Residential Zone' with a density code of R35/60; Zoning Lot 51 (No. 120) Forrest Street and Lot 100 (No. 519) Stirling Highway, Cottesloe 'Residential Office Zone' with a density code of R40/60; Zoning Lot 1 and a portion of reserve 332 Stirling Highway, Claremont; Lot 1 (No. 443) and 5 (No. 451) Stirling Highway, Lots 4 (No. 116), 5 (No.118) and 26 (No. 120) Eric Street; and Lots 4 (No. 12) and 11 (No. 14) McNarma Way, Cottesloe 'Residential Zone' with a density code of R60; Zoning Lots 1 (No. 533), 12, 13 and 50 (No. 541 and 543), and portions of Lots 5 (No. 535) and 101 (No. 529) Stirling Highway; Reserve 10998 and portions of Lots 2 (No. 24) and 3 (No. 22) Station Street; portions of Lots 5, 6 and 7 (No. 40 and 42) Jarrad Street; and Lots 1 (No. 105) and 40 (No. 109) Forrest Street, Cottesloe 'Town Centre Zone' with a density code of R100; Reserving the balance of Lot 2 (No. 8) Congdon Street, Claremont for 'Public Purposes: Fire Station'; Reserving the balance of Lot 4 (No. 1) Congdon Street, Cottesloe for 'Public Purposes: Telecommunication'; Extending Additional Use No. 7 over the balance of Lot 1 (No. 441) Stirling Highway, Claremont; in accordance with the scheme amendment map(s). Replacing the existing clause 5.3.4: Development in areas with a dual residential density code abutting Stirling Highway with a new text dialogue.
11	19/01/2021	21/1/2021	MLD	Amend Schedule 2 to include the following – A11 – Lot 400 (24) Jarrad Street, Cottesloe. Modify the scheme map accordingly.
15	23/01/2026	28/01/2026	HAB	In Schedule 1 – Dictionary of defined words and expressions, Part 2. Land use definitions: Delete the definitions for: • bed and breakfast; • motel; • serviced apartment; and • short-stay accommodation. Insert the definitions for tourist and visitor accommodation as per Schedule 1 – Model Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*. In Table 1 – Zoning Table: Delete all references to: • bed and breakfast; • motel; • serviced apartment; and • short-stay accommodation. Insert in alphabetical order the following land uses and permissibility: • Hosted short-term rental accommodation; and designate as a 'P' use in zones where any type of dwelling is capable of approval (i.e. Residential, Foreshore Centre, Restricted Foreshore Centre, Town Centre, Local Centre, Residential/Office zones) and an 'X' use in all other zones (i.e. Hotel and Place of Public Assembly zones). • Unhosted short-term rental accommodation; and designate as a 'D' use in the Foreshore Centre, Restricted Foreshore Centre and Town Centre zones, an 'A' use in the Residential, Local Centre, and

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		WHEN	BY	

Residential/Office zones and an 'X' use in all other zones (i.e. Hotel and Place of Public Assembly zones).

- Tourist and visitor accommodation; and designate as a 'D' use in the Foreshore Centre, Restricted Foreshore Centre, Hotel, and Town Centre zones, and an 'X' use in the Residential, Local Centre, Residential/Office and Place of Public Assembly zones.

KEY TO COLUMNS:

1A RESIDENTIAL R20, R25 and R30
1B RESIDENTIAL R35, R40, R50, R60, and R100
2 FORESHORE CENTRE
3 RESTRICTED FORESHORE CENTRE
4 HOTEL
5 TOWN CENTRE
6 LOCAL CENTRE
7 RESIDENTIAL OFFICE
8 PLACE OF PUBLIC ASSEMBLEY
9 DEVELOPMENT

USE CLASSES	1A	1B	2	3	4	5	6	7	8	9
Hosted short-term rental accommodation	P	P	P	P	X	P	P	P	X	*
Unhosted short-term rental accommodation	A	A	D	D	X	D	A	A	X	*
Tourist and visitor accommodation	X	X	D	D	D	D	X	X	X	*

In Table 3 – Vehicle Parking Requirements:

Delete all references to, and requirements for:

- Motel;
- Serviced apartment; and
- Short-stay accommodation.

Insert in alphabetical order the following use and vehicle parking requirements for Tourist and visitor accommodation:

USE	NUMBER OF PARKINMG SPACES
Tourist and visitor accommodation	0.5 spaces for each accommodation unit, with all such spaces provided being for the exclusive use of the occupiers of the units and key accommodation staff.

Undertake additional consequential scheme modifications as follows:

In Schedule 1 – Dictionary of defined words and expressions, Part 2, Land use definitions update the definition for hotel as per Schedule 1 – Model Provisions for local planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In clause 5.2 Residential Design Codes, delete the following note:

Note: The density and development provisions of the Residential Design Codes do not apply to short-stay accommodation (being for holiday or other temporary accommodation purposes), including hotel, motel or other types of non-permanent residential short-stay accommodation use.

Replace Motel, Serviced apartment and/or Short-stay accommodation with Tourist and Visitor accommodation in:

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		WHEN	BY	
				• Clause 5.8 Vehicle parking requirements – Table 3 (clauses 5.8.3 and 5.8.4); • Clause 6.4.3.2(e) Additional Provisions Applicable to the Cottesloe Beach Hotel site; • Clause 6.4.3.3(d) Additional Provisions Applicable to the Ocean Beach Hotel site; • Clause 6.4.3.4 Additional Provisions Applicable to the Seapines site, Lido site and Lot 51 corner Eileen Street and Marine Parade; • Clause 6.4.3.5(b) Provisions Applicable to the Foreshore Centre Zone; and • Schedule 12 – Special Provisions (No. 3). Replace Short-stay accommodation with Unhosted short-term rental accommodation in: • Schedule 2 – Additional uses (A11). Undertake any other administrative and formatting edits as required.

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Preamble

This Local Planning Scheme of the Town of Cottesloe consists of this Scheme Text and the Scheme Map. The Scheme Text should be read with the Local Planning Strategy for the Town of Cottesloe.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning directions for the local government, applies State and regional planning policies and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for Local Planning Policies which set out the general policies of the local government on matters within the Scheme.

The Scheme divides the local government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

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Scheme details

Town of Cottesloe

Local Planning Scheme No. 3

The Town of Cottesloe under the powers conferred by the *Planning and Development Act 2005*, hereinafter referred to as the Town Planning Act, makes the following Local Planning Scheme.

The text of this local planning scheme must be read in conjunction with the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Where a provision of this scheme is inconsistent with a deemed provision, the deemed provision shall prevail.

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Part 1 **Preliminary** — sets out the Scheme title, responsible authority for implementing the Scheme, definitions used in the Scheme, Scheme area, contents, purpose, aims and relationship to other Schemes and laws.

Part 2 **Local Planning Policy Framework** — sets out the relationship between the Scheme and the Local Planning Strategy and the procedures for preparing and adopting Local Planning Policies.

Part 3 **Reserves** — sets out the reserves which apply in the Scheme area and related provisions.

Part 4 **Zones and the use of land** — sets out the zones which apply in the Scheme area and the uses which may require approval or may be prohibited.

Part 5 **General development requirements** — sets out the planning requirements which may apply to a particular use or development in a zone.

Part 6 **Special control areas** — sets out particular provisions which may apply in addition to the zone requirements and generally concerns landscape, environmental, built form, and land and site management issues.

Part 7 **Heritage protection** — sets out special provisions which apply to heritage places and areas.

Part 8 **Development of land** — sets out the circumstances under which approval is required for the development of land as distinct from the use of land.

Part 9 **Applications for planning approval** — sets out the procedure for applying for planning approval including both the use and development of land.

Part 10 **Procedure for dealing with applications** — sets out the procedure for dealing with applications for planning approval and the matters to be taken into account.

Part 11 **Enforcement and administration** — sets out the general provisions for the administration and enforcement of the Scheme.

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PART 1 — PRELIMINARY

1.1 Citation

1.1.1 The Town of Cottesloe Local Planning Scheme No. 3 ("the Scheme") comes into operation on its Gazettal date.

1.1.2 The following Scheme is revoked:

Town of Cottesloe Town Planning Scheme No. 2.

1.2 Responsible authority

The Town of Cottesloe is the responsible authority for implementing the Scheme.

1.3 Scheme area

The Scheme applies to the Scheme area which covers the entire local government district of the Town of Cottesloe as shown on the Scheme Map.

Note: The Scheme area is also subject to the Metropolitan Region Scheme – see clause 1.10.

1.4 Contents of Scheme

The Scheme comprises —

(a) the Scheme Text; and

(b) the Scheme Map

The Scheme is to be read in conjunction with the Local Planning Strategy, as described in Part 2 of this Scheme Text.

1.5 Purposes of Scheme

The purposes of the Scheme are to —

(a) set out the local government's planning aims and intentions for the Scheme area;

(b) set aside land as Local Reserves for public purposes;

(c) zone land within the Scheme area for the purposes defined in the Scheme;

(d) control and guide land use and development;

(e) set out procedures for the assessment and determination of planning applications;

(f) make provision for the administration and enforcement of the Scheme; and

(g) address other matters set out in Schedule 7 of the Town Planning Act.

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1.6 The aims of the Scheme

The aims of the Scheme are to —

(a) facilitate implementation of the State Planning Strategy and relevant regional plans and policies, including the Metropolitan Region Scheme, by coordinating the Scheme with such plans and policies;

(b) promote the Local Planning Strategy;

(c) support land use, transport and development within the Scheme area;

(d) sustain population levels within the Scheme area by maintaining residential zones and encouraging, where appropriate, residential use of buildings in other zones.

(e) provide opportunities for housing choice and variety in localities which have a strong sense of community identity and high levels of amenity;

(f) sustain the amenity, character and streetscape quality of the Scheme area;

(g) ensure that residents and visitors continue to experience a high level of access to a range of transport modes within the Scheme area by maintaining the existing road grid pattern and making provision for an integrated road, rail, bus, cycle, and pedestrian network;

(h) encourage the retention of local centres and shops for the convenience and social well-being of the local community;

(i) facilitate improvements in the appearance, amenity, function and accessibility of the Cottesloe town centre locality for residents and visitors;

(j) ensure that land uses and development adjacent to Marine Parade are compatible with the residential and recreational nature of their setting and the amenity of the locality;

(k) ensure that development adjacent to Marine Parade adds to the high aesthetic appeal, relaxed atmosphere and lifestyle quality of the beachfront environment;

(l) provide a diverse and integrated network of open space catering for both active and passive recreation, including public access and visibility of the beachfront reserves;

(m) ensure that new development is compatible with the conservation significance and aesthetic value of heritage places and areas and the coastal landscape;

(n) protect the integrity, amenity and scenic quality of the coastal landscape;

(o) ensure that proper regard is given to the needs of the local community in the determination of land use and development proposals;

(p) ensure that development and the use of land within the district complies with accepted standards and practices for public amenity and convenience; and

(q) recognise the principle of the maintenance and enhancement of important views to and from public places.

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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 —

a) in the Town Planning Act; or

b) if they are not defined in that Act —

(i) in the Dictionary of defined words and expressions in Schedule 1; or

(ii) 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 —

a) in the case of a residential development, the definition in the Residential Design Codes prevails; and

b) 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

At the gazettal date, there are no other Schemes of the local government which apply to the Scheme area.

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 ("Commission").

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PART 2 — LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme determinations to conform to Local Planning Strategy

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

2.2 Local Planning Policies

Refer to Part 2, clause 3 of the Deemed provisions.

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 local government in respect of any application for planning approval but the local government 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 local government 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, the local government 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

Refer to Part 2, clauses 4 and 5 of the Deemed provisions.

2.5 Revocation of Local Planning Policy

Refer to Part 2, clause 6 of the Deemed provisions.

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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 "Metropolitan Region Scheme 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 Town Planning Act. These lands are not reserved under the Scheme.

3.2.2 The approval of the local government 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 Metropolitan 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 local government is to have due regard to —

a) the matters set out in clause 10.2; and

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 local government is to consult with that authority before determining an application for planning approval.

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PART 4 — ZONES AND THE USE OF LAND

4.1 Zones

4.1.1 The Scheme area (other than Regional Reserves and Local Reserves) is classified into the zones shown on the Scheme Map.

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

4.2 Objectives of the zones

4.2.1 The objectives of the Residential zone are to —

a) encourage residential development only which is compatible with the scale and amenity of the locality;

b) provide the opportunity for a variety and choice in housing in specified residential areas;

c) allow for some non-residential uses where they are compatible with the amenity of residential localities; and

d) encourage the retention of local facilities and services within specified residential areas for the convenience of the local community.

