

CITY OF STIRLING

LOCAL PLANNING SCHEME NO. 4

Updated to Include AMD

[INSERT/DELETE AS NEEDED]

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LOCAL PLANNING SCHEME GAZETTAL DATE: [INSERT DATE]

CITY OF STIRLING LOCAL PLANNING SCHEME NO. 4 - AMENDMENTS

AMD NO.	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	

SCHEME DETAILS

CITY OF STIRLING

LOCAL PLANNING SCHEME NO. 4

The City of Stirling under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

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Part 1 — Preliminary

1. Citation

This local planning scheme is the City of Stirling Scheme No 4.

2. Commencement

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

3. Scheme revoked

The following local planning scheme(s) is (are) revoked —

City of Stirling Local Planning Scheme No. 3 6 August 2010

4. Notes do not form part of Scheme

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

5. Responsibility for Scheme

The City of Stirling is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

6. Scheme area

This Scheme applies to the area shown on the Scheme Map.

Note: The Scheme area is also subject to the Metropolitan Region planning scheme (see clause 12).

7. Contents of Scheme

(1) In addition to the provisions set out in this document (the ***scheme text***), this Scheme includes the following —

- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2) including any supplemental deemed provisions outlined in Schedule A of the scheme text;
- (b) the Scheme Map;
- (c) maps, diagrams, illustrations or materials contained in Schedules to the Scheme.

(2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

8. Purposes of Scheme

The purposes of this Scheme are to —

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are —

- (a) To prioritise growth and investment in activity centres and along urban corridors as identified in the Local Planning Strategy.
- (b) To ensure development protects and enhances the amenity, sense of place and desired character of neighbourhoods and streets.
- (c) To encourage a diversity of housing, including affordable and accessible housing, to cater for diverse and changing housing needs.
- (d) To maintain and enhance a sustainable and viable hierarchy of activity centres and employment areas.
- (e) To maintain and enhance tourism opportunities at coastal nodes and key activity centres and corridors.
- (f) To avoid dependence on private vehicles by ensuring places and spaces are designed to support active transport usage in a connected, landscaped environment.
- (g) To ensure development contributes to a high-quality public realm, appropriate infrastructure, and good accessibility.
- (h) To maintain and enhance access to open space areas to meet the needs of current and future populations.
- (i) To encourage a network of community facilities that are co-located with other activity generators and/or contribute to the desired activation of a place.
- (j) To protect natural habitats and enhance urban tree canopy coverage.
- (k) To enhance and conserve the cultural heritage significance and character within designated heritage areas.

10. Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

11. Relationship with other local planning schemes

There are no other local planning schemes of the City of Stirling which apply to the Scheme area.

12. Relationship with region planning scheme

The Metropolitan Region Scheme made (or continued) under Part 4 of the Act applies in respect of part or all of the Scheme area.

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

Part 2 — Reserves

13. Regional Reserves

- (1) Regional reserves are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The lands marked as regional reserves are lands reserved for a public purpose under the Metropolitan Region Scheme.

Note: The process of reserving land under a regional planning scheme is separate from the process of reserving land under the *Land Administration Act 1997* section 41.

14. Local reserves

- (1) In this clause —

Department of Main Roads means the department principally assisting in the administration of the *Main Roads Act 1930*;

Western Australian Road Hierarchy means the document of that name available on the website maintained by the Department of Main Roads.
- (2) Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.
- (3) The objectives of each local reserve are as follows —

Table 1: Reserve objectives

Reserve name	Objectives
Public Open Space	<ul style="list-style-type: none"> • To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152. • To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.
Environmental conservation	<ul style="list-style-type: none"> • To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. • To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.
Civic and Community	<ul style="list-style-type: none"> • To provide for a range of community facilities which are compatible with surrounding development. • To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.
Infrastructure Services	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of essential infrastructure services.
Education	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of essential education facilities.
Emergency Services	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of essential emergency services.
Government Services	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of government services.
Car Park	<ul style="list-style-type: none"> • To set aside land required for a car park.
Drainage	<ul style="list-style-type: none"> • To set aside land required for significant waterways and drainage.

Reserve name	Objectives
District Distributor Road	<ul style="list-style-type: none"> To set aside land required for a district distributor road being a road classified as a Distributor A or Distributor B under the Western Australian Road Hierarchy.
Local Distributor Road	<ul style="list-style-type: none"> To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.
Local Road	<ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.

15. Additional uses for local reserves

- (1) The Table sets out —
- classes of use for specified land located in local reserves that are additional to classes of use determined in accordance with the objectives of the reserve; and
 - the conditions that apply to that additional use.

Table 2: Specified additional uses for land in local reserves in Scheme area

No.	Description of land	Additional use	Conditions
AR1	Lot 601 (HN. 467A) North Beach Road, Gwelup	Camping ground as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5(1)	

- (2) Despite anything contained in clause 14, land that is specified in the Table to subclause may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

Part 3 — Zones and use of land

16. Zones

- (1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) The objectives of each zone are as follows —

Table 3: Zone objectives

Zone name	Objectives
Residential	<ul style="list-style-type: none"> • To provide for a range of housing and a choice of residential densities to meet the needs of the community. • To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. • To provide for a range of non-residential uses, which are compatible with and complementary to residential development.
Urban Development	<ul style="list-style-type: none"> • To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme. • To provide for a range of residential densities to encourage a variety of residential accommodation. • To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development. • To provide an intermediate transitional zone following the lifting of an urban deferred zoning within the Metropolitan Region Scheme.
Light Industry	<ul style="list-style-type: none"> • To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones. • To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.
General Industry	<ul style="list-style-type: none"> • To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses. • To accommodate industry that would not otherwise comply with the performance standards of light industry. • Seek to manage impacts such as noise, dust and odour within the zone.
Mixed Use	<ul style="list-style-type: none"> • To provide for a variety of active uses on street level which are compatible with residential and other non-active uses on upper levels, and do not undermine the hierarchy of designated activity centres. • To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.
Service Commercial	<ul style="list-style-type: none"> • To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites. • To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones.