4.2.2 The objectives of the Town Centre zone are to —

a) improve the amenity and function of the Cottesloe town centre;

b) provide for a wide range of land uses, including shops, offices, entertainment, health, and community facilities and services, consistent with the district-serving role of the centre;

c) provide the opportunity for residential uses and development within the town centre; and

d) give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.

4.2.3 The objectives of the Foreshore Centre zone are to —

a) provide the opportunity for a wide range of residential and community uses and a limited range of commercial, shopping, tourism, recreational and entertainment uses which are compatible with the character and amenity of the beachfront locality;

b) ensure that the predominantly residential and recreational nature of the locality is maintained;

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c) ensure that the urban character, aesthetics and amenity of the locality are not compromised by inappropriate land use or development; and

d) give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.

4.2.4 The objectives of the Restricted Foreshore Centre zone are to —

a) provide the opportunity for a range of residential and a limited range of low-key non-residential uses which are compatible with the character and amenity of the beachfront locality and surrounding residential development;

b) ensure that the predominantly residential and recreational nature of the locality is maintained;

c) ensure that the urban character, aesthetics, amenity and residential streetscape quality of the locality are not compromised by inappropriate land use or development; and

d) give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.

4.2.5 The objectives of the Local Centre zone are to —

a) provide the opportunity for small-scale shops, facilities and services for the community within the surrounding residential locality;

b) encourage development which is compatible with the scale and amenity of the surrounding residential locality;

c) ensure that adequate provision is made for access and parking facilities without causing undue amenity effects on the surrounding residential locality;

d) allow for a mix of residential and non-residential uses provided the ground floor of existing buildings or proposed development is excluded from residential use; and

e) give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.

4.2.6 The objectives of the Hotel zone are to —

a) ensure that the hotel recreational, entertainment, accommodation and service uses are compatible with the amenity of the surrounding locality;

b) support the heritage provisions of the Scheme applicable to any land or buildings in the zone; and

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c) give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.

4.2.7 The objectives of the Residential Office zone are to —

a) provide the opportunity for offices in a residential environment close to the town centre;

b) provide a transition in land use from the Town Centre zone to the Residential zone in the surrounding locality;

c) provide the opportunity for office development that is residential in appearance and scale so as to complement the use and development of the surrounding residential locality.

4.2.8 The objectives of the Development zone are to —

a) provide for detailed planning to guide the use and development of land or buildings that are of a size, location, nature, character or significance warranting a comprehensive, coordinated and integrated approach to planning and design;

b) ensure that land use and development within the zone is compatible with the amenity of the surrounding locality;

c) ensure that any development does not unduly adversely affect the amenity of the adjoining and surrounding properties or locality, including by reason of height, built form, overshadowing, traffic, parking or other relevant aspects;

d) allow for land use and development to contribute to the provision or enhancement of community facilities and services and to the public domain; and

e) give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.

4.2.9 The objective of the Place of Public Assembly zone is to provide for a limited range of community-related uses including churches, halls or grounds of a nature and scale compatible with surrounding residential use and amenity.

4.3 Zoning Table

4.3.1 The 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 use is determined by cross-reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

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

'P' refer to 'class P use' definition in Part 1, clause 1 of the Deemed provisions;

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'D' refer to 'class D use' definition in Part 1, clause 1 of the Deemed provisions;

'A' refer to 'class A use' definition in Part 1, clause 1 of the Deemed provisions; and

'X' refer to 'class X use' definition in Part 1, clause 1 of the Deemed provisions.

4.4 Interpretation of the Zoning Table

4.4.1 Where a particular use falls within the definition of a general use-class and a more specific use-class mentioned in the Zoning Table, it is deemed to be excluded from the more general use-class.

4.4.2 Where a combination of uses exist or is proposed, each use is to be defined and classified by its specific use-class when determining its land use permissibility.

4.4.3 If it is proposed to carry out on land any use that does not fall within the definition of any use-class mentioned in the Zoning Table, and that cannot reasonably be determined as falling within the type, class or genus of activity of any other use class, the local government 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 notice 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 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

At the Gazettal date there are no Restricted Uses that apply to the Scheme.

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

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4.7 Special use zones

At the Gazettal date there are no Special Use Zones that apply to the Scheme.

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 Uses requiring planning approval

Subject to clause 4.9 the commencement or change of use of land zoned or reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any use or change of use of land without first having applied for and obtained the planning approval of the local government under Part 9.

Note: The planning approval of the local government is required for both the development of land (subject of Part 8) and the use of land (subject of this Part).

4.9 Uses not requiring planning approval

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

(a) the local government has exercised its discretion by granting of 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 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.

Notes:

1. The planning approval of the local government 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 local government 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 local government will have regard to the matters set out in clause 10.2.

4. The local government 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.

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4.10 Continued use and development – 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 land for the purpose for which it was being lawfully used immediately prior to the Gazettal date (hereinafter referred to as a non-conforming use);

(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 clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

Note:

1. *"Land" has the same meaning as in the Town Planning Act and includes houses, buildings and other works and structures.*

2. *"Non-conforming use" has the same meaning as in the Town Planning Act.*

4.11 Extension of or change to a non-conforming use

4.11.1 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 an existing non-conforming use to another use, other than as set out in clause 4.9 (a),

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

4.11.2 An application for planning approval required by this clause is to be advertised in accordance with clause 9.4.

4.11.3 Despite anything contained in the Zoning Table, the local government may approve the change of use of land from an existing non-conforming use to a use that is not permitted under this Scheme, if the local government considers that the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is closer to the intent of the zone.

4.11.4 In determining an application for a change of use of land from an existing non-conforming use to a use that is not permitted under this Scheme, or to alter or extend a non-conforming use, or to erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use, the local government is to have regard to the objectives of the zone in which the use or building is located and is to determine the development requirements applicable to the land.

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4.12 Termination of a non-conforming use

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

4.12.2 The local government may effect the termination 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 190 and 191 of the Town Planning Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a local planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

4.13 Destruction of non-conforming use buildings

If a building used for a non-conforming use is destroyed to 75 per cent 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 local government.

4.14 Deeming provision

For the purposes of section 174(i)(c) of the Town Planning Act, the requirement to obtain planning approval under clause 4.11 or clause 4.13 above is deemed not to prohibit wholly or partially the continuance of the non-conforming use or the erection, alteration or extension on the land of any building in connection with or in furtherance of any non-conforming use.

4.15 Special Provisions

Despite any other provision of the Scheme, the land specified in Schedule 12 shall be developed in accordance with the special provisions set out in Schedule 12 with respect to that land.

Note: Where a scheme amendment involves incorporation into the scheme of special provisions for the development of particular land, they are to be listed in this schedule as tied to that land.

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TABLE 1 – ZONING TABLE

KEY TO COLUMNS:

1A	**RESIDENTIALR20, R25 and R30**	**4**	**HOTEL**	**8**	**PLACE OF PUBLIC ASSEMBLY**
1B	**RESIDENTIAL R35, R40, R50, R60, and R100**	**5**	**TOWN CENTRE**	**9**	**DEVELOPMENT**
2	**FORESHORE CENTRE**	**6**	**LOCAL CENTRE**		
3	**RESTRICTED FORESHORE CENTRE**	**7**	**RESIDENTIAL OFFICE**		

USE CLASSES	1A	1B	2	3	4	5	6	7	8	9
Amusement Parlour	X	X	D	X	D	D	X	X	X	*
Betting Agency	X	X	A	X	P	A	D	X	X	*
Caretaker's Dwelling	D	D	D	D	D	D	D	D	A	*
Car Park	A	A	D	A	D	A	D	D	A	*
Child care premises	A	A	D	X	X	D	D	A	X	*
Cinema / Theatre	X	X	D	X	X	D	X	X	X	*
Civic Use	A	A	D	D	X	D	D	D	X	*
Club Premises	X	X	D	X	X	A	X	A	X	*
Community Purpose	A	A	D	A	D	D	D	A	D	*
Consulting Rooms	A	A	D	X	X	D	D	A	X	*
Convenience Store	X	X	P	A	X	P	P	A	X	*
Corrective Institution	X	X	X	X	X	X	X	X	X	*
Dry Cleaning Premises	X	X	D	X	D	D	D	X	X	*
Educational Establishment	A	A	D	X	X	D	D	A	X	*
Exhibition Centre	X	X	D	D	D	D	D	A	X	*
Family Day Care	P	P	X	A	X	P	P	P	X	*
Fast Food Outlet	X	X	D	X	X	D	D	X	X	*
Fuel Depot	X	X	X	X	X	X	X	X	X	*
Funeral Parlour	X	X	X	X	X	D	X	X	X	*
Garden Centre	X	X	X	X	X	D	D	X	X	*
Grouped Dwelling	P	P	D	D	X	D	D	D	X	*
Home Business	A	A	P	P	X	P	P	A	X	*
Home Occupation	A	A	P	P	X	P	P	P	X	*
Home Office	P	P	P	P	X	P	P	P	X	*
Home Store	A	A	P	P	X	P	P	A	X	*
Hospital	X	A	X	X	X	D	D	D	X	*
Hosted short-term rental accommodation	P	P	P	P	X	P	P	P	X	*

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USE CLASSES	1A	1B	2	3	4	5	6	7	8	9
Hotel	X	X	D	X	P	A	X	X	X	*
Industry – Cottage	A	A	D	D	X	D	D	A	X	*
Industry – Extractive, General and Noxious	X	X	X	X	X	X	X	X	X	*
Industry - Light	X	X	X	X	X	A	X	X	X	*
Industry - Service	X	X	D	D	X	D	A	A	X	*
Market	X	X	A	X	A	A	X	X	X	*
Medical Centre	X	X	D	X	X	D	X	A	X	*
Motor Vehicle, Boat or Caravan Sales	X	X	X	X	X	D	X	X	X	*
Motor Vehicle Repair	X	X	X	X	X	A	X	X	X	*
Multiple Dwelling	D	P	D	D	X	D	D	D	X	*
Night Club	X	X	X	X	X	A	X	X	X	*
Office	X	X	D	D	D	P	D	P	X	*
Place of Worship	A	A	D	D	X	D	D	A	P	*
Reception Centre	X	X	D	D	D	D	X	X	X	*
Recreation – Private	X	X	D	D	X	D	A	X	X	*
Residential Building	X	A	D	X	D	D	X	A	X	*
Restaurant	X	X	D	D	D	D	D	X	X	*
Restricted Premises	X	X	X	X	X	A	X	X	X	*
Service Station	X	X	X	X	X	D	D	X	X	*
Shop	X	X	D	D	D	P	P	X	X	*
Showroom	X	X	X	X	X	D	X	X	X	*
Single House	P	P	X	P	X	P	X	P	X	*
Small Bar	X	X	D	D	D	D	D	X	X	D
Storage	X	X	X	X	X	D	D	X	X	*
Tavern	X	X	A	X	P	D	X	X	X	*
Telecommunications Infrastructure	D	D	D	D	D	D	D	D	A	*
Tourist and visitor accommodation	X	X	D	D	D	D	X	X	X	*
Trade Display	X	X	X	X	X	D	X	X	X	*
Unhosted short-term rental accommodation	A	A	D	D	X	D	A	A	X	*
Veterinary Centre	X	X	D	X	X	D	D	X	X	*
Veterinary Hospital	X	X	X	X	X	X	X	X	X	*
Warehouse	X	X	X	X	X	D	X	X	X	*

**Development and use of land is to be in accordance with an approved Structure Plan prepared and adopted under clause 6.2.*

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PART 5 — GENERAL DEVELOPMENT REQUIREMENTS

5.1 Compliance with development requirements

Any development of land is to comply with the provisions of the Scheme and unless otherwise provided for in the Scheme, all development shall comply with the requirements specified in Table 2 - Development Requirements.

Note: Development in the Development Zone is subject to the requirements in Schedule 14 and any approved Structure Plan, as required by clause 6.2.

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 local government.

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 to 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 The following provisions operate as exclusions and variations to the Residential Design Codes and apply notwithstanding any provisions to the contrary in the Residential Design Codes.

5.3.2 In this clause "**Residential Development**" means any development for residential purposes dealt with by the Residential Design Codes.

5.3.3 Building Height

Despite anything contained in the Residential Design Codes to the contrary, the building height for Residential Development shall comply with the provisions of clause 5.7.

5.3.4 Development in certain areas abutting Stirling Highway

Despite anything contained in the Residential Design Codes to the contrary, residential development in areas with a dual density code of R20/60, R30/60, R35/60 or R40/60 on the scheme map shall be in accordance with the development standards of the lower R-Code unless the residential development -

a) has no direct vehicular access to and from Stirling Highway; and

b) is a comprehensive redevelopment of more than one lot,

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in which case the local government may permit development in accordance with the development standards of the higher R-Code. *AMD 8 GG 16/06/2020*

5.3.5 Redevelopment of existing grouped dwellings or multiple dwellings

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme can, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map, equal to, but not exceeding the existing built density, subject to the proposed development —

a) complementing the character of the streetscape;

b) not detrimentally increasing the mass, scale or surface area of the development relative to existing development on surrounding properties;

c) resulting in improved landscaping of the land;

d) providing adequate and safe means of vehicular and pedestrian access to the land; and

e) providing an adequate number of car parking spaces on the land.

Futhermore, and notwithstanding any other clause in this Scheme, for developments under this clause within the Residential and Residential Office zones, the local government may approve the development with a building height one storey higher than the maximum building height that would otherwise be applicable to the development in accordance with Table 2 if, in the opinion of the local government, the original number of dwellings (and their replacement plot ratio) cannot be appropriately accommodated on the lot without an increase in building height. *AMD 7 GG 13/07/18*

5.3.6 Mixed-use development

Despite anything contained in the Residential Design Codes to the contrary, where development which involves both Residential Development and development other than Residential Development ("Non-Residential Development") is proposed in —

a) the Residential Office or Restricted Foreshore Centre zones, the applicable requirements shall be as specified for the Non-Residential Development in Table 2;

b) the Town Centre or Local Centre zones, the applicable requirements shall be as specified for the Non-Residential Development in Table 2; or

c) a Development zone, the applicable requirements shall be as specified in Schedule 14 and, if applicable, Schedule 15 and any structure plan in accordance with clause 6.2.

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5.3.7 Front setback

Despite anything contained in the Residential Design Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied**,** for the preservation of streetscapes, view corridors and amenity.

5.3.8 Roof Decks
AMD 4 GG 27/05/16

For the purposes of calculating the open space requirements for a residential development on land coded less than R40, roof decks are excluded.

5.3.8.1. Roof Deck means an open, accessible and useable flat roof and includes roof gardens, roof pools, viewing platforms and other roof top recreation space.

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 the provisions of the Residential Design Codes which apply under the Scheme, those provisions are 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 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant, the local government is not to grant planning approval to a development of the land which would, but for the operation of clause 5.4.1 have been prohibited, unless the application for planning approval has been dealt with as an 'A' use and has complied with the notice requirements of clause 9.4.

5.5 Variations to site and development standards and requirements

5.5.1 Except for residential development, 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 with respect to that development, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

5.5.2 An application for planning approval requiring the exercise of the discretion under clause 5.5.1 above is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any standard or requirement as the local government thinks fit.

5.5.3 In considering an application for planning approval under this clause, the local government is to have regard to any submissions received in accordance with the advertising of the application under clause 9.4.

5.5.4 The power conferred by this clause may only be exercised —

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a) subject to the exclusions, limitations, maximums and other provisions set out in Schedule 13;

b) if the local government is satisfied that approval of the proposed development would be appropriate having regard to the matters set out in clause 10.2; and

c) if the local government is satisfied that 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

5.6.1 Environmental conditions to which the Scheme or any amendment to the Scheme is subject are incorporated into the Scheme by Schedule 10 of the Scheme.

5.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol "EC" to indicate that environmental conditions apply to the land.

5.6.3 The local government is to —

(a) maintain a register of all relevant statements published under sections 48F and 48G of the Environmental Protection Act; and

(b) make the statements available for public inspection at the offices of the local government.

Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the Environmental Protection Act 1986.

5.7 Building height

5.7.1 In this clause —

"building height", refer to definition in Part 1, clause 1 of the Deemed provisions.

"**Storey**" means that part of a building between the top of any floor and the top of the floor next above, or if there is no floor above, between the top of the floor and the ceiling above it; but does not include any undercroft space designed or used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartment, cellar, corridor, hallway, lobby, the parking of vehicles, storeroom without windows or workshop appurtenant to a car parking area, where that floor-to-floor or floor to-ceiling-space as defined herein is not higher than 1 metre above the footpath level measured at the centre of the land along the boundary to which the space has frontage, or where that floor-to-floor or floor to-ceiling-space as defined herein is below the level of the natural ground level measured at the centre of the site as determined by the local government.

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"wall height", refer to definition in Part 1, clause 1 of the Deemed provisions.

5.7.2 All buildings shall comply with each of the following maximum heights, as applicable to the building —

(a) *1 storey*

(i) Building Height (inclusive of wall and roof height; including to top of a parapet) - 6.0 metres maximum height.

(b) *2 storeys*

(i) Building Height – 8.5 metres maximum height.

(ii) Wall Height (to level of roof) – 6.0 metres maximum height.

(iii) Wall Height (to top of a parapet) – 7.0 metres maximum height.

(c) *More than 2 storeys*

(i) Building Height – 8.5 metres, plus 3.0 metres for each storey more than 2, maximum height.

(ii) Wall Height (to level of roof) – 6.0 metres, plus 3.0 metres for each storey more than 2, maximum height.

(iii) Wall Height (to top of a parapet) – 3.0 metres for each storey up to the highest storey, plus 4.0 metres for the highest storey, maximum height.

5.7.3 Unless otherwise provided for in the Scheme, all development shall comply with the requirements of Table 2 in relation to height.

Note: Development in the Development Zone is subject to the requirements in Schedule 14 and any approved Structure Plan, as required by clause 6.2.

5.7.4 In the Residential Zone the local government may permit a third storey to be located within the roof space of a dwelling, provided that the development complies with the maximum wall and roof height requirements stipulated in clause 5.7.2 and also provided that, in the opinion of the local government, the dwelling will retain the appearance of a two-storey dwelling and will not unduly adversely affect local amenity.

5.7.5 In the case of proposed alterations, additions or extensions to existing dwellings in the Residential, Residential Office, Town Centre, Local Centre, Foreshore Centre and Restricted Foreshore Centre zones, the local government may vary the maximum heights specified in Table 2 and clause 5.7.2, where in its opinion warranted due the circumstances and merits of the proposal, having regard to -

a) the existing heights of the dwelling;

b) any relevant Local Planning Policy or Design Guidelines;

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c) any heritage considerations relating to the dwelling;

d) relevant planning considerations identified in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; *AMD 6 GG 04/11/16*

e) adequate direct sun into buildings and appurtenant open spaces;

f) adequate daylight to major openings into habitable rooms;

g) access to views of significance;

h) building design to ameliorate the visual effects of height, including consideration of setting-back the side walls of added storeys from the side walls of existing buildings; and *AMD 6 GG 04/11/16*

i) the amenity of adjoining properties, including road and public open space reserves, and the character of the streetscape;

and subject to the development -

a) not exceeding the permitted maximum number of storeys; or, where that is already exceeded, not exceeding the existing number of storeys; *AMD 6 GG 04/11/16*

b) not exceeding the height of the existing dwelling, unless the Council is satisfied with the design and its implications having regard to the above criteria; and

c) in the Foreshore Centre Zone, the development not exceeding the requirements of clause 6.4.3.1 (a) and (b).

An application for planning approval requiring the exercise of the discretion under this clause is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any height standard or requirement as the local government thinks fit. *AMD 1 GG 24/3/15*

5.8 Vehicle parking requirements – Table 3

Refer to Part 9A of the Deemed provisions.

Refer Part 9, clause 67(2)(s) & (t) of the Deemed provisions.

5.8.1 Unless otherwise provided for in the Scheme, where land is to be used for a use listed in Table 3, the car parking spaces of the number specified in Table 3 shall be provided.

5.8.2 In the case of a use not listed in Table 3, car parking spaces shall be provided of a number determined by the local government considering the likely demand for parking by the proposed use having regard to the nature of the proposed use, the likely volumes of goods or materials and the numbers of people moving to or from the land, and the likelihood of traffic congestion on roads or in public places in the locality.

5.8.3 In the Town Centre zone, where the use of an existing building is proposed to change, the local government may permit such change

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of use notwithstanding that there may be insufficient parking on or near the land, subject to the local government having regard to the nature of the proposed use, the likely volumes of goods or materials and the numbers of people moving to or from the land, and the likelihood of traffic congestion on roads or in public places in the locality.

5.8.4 In the Town Centre, Hotel, Foreshore Centre, and Development 'A' zones, the number of vehicle parking spaces determined to be required by the local government is to be provided as follows —

a) for Tourist and Visitor accommodation and Hotel room uses, the required vehicle parking spaces shall be provided on-site with all such spaces provided being for the exclusive use of the occupiers of the accommodation units and key associated staff and being held in common and not permanently allocated to individual accommodation units or other tenancies.

5.9 Development requirements – Local Planning Policy Design Guidelines

5.9.1 The local government may prepare and adopt Local Planning Policy Design Guidelines in accordance with the procedure outlined in clause 2.4, to augment the Scheme provisions with more detail to guide the planning and design of development proposals.

5.9.2 In considering an application for planning approval for land to which adopted Local Planning Policy Design Guidelines apply, the local government shall have regard to the Design Guidelines and shall use them as a basis on which to determine any variation allowed under the Scheme.

5.10 Filling of land and height of retaining walls

In considering applications for planning approval, in relation to the maximum permissible height of land fill and the height of retaining walls the following shall apply —

(a) on level land, fill will not generally be permitted, as determined by the local government; and

(b) on sloping land, the local government may permit fill and the construction of retaining walls, provided there is approximately equal cut and fill of the existing ground levels and the amenity of surrounding properties is not unduly adversely affected.

5.11 Local Centre zone – mixed-use development

In the Local Centre zone, in the case of mixed-use non-residential and residential development, the following shall apply —

(a) for the Eric Street local centre, the ground floor shall be used only for shops, services or, subject to approval by the local government, offices or other uses, and not for any residential use; and

(b) for the Railway Street local centre (near Swanbourne Station), the ground floor shall exclude residential use.

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5.12 Residential development in Non-Residential zones

Residential development in the Town Centre, Foreshore Centre, except for Lots 101-103 Eileen Street, Restricted Foreshore, Residential Office, Hotel and Development A zones shall be located such that no habitable rooms are located at ground level with street frontage; however, some residential development (such as parking, entrances, ancillary rooms and minor habitable rooms), may be permitted at ground level, either all or predominantly behind non-residential uses and with only incidental street frontage, subject to Council having regard to design requirements, the interfaces with non-residential or other residential development, and the primary objective of encouraging active, non-residential street frontages.

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TABLE 2 – DEVELOPMENT REQUIREMENTS

ZONE	MAXIMUM PLOT RATIO	MAXIMUM SITE COVER	MINIMUM BOUNDARY SETBACKS	MAXIMUM HEIGHT (Refer clause 5.7.)
RESIDENTIAL				
a) Residential development	In accordance with Residential Design Codes	In accordance with Residential Design Codes	In accordance with Residential Design Codes	2 storey
b) Non-residential development	0.5:1	50%	In accordance with Residential Design Codes	2 storey
RESIDENTIAL OFFICE				
a) Residential development	0.8:1	In accordance with Residential Design Codes	In accordance with Residential Design Codes	2 storey
b) Non-residential development	0.8:1	50%	In accordance with Residential Design Codes	2 storey
TOWN CENTRE				
a) Land bounded by Jarrad Street, Stirling Highway and Brixton Street	1.15:1	100%	In accordance with Design Guidelines	3 storey and 11.5m, subject to no undue adverse impact on amenity and to design guidelines
b) Land with frontage to Napoleon Street	1.0:1	100%	In accordance with Design Guidelines	2 storey, provided that the second storey to the northern side of the street is set back to the satisfaction of the local government sufficient to avoid overshadowing of the footpath or alfresco areas on the southern side of the street.

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ZONE	MAXIMUM PLOT RATIO	MAXIMUM SITE COVER	MINIMUM BOUNDARY SETBACKS	MAXIMUM HEIGHT (Refer clause 5.7.)
c) Remaining land	1.15:1	100%	In accordance with Design Guidelines	2 storey or 3 storey and 11.5m, subject to no undue adverse impact on amenity and to design guidelines
LOCAL CENTRE All development	0.5, or as determined by the local government up to 0.8, subject to appropriate upper floor setbacks, building design and landscaping.	As determined by the local government.	Nil to street frontages for first storey of premises and as determined by the local government for all other setbacks at any level.	9 metres
FORESHORE CENTRE	In accordance with Clause 6.4 and Schedule 15			
RESTRICTED FORESHORE CENTRE All development	0.8:1	75%	In accordance with Design Guidelines	3 storey and: 9m to top of wall; 10m to top of parapet; and 11.5m to top of roof ridge
HOTEL	In accordance with Clause 6.4 and Schedule 15.			
DEVELOPMENT	Development in the Development Zone is subject to the requirements in Schedule 14 and any approved Structure Plan, as required by clause 6.2, and in the case of Development zone 'A' the requirements of clause 6.4 and Schedule 15.			

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TABLE 3 – VEHICLE PARKING REQUIREMENTS

	USE	NUMBER OF PARKING SPACES
1.	Single House, Grouped Dwelling and Multiple Dwelling	In accordance with the Residential Design Codes.
2.	Residential Building	1 space to each room used as a bedroom plus 1 space to every 20 square metres of gross floor area of service buildings.
3.	Hotel and Tavern	0.5 spaces to each hotel room, where all such spaces shall be for the exclusive use of the occupiers of the hotel rooms and key accommodation staff, being held in common and not permanently allocated to any individual hotel room or other tenancy; plus 1 space to every 6.5 square metres of floor or ground area open to the public for the consumption of liquor.
4.	Educational Establishment: (a) Primary School	1 space to each member of teaching staff.
	(b) Secondary School	1 space to each member of teaching staff plus 1 to each rostered canteen helper plus 1 for every classroom and an additional space for every 25 students the school is designed to accommodate for the final 2 years of secondary education.
	(c) Other	To be determined by the local government.
5.	Motor Vehicle Repair and Service Station	2 spaces to each working bay plus 1 to each person employed on site.
6.	Warehouse, Showroom and Storage	1 space to every 90 square metres of gross floor area and 1 to every 100 square metres of open space used for display, except in the Town Centre zone where the requirement shall be 1 space to every 40 square metres of gross floor area and open space used for display.
7.	Industry	1 space to every 50 square metres of gross floor area.
8.	Shop	1 space to every 20 square metres of gross floor area.
9.	Restaurant	1 space to every **8** persons the development is designed to accommodate.
10.	Office	1 space to every **50** square metres of gross floor area.
11.	Recreation – gymnasium/health club	1 space to every 25 square metres of gross floor area.
12.	Medical – consulting rooms	1 space to every 25 square metres of gross floor area.
13.	Medical – medical centre	4 spaces to each practitioner.

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14.	Small Bar	1 space to every 8 persons the development is designed to accommodate.
15.	Tourist and visitor accommodation	0.5 spaces for each accommodation unit, with all such spaces provided being for the exclusive use of the occupiers of the units and key accommodation staff.
16.	All other uses	To be determined by the local government considering the likely demand for parking by the proposed use having regard to the nature of the proposed use, the likely volumes of goods or materials and the numbers of people moving to or from the land, and the likelihood of traffic congestion on roads or in public places in the locality.

Notes: 1. Parking requirement is to be rounded to the nearest whole number.
2. Council may formulate further provisions or policies for greater flexibility and discretion in car parking requirements.

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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 Map —

a) Development Zones as shown on the Scheme Map coloured pale yellow with a red border with a corresponding letter A-E and as included in Schedule 14.

b) Special Control Area 1 – Tukurua and Le Fanu House.

c) Special Control Area 2 – Cottesloe Beach Hotel site, Ocean Beach Hotel site and Foreshore Centre Zone.

6.1.2 In respect of a special control area shown on a Scheme Map, 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.

6.1.3 In this Part "existing heritage buildings" means those buildings or structures contained within any heritage-listed place included within the special control area.

6.2 Development Zones

6.2.1 Interpretation

In clause 6.2, unless the context otherwise requires:

'Proponent' means any owner or owners of land to which the Proposed Structure Plan relates that has or have submitted that Proposed Structure Plan;

Refer to Part 4, clause 14 of the Deemed provisions.

6.2.2 Purpose

a) To identify areas requiring comprehensive planning prior to subdivision, strata subdivision and development.

b) To coordinate subdivision, strata subdivision, land use and development in areas requiring comprehensive planning.

c) To facilitate appropriate use and development of land by providing guidance on the intentions and requirements for the land in the formulation and consideration of development proposals; and

d) To provide mechanisms to ensure comprehensive and detailed planning and design for the use and development of the land.

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6.2.3 Planning requirements

Refer to Part 4, clauses 15 and 27 of the Deemed provisions.

6.2.3.1 Schedule 14 describes the Development Zones in more detail and sets out the purpose and particular requirements that may apply to the Development Zones.

6.2.4 Preparation of Structure Plan

Refer to Part 4, clauses 16 to 29A of the Deemed provisions.

6.2.5 Detailed area plans

Refer to Part 6, clauses 46 to 59 of the Deemed provisions.

6.3 Special Control Area 1 – Tukurua and Le Fanu House

6.3.1 The objectives of this special control area are to —

a) encourage conservation and restoration of the existing heritage buildings within Special Control Area 1;

b) ensure that any future development within Special Control Area 1 does not unduly adversely affect the significance of the existing heritage buildings and their setting; and

c) ensure that any future development within Special Control Area 1, including alterations and additions to the existing heritage buildings, will enhance the setting and protect the visual prominence of the existing heritage buildings.

6.3.2 Notwithstanding the land use limitations specified in Table 1 – Zoning Table in Clause 4.3, the local government may, after taking into account any advice from the Heritage Council of Western Australia, and following the notification procedures specified in clause 9.4, approve the use of the existing heritage buildings, including any alterations or additions to the existing heritage buildings, for any purpose and may vary any car parking requirements specified in the Scheme for that use, but only if the local government is satisfied that—

a) the use is unlikely to prejudice the heritage significance of the existing buildings or their setting; and

b) the use or variation of the car parking requirements would have little or no adverse effect on the amenity of the locality.

6.3.3 In granting approval pursuant to clause 6.2.2 the local government will, as a condition of that approval, require the applicant and / or the owner to enter into a heritage agreement as specified in clause 7.3, for the purposes of securing the conservation and restoration of the existing buildings and their setting.

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6.3.4 The local government shall not grant approval to development on land within Special Control Area 1 unless it has made, or has required the applicant to make, an assessment of the effect that the proposed development would have on the heritage significance of the existing heritage buildings within Special Control Area 1 and on their setting, and in doing so the local government or the applicant shall take into account the following matters —

a) any advice from the Heritage Council of Western Australia in regard to the proposal;

b) whether the form, height and scale of the proposed development is compatible with the existing heritage buildings within Special Control Area 1;

c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the proposed development do not unduly detract from the visual appearance and prominence of the existing heritage buildings; and

d) whether any horticultural, landscape, archaeological or other feature of the land should be retained.

6.3.5 The local government shall, in determining an application under this clause, take into consideration the matters listed in sub-clause 6.3.4 in addition to those relevant matters listed in clause 10.2.

6.3.6 In this special control area, the height of all development for any use shall conform to the requirements for single-storey or two-storey development as set out in clause 5.7.2, except that in the case of any development to either of the existing heritage dwellings, the local government may apply its discretion in accordance with clause 5.7.5. *AMD 1 GG 24/3/15*

6.4 Special Control Area 2 – Cottesloe Beach Hotel site, Ocean Beach Hotel site and Foreshore Centre Zone

6.4.1 The objectives of this Special Control Area are to ensure that:

a) the development, subdivision and strata subdivision of these sites is compatible and consistent with its regionally important beachfront location, surrounding development and the amenity of the locality; and

b) the Building Design Control Diagrams which form the basis of development, subdivision and strata subdivision control in this special control area appropriately guide and manage built form, bulk and scale, amenity impacts, the type, mix, location and arrangement of land uses, and other relevant considerations accordingly.

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6.4.2 All applications for planning approval, subdivision and strata subdivision in Special Control Area 2 shall comply with the provisions of clause 6.4 and Schedule 15 – Building Design Controls applicable to the site. The local government shall, in determining an application for planning approval or strata subdivision, or when making a recommendation on a subdivision or development application, have due regard to the aims of the Scheme, the objectives of Special Control Area 2, the objectives and provisions of the zone, the objectives of the adjacent zones, the matters to be considered under clause 10.2 and any other relevant provisions applicable to the subject site.

6.4.3 In Special Control Area 2, the following development standards and requirements shall be applied. These Building Design Controls comprise specific controls that apply in addition to any other applicable provision, development standard or requirement under the Scheme. Where there is any inconsistency between a specific Building Design Control provision and any general provision, development standard or requirement of the Scheme, then the specific Building Design Control provision shall prevail.

6.4.3.1 General Provisions Applicable to Special Control Area 2

(a) The height of all development for any use, at the Marine Parade frontage, shall be a maximum of three storeys (12 metres); except for Lot 101 Eileen Street on the corner of Marine Parade, which may have a maximum height of 4 storeys within 12m.

(b) The maximum extent of development on each site shall comply with the building heights, form, storeys, setbacks and other requirements prescribed in the Building Design Control Diagrams for the Cottesloe Beach Hotel and Ocean Beach Hotel sites, and for the Foreshore Centre zone, contained in Schedule 15, notwithstanding the requirements of any other provision of the Scheme;

(c) In respect of vehicle parking requirements, the provisions of the Residential Design Codes are modified for the Grouped Dwelling and Multiple Dwelling use classes, with no visitor parking being required; and

(d) Of the total number each of Multiple Dwellings or Grouped Dwellings on a site overall, a minimum of:

(i) 25% shall comprise a maximum plot ratio area of 70 square metres; and

(ii) 25% shall comprise a maximum plot ratio area of greater than 70 square metres but no greater than 90 square metres.

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(e) For Lots 101-103 Eileen Street, the permitted minimum setback from Marine Parade shall be nil, and the permitted minimum setback from Eileen Street shall be 2m, which may include porch and/or balcony elements. *AMD 2 GG 29/05/15*

6.4.3.2 Additional Provisions Applicable to the Cottesloe Beach Hotel site

(a) Notwithstanding the use permissions in Table 1, the Multiple Dwelling use may be permitted as an 'A' use on the rear portion of the Cottesloe Beach Hotel site, as defined on the Building Design Control Diagram No. 9 in Schedule 15, but only subject to the conservation and redevelopment, to the satisfaction of the Heritage Council of Western Australia, of the existing hotel building on that portion of the site as shown on the Building Design Control Diagram No. 9 in Schedule 15 as “Hotel”;

(b) Subdivision or strata subdivision of the rear portion of the site shall not be permitted unless conservation and redevelopment of the "Hotel" portion of the site, as shown on the Building Design Control Diagram No. 9 in Schedule 15, is first carried out to the satisfaction of the Heritage Council of Western Australia, or there is a legal agreement for the required works in place between the landowners and the Heritage Council of Western Australia, and the "Hotel" portion of the site shall remain as one lot and shall not be strata-subdivided;

(c) No building or structure shall be constructed that protrudes over any portion of the existing "Hotel" building as shown on the Building Design Control Diagram No. 9 in Schedule 15;

(d) No vehicular ingress from or egress to Marine Parade is permitted; and

(e) Any redevelopment of the site shall incorporate a minimum total of 50 Hotel and/or Tourist and Visitor Accommodation rooms/units, which shall be managed together with the hotel.

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6.4.3.3 Additional Provisions Applicable to the Ocean Beach Hotel site "(excludes Lots 101-103 Eileen Street)".

AMD 2 GG 29/5/15

(a) Notwithstanding any other provision of the Scheme, the Single House use is not permitted within the Ocean Beach Hotel site;

(b) No vehicular ingress from or egress to Marine Parade is permitted;

Refer to Part 4, clauses 16(2) and 16(3) of the Deemed provisions.

(c) No subdivision or strata subdivision shall be permitted unless in accordance with a Structure Plan adopted pursuant to clause 6.2 and in accordance with clause 6.4 and Schedule 15;

(d) Any redevelopment of this site shall incorporate a minimum total of 120 Hotel and/or, Tourist and Visitor Accommodation rooms/units, notwithstanding that additional rooms/units may be accommodated anywhere on the site, all of which must be subject to integrated common management where, if the development is strata titled, such management excludes direct owner involvement in letting and excludes the ability of owners to opt out of the letting pool;

(e) Further to the development controls in Schedule 15 Diagrams 1 and 2, building levels above the 3-storey frontage are to be articulated to ameliorate the bulk and scale as part of any development proposal. Notwithstanding other considerations, development applications shall also be assessed by the local government in terms of:

(i) Massing: articulation of building volumes above three storeys to reduce monolithic appearance;

(ii) Surface: composition of architectural elements and materials, including projecting or recessed walls, balconies and roofs to vary façade treatment; and

(iii) Context: respond appropriately to key site aspects, including the Marine Parade foreshore promenade and the approach to the foreshore from the crest of Eric Street.

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6.4.3.4 Additional Provisions Applicable to the Seapines site, Lido site and Lot 51 corner Eileen Street and Marine Parade

(a) Any redevelopment of the Seapines site or Lot 51, on the corner of Eileen Street and Marine Parade, shall incorporate a minimum total of 30 Hotel and/or Tourist and Visitor Accommodation rooms/units, which must be subject to integrated common management where, if the development is strata titled, such management excludes direct owner involvement in letting and excludes the ability of owners to opt out of the letting pool.

(b) Any individual development proposal over the combined Seapines and Lido sites shall incorporate a minimum total of 45 Hotel and/or Tourist and Visitor Accommodation rooms/units, which must be subject to integrated common management where, if the development is strata titled, such management excludes direct owner involvement in letting and excludes the ability of owners to opt out of the letting pool.

6.4.3.5 Provisions Applicable to the Foreshore Centre Zone

(a) Consistent with clause 5.12, the first storey (ground floor) of any development in the Foreshore Centre zone (except for Lots 101-103 Eileen Street) shall be used for uses of a commercial nature including, but not limited to, Restaurant, Shop, Small Bar and Hotel uses, but shall not be used for residential purposes. On-site vehicle parking shall be provided in a basement or otherwise shall occupy a limited area of the first storey portion of the site. All commercial frontages to a street must have a minimum depth of 9.0 metres; *AMD 2 GG 29/5/15*

(b) Any storey that may be developed above the first storey in the Foreshore Centre zone may be used for other purposes permissible in Table 1, including Multiple Dwelling, Hotel and/or Tourist and Visitor Accommodation or permissible as an Additional use designation in Schedule 2. *AMD 2 GG 29/5/15*

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(c) No vehicular ingress from or egress to Marine Parade is permitted, except in the case of Lot 500, where temporary access directly from Marine Parade may be approved, but only in the event that rear vehicular access is not at that time possible. Such temporary access must be immediately closed and the rear access implemented if rear access becomes available through the redevelopment of adjoining Lots 1 or 3, and in this regard, any redevelopment of Lots 1, 3, or 500 shall grant a 4 metre wide rear cross-easement for vehicular access to each of the other lots, prior to the occupation of any such redevelopment. Any proposed alternative arrangement that provides access to Lot 500 from either Napier Street or Overton Gardens may also be considered by the local government in lieu of the above requirement;

(d) Where a rear laneway exists adjacent to a site within the Foreshore Centre zone, all vehicular ingress and egress to the site shall be via the laneway once the site has been redeveloped, and as part of any redevelopment of the site, the laneway shall be upgraded and widened where it abuts the development site so that the total width of the laneway becomes 6 metres. Such widening area shall be ceded to the Crown free of cost from the development site. Setbacks indicated on the Building Control Diagrams are from the post-widened boundary of a development site.

(e) Development, subdivision and strata subdivision proposals within the Foreshore centre zone shall have due regard to any adopted Detailed Area Plans, Local Planning Policies and Local Planning Policy Design Guidelines that provide more detailed planning and design guidance and implementation measures. Any Detailed Area Plans prepared shall be formulated and adopted in accordance with clause 6.2.7.

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PART 7 — HERITAGE PROTECTION

Terms used

Refer to Part 3, clause 7 of the Deemed provisions.

7.1 Heritage List

Refer to Part 3, clause 8 of the Deemed provisions.

7.2 Designation of a heritage area

Refer to Part 3, clause 9 of the Deemed provisions.

7.3 Heritage agreements

Refer to Part 3, clause 10 of the Deemed provisions.

7.4 Heritage assessment

Refer to Part 3, clause 11 of the Deemed provisions.

7.5 Variations to Scheme provisions for a heritage place or heritage area

Refer to Part 3, clause 12 of the Deemed provisions.

Also refer to Part 3 clauses 13 and 13A of the Deemed provisions.

7.6 Heritage incentives

In applying the provisions of the Scheme to the operation of the heritage list, including any related Local Planning Policy, the local government shall give consideration to incentives for heritage conservation.

7.7 Right of review

7.7.1 An owner of a place included on the Heritage List may apply to the State Administrative Tribunal for a review of a decision of the local government to –

a) include the place on the Heritage List;

b) modify the entry of the place on the Heritage List; or

c) remove the place from the Heritage List,

in accordance with Part 14 of the Town Planning Act.

7.7.2 An owner of land within an area designated as a heritage area may apply to the State Administrative Tribunal for a review of a decision of the local government to —

a) designate the area as a heritage area;

b) modify the designation of the area as a heritage area; or

c) remove the designation of the area as a heritage area,

in accordance with Part 14 of the Town Planning Act.

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PART 8 — DEVELOPMENT OF LAND

8.1 Requirement for approval to commence development

Refer to Part 7, clause 60 of the Deemed provisions.

8.2 Development not requiring planning approval

Refer to Part 7, clauses 61 and 61A of the Deemed provisions.

8.3 Revoking a planning approval

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

8.4 Unauthorised existing developments

8.4.1 The local government 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 A planning approval granted under clause 8.4.1 —

a) authorises the continuation of the use or development the subject of the planning approval, from the date of the planning approval;

b) does not authorise the use or development before the date of the planning approval; and

c) does not prevent the local government from taking any action in respect of the use or development in respect of the period prior to the grant of the planning approval.

Notes:

1. *Applications for approval to an existing development are made under Part 9.*
2. *The approval by the local government of an existing development does not affect the power of the local government 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.*

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PART 9 — APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of application

Refer to Part 8, clause 62 of the Deemed provisions.

Notes:

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 112 of the Town Planning Act;

   (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 16 of the Town Planning Act 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

Refer to Part 8, clause 63 of the Deemed provisions.

9.3 Additional material for heritage matters

Refer to Part 8, clause 63(3) of the Deemed provisions.

9.4 Advertising of applications

Refer to Part 8, clauses 64 and 64A of the Deemed provisions.

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PART 10 — PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with other authorities

Refer to Part 9, clause 66 of the Deemed provisions.

10.2 Matters to be considered by local government

Refer to Part 9, clause 67 of the Deemed provisions.

10.3 Determination of applications

Refer to Part 9, clause 68 of the Deemed provisions.

10.4 Form and date of determination

Refer to Part 9, clause 70 of the Deemed provisions.

10.5 Term of planning approval

Refer to Part 9, clause 71 of the Deemed provisions.

10.6 Temporary planning approval

Refer to Part 9, clause 72 of the Deemed provisions.

10.7 Scope of planning approval

Refer to Part 9, clause 73 of the Deemed provisions.

10.8 Approval subject to later approval of details

Refer to Part 9, clause 74 of the Deemed provisions.

10.9 Deemed refusal

Refer to Part 9, clause 75 of the Deemed provisions.

10.10 Reviews of determinations

Refer to Part 9, clause 76 of the Deemed provisions.

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PART 11 — ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the local government

Refer to Part 10, clause 78 of the Deemed provisions.

11.2 Removal and repair of existing advertisements

Refer to Part 10, clause 80 of the Deemed provisions.

11.3 Delegation of functions

Refer to Part 10, clauses 81, 82, 83 and 84 of the Deemed provisions.

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 —

a) otherwise than in accordance with the Scheme;

b) unless all approvals required by the Scheme have been granted and issued;

c) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and

d) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Note: Section 214 of the Town Planning Act provides that a person who acts contrary to the provisions as set out in clause 11.4 above is guilty of an offence and liable for any penalty imposed as set out in the Act.

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 section 173 of the Town Planning 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

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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 under section 173 of the Town Planning 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 Town Planning Act, the local government elects to purchase or take the land compulsorily the local government 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 local government 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: Sections 190 and 191 of the Town Planning Act *empowers the local government to purchase or compulsorily acquire land comprised in a scheme.*

11.7 Notice for removal of certain buildings

11.7.1 Under section 214 (6) of the Town Planning Act, up to 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 local government may recover expenses under section 215 (2) of the Town Planning Act in a court of competent jurisdiction.

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SCHEDULES

Schedule 1	Dictionary of defined words and expressions: 1. General definitions 2. Land use definitions
Schedule 2	Additional uses
Schedule 3	Restricted uses
Schedule 4	Special use zones
Schedule 5	Exempted advertisements
Schedule 6	Form of application for planning approval
Schedule 7	Additional information for advertisements
Schedule 8	Notice of public advertisement of planning proposal
Schedule 9	Notice of determination on application for planning approval
Schedule 10	Environmental conditions
Schedule 11	Wall Height
Schedule 12	Special Provisions
Schedule 13	Variations to site and development standards and requirements
Schedule 14	Development Zone Provisions
Schedule 15	Building Design Controls for Special Control Area 2

Note: At the Gazettal date Schedules 3 and 4 do not apply to the Scheme.

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Schedule 1 — Dictionary of defined words and expressions

[clause 1.7]

1. General definitions

In the Scheme —

"advertisement" refer to definition in Part 1, clause 1 of the Deemed provisions;

"amenity" refer to definition in Part 1, clause 1 of the Deemed provisions;

"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;

"building height" refer to definition in Part 1, clause 1 of the Deemed provisions;

"Commission" means the Western Australian Planning Commission established by section 7 of the Town Planning Act;

"conservation" has the same meaning as in the *Heritage of Western Australia Act 1990*;

"cultural heritage significance" refer to definition in Part 1, clause 1 of Deemed the provisions;

"development" has the same meaning given to the term in the Town Planning Act.

"floor area" has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;

"frontage" refer to definition in Part 1, clause 1 of Deemed the provisions;

"Gazettal date", in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 87(3) of the Town Planning Act;

"gross floor area (gfa)" means in relation to a building, the area of each floor, measured over the enclosing walls and includes the portion of any party walls forming part of the building.

"incidental use" refer to definition in Part 1, clause 1 of Deemed the provisions;

"land" has the same meaning given to the term in the Town Planning Act.

"local government" refer to definition in Part 1, clause 1 of Deemed the provisions;

"Local Planning Strategy" refer to definition in Part 1, clause 1 of Deemed the provisions;

"lot" has the same meaning as in the Town Planning Act but does not include a strata or survey strata lot;

"minerals" has the same meaning as in the *Mining Act 1978*;

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"net lettable area (nla)" refer to definition in Part 1, clause 1 of Deemed the provisions;

"non-conforming use" refer to definition in Part 1, clause 1 of Deemed the provisions;

"owner" refer to definition in Part 1, clause 1 of Deemed the provisions;

"place", in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;

"plot ratio", in the case of residential dwellings has the same meaning as in the Residential Design Codes;

"plot ratio", in the case of non-residential development, means the ratio of the gross total of the areas of all floors to the area of land within the site boundaries, and in calculating the gross total of the areas of all floors the areas shall be measured over any walls, provided that lobbies, corridors, hallways, lift shafts, stairways, toilets, bath, shower or change rooms, laundries, plant or meter rooms, cellars, storerooms without windows, external wall thicknesses, and the gross floor area of any floor space used for the parking of wheeled vehicles, including access to and from that space within the building, shall not be included;

"precinct" means a definable area where particular planning policies, guidelines or standards apply;

"predominant use" means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;

"premises" refer to definition in Part 1, clause 1 of Deemed the provisions;

"Region Scheme - Metropolitan" means the Metropolitan Region Scheme within the meaning of the Town Planning Act;

"Residential Design Codes" refer to definition in Part 1, clause 1 of Deemed the provisions;

"retail" means the sale or hire of goods or services to the public;

"**storey**" means that part of a building between the top of any floor and the top of the floor next above, or if there is no floor above, between the top of the floor and the ceiling above it; but does not include any undercroft space designed or used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartment, cellar, corridor, hallway, lobby, the parking of vehicles, storeroom without windows or workshop appurtenant to a car parking area, where that floor-to-floor or floor to-ceiling-space as defined herein is not higher than 1 metre above the footpath level measured at the centre of the land along the boundary to which the space has frontage, or where that floor-to-floor or floor to-ceiling-space as defined herein is below the level of the natural ground level measured at the centre of the site as determined by the local government.

"substantially commenced" refer to definition in Part 1, clause 1 of Deemed the provisions;

"Town Planning Act" means the *Planning and Development Act 2005*;

"wall height" refer to definition in Part 1, clause 1 of Deemed the provisions;

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“wholesale” means the sale of goods or materials to be sold by others;

“zone” refer to definition in Part 1, clause 1 of Deemed the provisions.

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2. Land use definitions

In the Scheme —

"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;

"betting agency" means an office or totalisator agency established under the *Totalisator Agency Board Betting Act 1960*;

"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;

"carpark" 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;

"child care premises" has the same meaning as in the *Child Care Services (Child Care) Regulations 2006*;

"cinema/theatre" means premises where the public may view a motion picture or theatrical production;

"civic use" means premises used by a government department, an instrumentality of the Crown, or the local government, 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 purpose" means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations 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" means premises —

(a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
(b) operated during hours which include, but may extend beyond, normal trading hours;
(c) which provide associated parking; and
(d) the floor area of which does not exceed 300 square metres net lettable area;

"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;

"dry cleaning premises" means land and buildings used for the cleaning of garments and other fabrics by chemical processes.

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"**dwelling"** has the same meaning given to the term in the Residential Design Codes.

"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 *Child Care Services (Family Day Care) Regulations 2006*;

"fast food outlet" means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;

"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 land and buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden buildings.

"grouped dwelling" has the same meaning given to the term in the Residential Design Codes.

"home business" means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

(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" means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

(a) does not employ any person not a member of the occupier's household;

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(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;

"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;

"hotel" means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988,* including any betting agency on those premises;

"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;

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"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, 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 – noxious" means an industry in which the processes involved constitute an offensive trade within the meaning of the *Health Act* (as amended), but does not include a fish shop, dry cleaning premises, marine collectors yard, laundromat, piggery or poultry farm.

"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;

"marina" means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina;

"marine filling station" means premises used for the storage and supply of liquid fuels and lubricants for marine craft;

"market" means premises used for the display and sale of goods from stalls by independent vendors;

"medical centre" means premises, other than a hospital, used by one or more 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 counselling);

"motor vehicle, boat or caravan sales" means premises used to sell or hire motor vehicles, boats or caravans;

"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;

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"multiple dwelling" has the same meaning given to the term in the Residential Design Codes.

"night club" means premises —

(a) used for entertainment with or without eating facilities; and
(b) licensed under the *Liquor Licensing Act 1988*;

"office" means premises used for administration, clerical, technical, professional or other like business activities;

"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;

"residential building" has the same meaning as in the Residential Design Codes;

"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*;

"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 —

(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;

"service station" means premises used for —

(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, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

"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;

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"single house" has the same meaning given to the term in the Residential Design Codes.

"small bar" means premises licensed as a small bar under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises, but not including the sale of packaged liquor; and with the number of persons who may be on the premises limited to a maximum of 120.

"storage" means premises used for the storage of goods, equipment, plant or materials;

"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;

"tourist and visitor accommodation" means –

(a) means a building, or a group of buildings forming a complex, that —

(i) is wholly managed by a single person or body; and
(ii) is used to provide accommodation for guests, on a commercial basis, with no individual guest accommodated for a period or periods exceeding a total of 3 months in any 12-month period; and
(iii) may include on-site services and facilities for use by guests; and
(iv) in the case of a single building — contains more than one separate accommodation unit or is capable of accommodating more than 12 people per night; and

(b) includes a building, or complex of buildings, meeting the criteria in paragraph (a) that is used for self-contained serviced apartments that are regularly serviced or cleaned during the period of a guest's stay by the owner or manager; but

(c) does not include any of the following —

(i) an aged care facility as defined in the *Land Tax Assessment Act 2002* section 38A(1);
(ii) a caravan park;
(iii) hosted short-term rental accommodation;
(iv) a lodging-house as defined in the *Health (Miscellaneous Provisions) Act 1911* section 3(1);
(v) a park home park;
(vi) a retirement village as defined in the *Retirement Villages Act 1992* section 3(1);
(vii) a road house;
(viii) workforce accommodation;

"trade display" means premises used for the display of trade goods and equipment for the purpose of advertisement;

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“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;

“veterinary hospital” means a building used in connection with the treatment of animals and includes the accommodation of sick animals.

“warehouse” means premises used to store or display goods and may include sale by wholesale.

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Schedule 2 — Additional uses

[clause 4.5]

No.	Description of land	Additional use	Conditions
A1	**37 John Street**	**Café**	**1. Hours of operation** Monday to Sunday 7:00am to 7:00pm. **2. Size of premises** Floor area for commercial use shall not exceed 275m^2 without the prior approval of the local government. **3. Number of patrons** No more than 50 patrons shall be provided for within the building, and 30 patrons within the outdoor eating area, without the prior approval of the local government. **4. Amenity** The use of the premises shall be carried out without undue adverse impacts on the amenity of the locality and shall include appropriate preventative measures accordingly.
A2	**303 & 305 Marmion Street**	**Shop**	**1. Hours of operation** **Shop:** Monday to Sunday 6:00am to 10:00pm. **Outdoor Eating Area:** Monday to Saturday 7:00am to 7:00pm. **2. Size of premises** Floor area for commercial use shall not exceed 120m^2 without the prior approval of the local government. **3. Permitted number of tables and chairs** No more than 9 tables and 12 chairs shall be provided or permitted in the eating area without the prior approval of the local government. **4. Amenity** The use of the premises shall be carried out without undue adverse impacts on the amenity of the locality and shall include appropriate preventative measures accordingly.

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No.	Description of land	Additional use	Conditions
A3	**16 North Street**	**Shop**	**1. Hours of operation** Monday to Sunday 8:00am to 9:00pm. **2. Size of premises** Floor area for commercial use shall not exceed 70 m^2 without the prior approval of the local government. **3. Amenity** The use of the premises shall be carried out without undue adverse impacts on the amenity of the locality and shall include appropriate preventative measures accordingly.
A4	**84 Forrest Street**	**Shop**	**1. Hours of operation** Monday to Sunday 8:00am to 6:00pm. **2. Size of premises** Floor area for commercial use shall not exceed 40m^2 without the prior approval of the local government. **3. Amenity** The use of the premises shall be carried out without undue adverse impacts on the amenity of the locality and shall include appropriate preventative measures accordingly.
A5	**259 Curtin Avenue**	**Office**	**1. Hours of operation** Monday to Friday 9:00am to 5:00pm. **2. Size of premises** Floor area for commercial use shall not exceed 187m^2 without the prior approval of the local government. **3. Permitted Number of employees:** The number of persons involved in the operation of the business on these premises to be restricted to 4 persons. **4. Amenity** The use of the premises shall be carried out without adverse impacts on the amenity of the

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No.	Description of land	Additional use	Conditions
			locality and shall include appropriate preventative measures accordingly.
A6	**24 Railway Street**	**Shop and Office**	**1. Size of premises** Floor area for commercial use shall not exceed 265m^2 without the prior approval of the local government. **2. Loading facility** a) Deliveries to the Liquor store are to be carried out in the loading bay located off Burt St. b) The loading bay and service area shall be kept free of any plant equipment, storage of goods or rubbish. **3. Amenity** The use of the premises shall be carried out without adverse impacts on the amenity of the locality and shall include appropriate preventative measures accordingly**.**
A7	**441 Stirling Highway**	**Office**	**1. Size of premises** Floor area for office use shall not exceed 1050m^2 without the prior approval of the local government. **2. Amenity** The use of the premises shall be carried out without adverse impacts on the amenity of the locality and shall include appropriate preventative measures accordingly.
A8	**138 Marine Parade, 2 and 2A Eileen Street (Lots 101-103 Eileen Street, respectively).** *AMD 2 GG 29/5/15*	**Single House**	Each lot may be developed with one single dwelling, in accordance with the relevant Scheme provisions.

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No.	Description of land	Additional use	Conditions
A9	**Lots 24 and 25 Railway Street.**	**Additional Uses of office and communal recreation are permitted**	(Nil)
A10	**Lot 50 (No. 36) Eric Street, Cottesloe.** *AMD 10 GG 29/11/19*	**Medical Centre**	(a) Use and/or development of the site for additional uses shall be subject to planning approval. (b) The sum total of 'Medical Centre' use shall be restricted to 300m^2 Gross Floor Area (GFA).
A11	**Lot 400 (No. 24) Jarrad Street, Cottesloe** *AMD 11 GG 19/1/2021*	**Unhosted short-term rental accommodation.** **Community Purpose.**	1. The additional uses are permitted if they comply with any relevant development standards and requirements of this Scheme. 2. The use of the premises shall be carried out in accordance with an approved Management Plan that addresses among other concerns: maximum occupancy, car parking, minimising any impact on the amenity of the locality, and shall include appropriate preventative measures accordingly.

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Schedule 3 — Restricted uses

[clause 4.6]

No.	Description of land	Special use	Conditions
	At the Gazettal date there are no Restricted Use Zones in the Scheme area.		

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Schedule 4 — Special use zones

[clause 4.7]

No.	Description of land	Special use	Conditions
	At the Gazettal date there are no Special Use Zones in the Scheme area.		

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Schedule 5 — Exempted advertisements

[clause 8.2(d)]

Land use or development	Exempted sign	Maximum size
Single House	One professional name-plate as appropriate.	0.2m^2
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m^2
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m^2
Cinemas or Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m^2.
Shops, Showrooms and other uses appropriate to a commercial area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building.	In accordance with the Local Law or Local Planning Policy on Advertisements.
Industrial or Warehouse Premises	A maximum of four advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5 metres in height above ground level.	Total area of any such advertisements, shall not exceed 15m^2. Maximum permissible total area shall not exceed 10m^2 and individual advertisement signs shall not exceed 6m^2.
Recreation – private	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A

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Land use or development	Exempted sign	Maximum size
Public Places and Reserves	a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or the local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	N/A
	b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the local government, and	N/A
	c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway, road or other government land reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed $2m^2$ in area.
Advertisements Within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single dwelling (includes other types of dwellings or residential buildings)	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	$0.2m^2$

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Schedule 6 — Form of application for planning approval

[clause 9.1.1]

Refer to Part 11, clause 86(1) of the Deemed provisions.

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Schedule 7 — Additional information for advertisements

[clause 9.1.2]

Refer to Part 11, clause 86(2) of the Deemed provisions.

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Schedule 8 — Notice of public advertisement of planning proposal

[clause 9.4.4]

Refer to Part 11, clause 86(3) of the Deemed provisions.

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Schedule 9 — Notice of determination on application for planning approval

[clause 10.4.1]

Refer to Part 11, clause 86(4) of the Deemed provisions.

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Schedule 10 — Environmental conditions

[clause 5.6.1]

Scheme or Amendment No.	Gazettal Date	Environmental conditions
	Note: at the Gazettal date there are no Environmental conditions that apply to the Scheme.	

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Schedule 11 — Wall Height

[clause 5.7.1]

Refer to Part 1, clause 1 (definition of wall height) of the Deemed provisions.

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Schedule 12 — Special Provisions

[clause 4.15.]

No.	Description of land	Land use	Special Provisions
1	No. 14 (Lots 50 & 51) Edward Street.	Residential or other purposes as permitted in the Residential zone.	Retention and restoration of the main church building and that building being used for purposes consistent with the Residential zone.
2	Lots 10 and 120 Clive Road.	Residential or other purposes as permitted in the Residential zone.	1. The maximum number of dwellings permitted shall be 14 (representing a built density of R42). 2. The dwellings shall comply with the height controls of the Scheme. 3. The development shall be in accordance with the concept plans numbered A01 to A05 (all Revision E), subject to any modification in a development approval by the local government.
3	Lots 24 and 25 Railway Street.	Residential; office; communal recreation and other purposes as permissible in the Residential zone, excluding the use Tourist and Visitor accommodation.	1. Development on the land shall be generally in accordance with a Local Development Plan. 2. The building height limit shall be three storeys, plus undercroft parking.

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Schedule 13 — Variations to site and development standards and requirements

[clause 5.5.4.]

Pursuant to clause 5.5.4 a) of the Scheme the discretion provided in clause 5.5.1 to vary any non-residential development standard or requirement prescribed under the Scheme is subject to the exclusions, limitations, maximums or other provisions set out in this Schedule.

1. **Residential development**

As set out in clause 5.5.1, the discretion provided in clause 5.5.1 does not apply to any residential development. To avoid any uncertainty, if the discretion provided in clause 5.5.1 is applied to any form of residential development, then subject to clause 5.3, the discretion may only be exercised to the extent permitted by, and in accordance with, the provisions of the Residential Design Codes dealing with the type of development standard or requirement sought to be varied.

2. **Matters provided for as part of the Land Use definitions (Part 2 of Schedule 1)**

Matters provided for as part of the Land Use definitions contained in Part 2 of Schedule 1 are not development standards or requirements for the purpose of the discretion provided in clause 5.5.1. To avoid any uncertainty, if matters provided for as part of the Land Use definitions contained in Part 2 of Schedule 1 are treated as development standards or requirements, those matters are excluded from the operation of the discretion provided for in clause 5.5.1.

3. **Height (clause 5.7, Table 2)**

3.1 To avoid any uncertainty, the provisions of clause 5.7 are excluded from the operation of the discretion provided in clause 5.5.1.

3.2 To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.75 or 6.3.6 and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1. *AMD 1 GG 24/3/15*

3.3 To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1.

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4. **Plot ratio (Table 2)**

4.1 Subject only to the following, a provision of Table 2 referring to plot ratio may be varied to allow an increase in plot ratio of up to 20% of the ratio set out in Table 2.

4.2 The plot ratio provisions set out in Table 2 for development in the Local Centre Zone are excluded from the operation of the discretion in clause 5.5.1.

4.3 Where the provisions of Table 2 require plot ratio to be in accordance with the Residential Design Codes, subject to clause 5.3 of the Scheme, the discretion provided in clause 5.5.1 may only be exercised to the extent permitted by, and in accordance with, the provisions of the Residential Design Codes dealing with the plot ratio.

5. **Site coverage (Table 2)**

5.1 Subject to the following, the provisions of Table 2 referring to site cover are excluded from the operation of the discretion in clause 5.5.1.

5.2 The site cover provisions in Table 2 for non-residential development in the Residential Zone may be varied to allow a site cover of up to 60%.

5.3 Where the provisions of Table 2 require site cover to be in accordance with the Residential Design Codes, subject to clause 5.3 of the Scheme, the discretion provided in clause 5.5.1 may only be exercised to the extent permitted by, and in accordance with, the provisions of the Residential Design Codes dealing with site cover.

6. **Boundary setbacks (Table 2)**

Where the provisions of Table 2 require boundary setbacks to be in accordance with the Residential Design Codes, subject to clause 5.3 of the Scheme, the discretion provided in clause 5.5.1 may only be exercised to the extent permitted by, and in accordance with, the provisions of the Residential Design Codes dealing with boundary setbacks.

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7.	**Parking (clause 5.8, Table 3 Vehicle Parking Requirements)** 7.1 Refer to Part 9A, clause 77D of the Deemed provisions. 7.2 Where Table 3 requires parking spaces to be provided in accordance with the Residential Design Codes, subject to clause 5.3 of the Scheme, the discretion provided in clause 5.5.1 may only be exercised to the extent permitted by, and in accordance with, the provisions of the Residential Design Codes dealing with parking. 7.3 The provisions of Table 3 that require the number of parking spaces to be determined by the local government are excluded from the operation of the discretion provided in clause 5.5.1.
8.	**Filling of Land And Height of Retaining Walls (Clause 5.10)** The provisions of clause 5.10 are excluded from the operation of the discretion provided for in clause 5.5.1.
9.	**Local Centre zone – Mixed-use development (clause 5.11)** The provisions of clause 5.11 are excluded from the operation of the discretion provided for in clause 5.5.1.

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Schedule 14 — Development Zone Provisions

[clause 6.2.]

Pursuant to clauses 6.2.3.2 and 6.2.3.4 of the Scheme the development provisions for the Development Zones are contained in this Schedule 14.

Development Zone	Provisions
'A' – Lots bound by Marine Parade, Eric, Gadsdon and Eileen Streets – Ocean Beach Hotel site (with the exception of Lots 101, 102 & 103 Eileen Street).	• This Development zone is also subject to Special Control Area 2 and associated provisions – refer clause 6.4 and Schedule 15. • Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with clause 6.2, to provide the basis for subdivision, strata subdivision and development. • Land uses shown on the adopted Structure Plan shall apply in accordance with clause 6.2.8 and clause 6.4, and where there is any inconsistency clause 6.4 and Schedule 15 shall prevail. • The Structure Plan will provide for the ground floor being limited to non-residential uses as provided for in clause 6.4 and Schedule 15, recognising the Council's aim of maintaining the socially 'active' nature of the area, with the exception of those areas where it is permitted on Diagram 8 of Schedule 15.
'B' - Lot 34, rear 253 Marmion Street (Council former depot site).	• Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause 6.2, to guide subdivision and development. • Land uses shown on the Structure Plan shall apply in accordance with Clause 6.2.8. • The Structure Plan will provide for residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this unique site. • The Structure Plan will include consideration of — (a) the potential for aged persons housing and local open space; and (b) all modes of access, circulation and parking having regard to the functioning, character and amenity of the site and surrounding locality.

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'C' – Lot 87 (No. 40) Marine Parade (Wearne Hostel site).	• Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause 6.2, to guide subdivision and development. • Land uses shown on the Structure Plan shall apply in accordance with Clause 6.2.8. • The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes. The structure plan may also provide • for additional aged care dwellings and any associated ancillary buildings that may be required. • The Structure Plan will have regard for, and if possible integrate with, the Structure Plan for Area 'D'.
'D' - Reserve 23147, No 53 Curtin Avenue, corner of Warton and Gibney Streets (WA Institute for Deaf Education).	• Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with clause 6.2, to guide subdivision and development. • Land uses shown on the Structure Plan shall apply in accordance with clause 6.2.8. • The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes. • The Structure Plan will have regard for, and if possible, integrate with, the Structure Plan for Area 'C'.

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'E' - Crown Reserves 3399, 3438, 25367, 33606, 33607, 30397, bounded by Curtin Avenue and railway line.	• Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause 6.2, to guide subdivision and development. • Land uses shown on the Structure Plan shall apply in accordance with Clause 6.2.8. • The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes and the potential for integration with the nearby Town Centre zone on the eastern side of the railway line.

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Schedule 15 – Building Design Controls for Special Control Area 2

[clause 6.4]

1. Pursuant to clause 6.4 of the Scheme, Building Design Control Diagrams for Special Control Area 2 – Cottesloe Beach Hotel, Ocean Beach Hotel and Foreshore Centre zone are contained in this Schedule.

2. As required by clause 6.4, development (including changes of use), subdivision and strata subdivision applications for land within Special Control Area 2 shall comply with the following Building Design Control Diagrams (as applicable to a particular proposal).

3. In these Diagrams, the following shall apply:

   a) The Diagrams define the maximum outer extent that development shall extend to on a site. Building Height (unless otherwise dimensioned on a Diagram) shall be determined as follows -

      2 storeys – maximum building height shall be 9 metres
      3 storeys – maximum building height shall be 12 metres
      4 storeys – maximum building height shall be 17 metres – (except for Lots 101-103 Eileen Street, for which the four storey maximum building height shall be 12m.)
      5 storeys – maximum building height shall be 21 metres

      Where additional storeys are permitted above 5 storeys, those storeys can be of any individual height, subject to the building remaining within the maximum height limit as indicated in storeys and metres. Uninhabited roof spaces or roof articulation above the uppermost level of the uppermost storey must be incorporated within the maximum building height.

   b) Lot 92 Marine Parade, Cottesloe (Seapines Site): *AMD 9 GG 11/12/19*

      Notwithstanding Diagram 4 and Diagram 7, the permitted number of storeys may be increased from 5 to 6 providing –

      i) The development achieves design excellence, as determined by the Town on the advice of the Town's Design Advisory Panel, having due regard to the relevant State Planning Policy.
      ii) The maximum building height shall not exceed 21 metres, and
      iii) The development provides active uses including convenience store, restaurant, shop and/or small bar for a minimum of 50 percent of the gross floor area of the ground floor. This shall include both the primary and secondary street frontage to a minimum depth of 9 metres and a minimum finished floor-to-floor height of 4 metres'; and

   c) "Building Height" and "Storey" are as defined in clause 5.7.1. The remainder of clause 5.7 shall not apply to development that is subject to Special Control Area 2.

   d) All requirements specified on the Diagrams shall be complied with in any development, use, subdivision or strata subdivision of any land that is subject to Special Control Area 2.

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Schedule 15 - Building Control Diagrams for Special Control Area 2 [Clause 6.4]

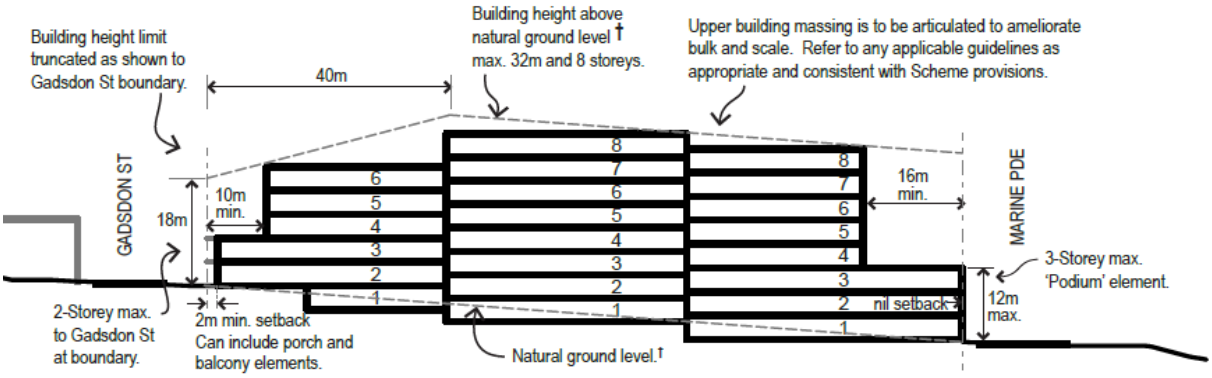

Diagram 1. East-West section through Ocean Beach Hotel site (Development Zone A)

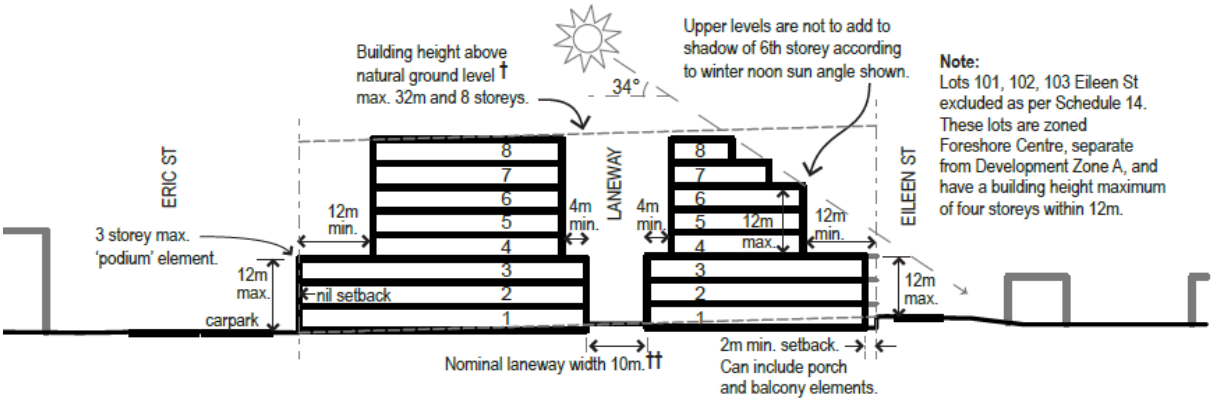

Diagram 2. North-South section through Ocean Beach Hotel site (Development Zone A)

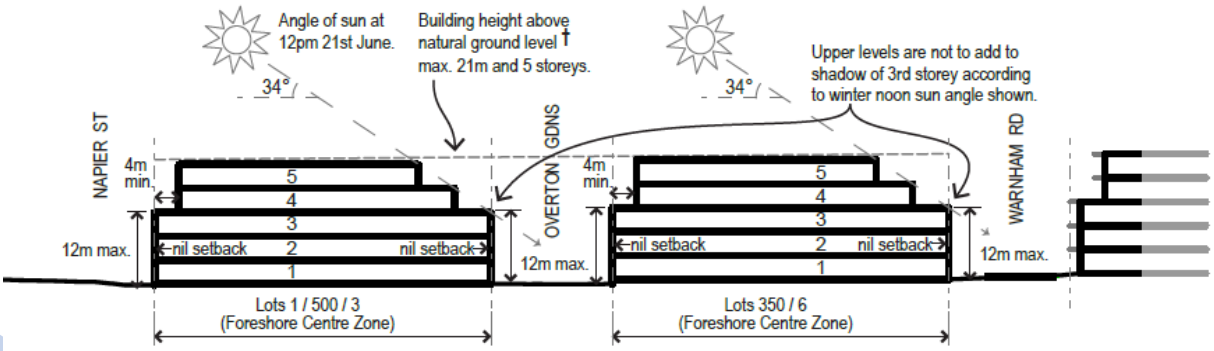

Diagram 3. North-South section through Foreshore Centre Zone

Note: Diagrams 1-2 show indicative terracing of building volumes and ground levels for site gradient. Development proposals can be modified as appropriate within the parameters annotated on the diagram and/or others that may apply to the site/development consistent with the Scheme.

† For the purposes of Schedule 15, Natural Ground Level (NGL) is the surface interpolated between the existing ground levels at site boundaries.

†† The location, width, tenure and access of the laneway is to be addressed in the Structure Plan (Clause 6.2).

Schedule 15 - Building Control Diagrams for Special Control Area 2 [Clause 6.4]

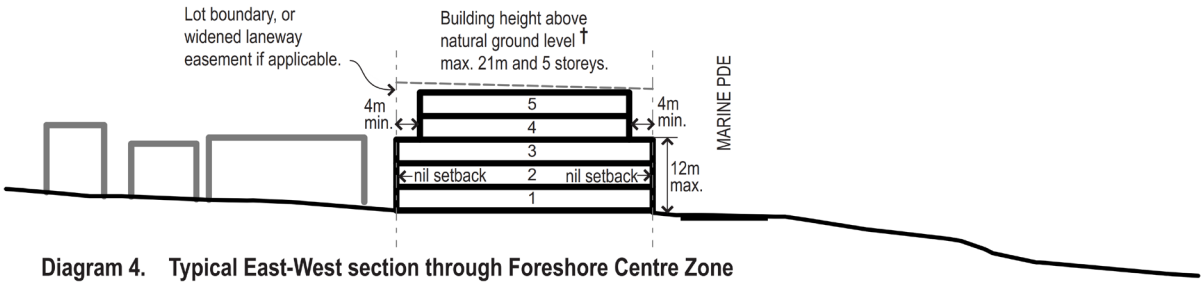

Diagram 4. Typical East-West section through Foreshore Centre Zone

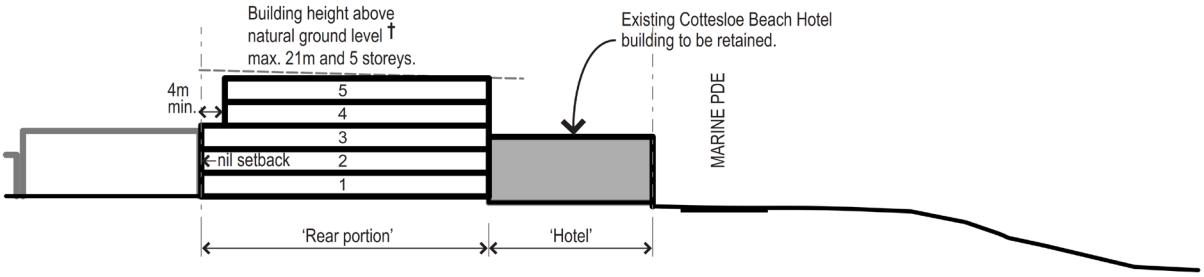

Diagram 5. East-West section through Cottesloe Beach Hotel site

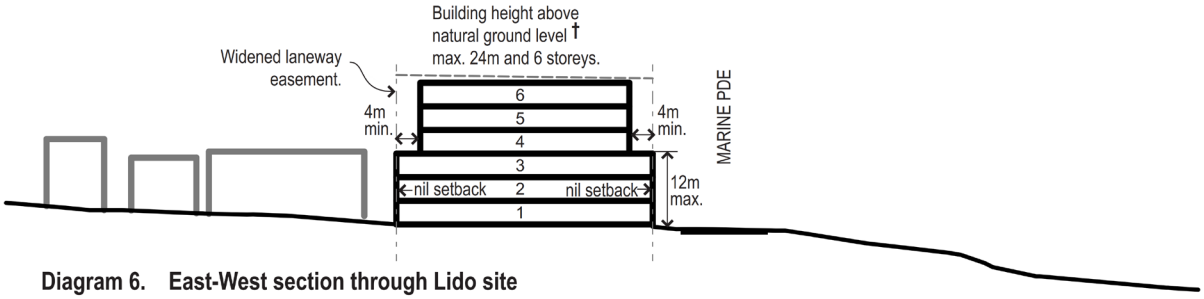

Diagram 6. East-West section through Lido site

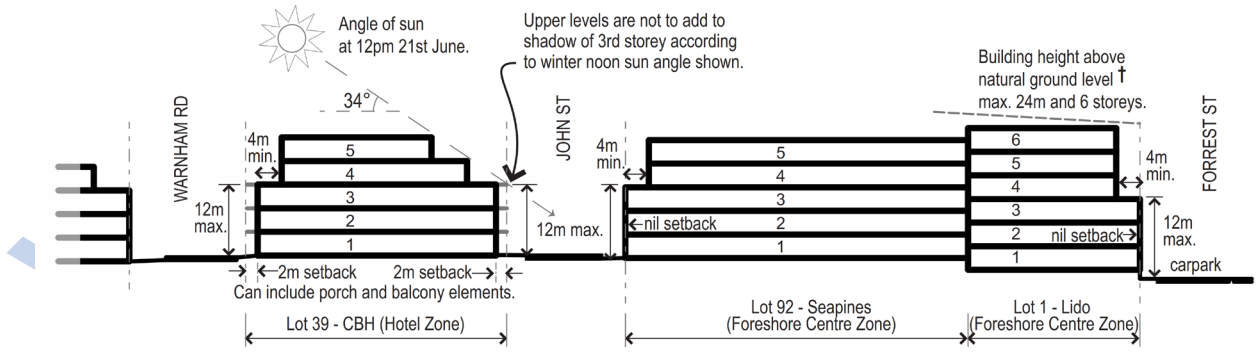

Diagram 7. North-South section through Cottesloe Beach Hotel / Seapines / Lido sites

Schedule 15 - Building Control Diagrams for Special Control Area 2 [Clause 6.4]

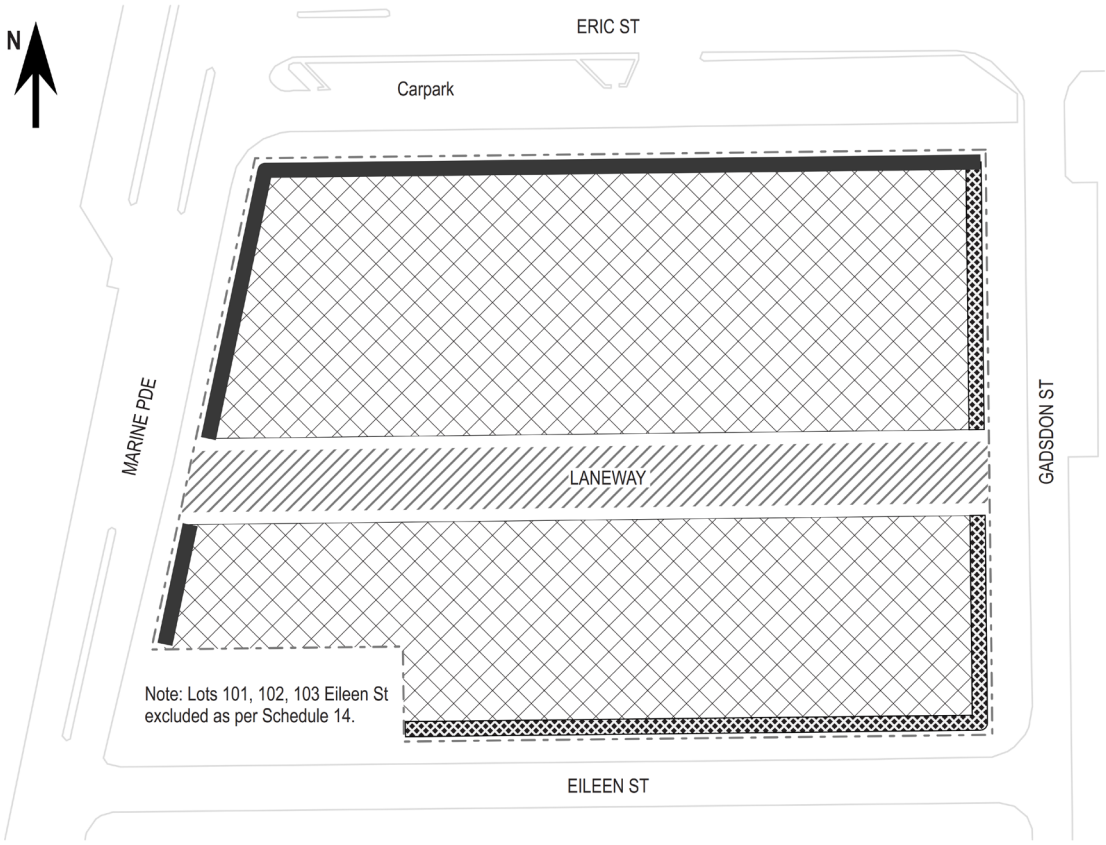

Diagram 8. Building Design Controls Plan of Ocean Beach Hotel site (Development Zone A)

Development area.

Active public frontage at street.

Residential frontage.

Laneway - location, width, tenure and access to be addressed in the Structure Plan (Clause 6.2).

Schedule 15 - Building Control Diagrams for Special Control Area 2 [Clause 6.4]

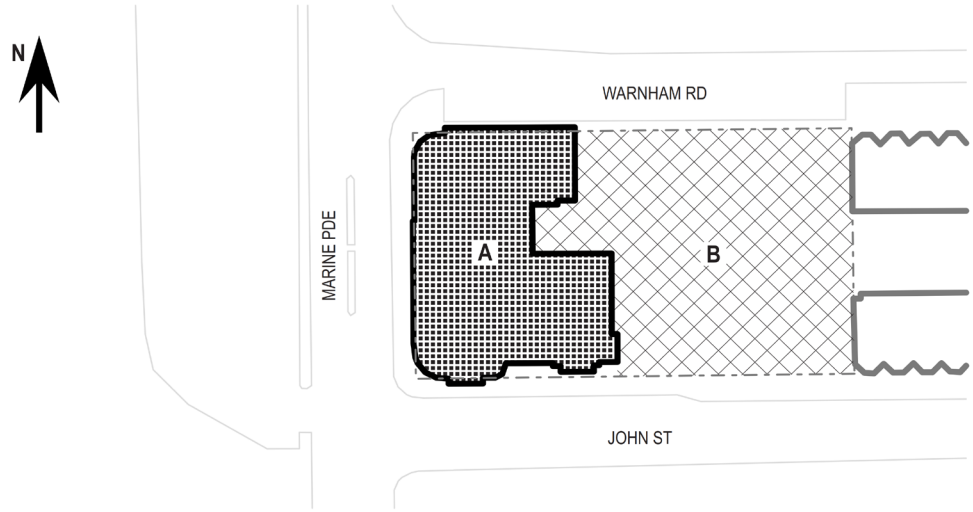

Diagram 9. Building Design Controls Plan of Cottesloe Beach Hotel (CBH) site

A — 'Hotel' - short-stay accommodation and hotel uses only. Heritage elements of CBH to be retained to Heritage Council of WA satisfaction.

B — 'Rear Portion' - short-stay accommodation, serviced apartments and multiple dwellings permissable.

Note: A minimum total of 50 hotel / short-stay rooms to be provided in areas A and B.

Work

ADOPTION

Adopted by Resolution of the Council of the Town of Cottesloe at the Special Meeting of the Council held on the 21st day of February 2006.

....
MAYOR DATE

....
CHIEF EXECUTIVE OFFICER DATE

FINAL APPROVAL

Adopted for final approval by Resolution of the Council of the Town of Cottesloe at the Special Meeting of the Council held on the 27th day of May 2009, and the seal of the Municipality was pursuant to that Resolution hereunto affixed in the presence of:

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for final approval by the Western Australian Planning Commission.

....
DELEGATED UNDER s.16 DATE
OF THE PD ACT 2005

Final approval granted.

....
MINISTER FOR PLANNING DATE

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