Zone name	Objectives
Local Centre	<ul style="list-style-type: none"> • To provide a range of small-scale retail and service uses for the immediate neighbourhood, that are easily accessible, but which do not adversely impact on the amenity of adjoining residential areas. • To focus on the main daily household shopping and community needs. • To encourage high quality, pedestrian friendly, street-orientated development. • To ensure non-residential uses are located at street level and are compatible with adjoining residential uses.
Neighbourhood Centre	<ul style="list-style-type: none"> • To provide a community focal point for people, services, employment and leisure that are highly accessible and do not adversely impact on adjoining residential areas. • To provide for daily and weekly household shopping needs, community facilities and a small range of other convenience services. • To encourage diversity of land uses within the Centre to provide a broad range of employment opportunities. • To facilitate a mix of commercial and residential development, which provides for activity and accessibility at the street level and supports the provision of public transport and pedestrian links. • To provide for a range of quality medium and high-density residential development, to meet the diverse needs of the community. • To ensure non-residential uses are located at street level and are compatible with adjoining residential uses.
Centre	<ul style="list-style-type: none"> • To provide a focal point for a broad range of land uses to meet the community's district and/or sub-regional needs, consistent with the centre's level in the activity centre hierarchy. • To facilitate a range of employment to contribute towards the sub-region's employment self-sufficiency. • To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning Policy.
Private Community Purposes	<ul style="list-style-type: none"> • To provide sites for privately owned and operated education, recreation, institutions and places of worship. • To integrate private recreation areas with public recreation areas wherever possible. • To provide for a range of privately owned community facilities and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development. • To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.
Special Use	<ul style="list-style-type: none"> • To facilitate special categories of land uses which do not sit comfortably within any other zone. • To enable the Council to impose specific conditions associated with the special use.

17. Zoning table

The zoning table for this Scheme is as follows —

USE AND DEVELOPMENT CLASS	ZONES									
	Residential	Mixed Use	Local Centre	Neighbourhood Centre	Centre	Private community purposes	Service Commercial	Light Industry	General Industry	Urban Development
Abattoir	X	X	X	X	X	X	X	X	X	
Amusement Parlour	X	P	P	P	P	D	D	D	D	
Art Gallery	X	P	P	P	P	D	P	D	X	
Betting Agency	X	P	X	P	P	X	P	X	X	
Brewery	X	A	X	A	A	X	D	P	P	
Bulky Goods Showroom	X	D	X	D	D	X	P	X	X	
Caravan Park	X	X	X	X	X	X	X	X	X	
Caretaker's Dwelling	X	X	X	X	X	X	D	D	D	
Car Park	X	D	D	D	D	X	D	D	D	
Child Care Premises	A	A	D	D	D	D	D	D	X	
Cinema/Theatre	X	D	D	P	P	X	X	X	X	
Civic Use	A	P	P	P	P	P	P	P	P	
Club Premises	X	A	A	A	A	D	D	D	X	
Commercial Vehicle Parking	A	A	D	D	D	X	P	P	P	
Community Purpose	A	P	P	P	P	P	P	X	X	
Consulting Rooms	A	P	P	P	P	D	D	X	X	
Container Deposit Recycling Centre	X	X	X	X	X	X	P	P	P	
Convenience Store	X	P	P	P	P	X	D	D	X	
Corrective Institution	X	X	X	X	X	X	X	X	X	
Dwelling	P	D	D	D	D	X	X	X	X	
Educational Establishment	A	P	P	P	P	P	D	D	X	
Exhibition Centre	X	D	D	P	P	D	P	X	X	
Family Day Care	P	D	D	D	D	X	X	X	X	
Fast Food Outlet / Lunch Bar	X	D	D	D	D	X	D	X	X	
Fuel Depot	X	X	X	X	X	X	X	X	D	R e

Refer cl. 18(6)

USE AND DEVELOPMENT CLASS	ZONES									
	Residential	Mixed Use	Local Centre	Neighbourhood Centre	Centre	Private community purposes	Service Commercial	Light Industry	General Industry	Urban Development
Funeral Parlour	X	D	D	D	D	X	P	X	X	
Garden Centre	X	D	D	P	P	X	P	P	X	
Holiday Accommodation	A	D	D	D	P	X	X	X	X	
Holiday House	A	D	X	X	X	X	X	X	X	
Home Business	A	P	P	P	P	X	X	X	X	
Home Occupation	P	P	P	P	P	X	X	X	X	
Home Office	P	P	P	P	P	X	X	X	X	
Home Store	A	D	D	D	D	X	X	X	X	
Hospital	X	A	X	X	P	D	X	X	X	
Hotel	X	A	X	A	P	X	X	X	X	
Independent Living Complex	P	P	P	P	P	X	X	X	X	
Industry	X	X	X	X	X	X	X	D	D	
Industry - Extractive	X	X	X	X	X	X	X	X	D	
Industry - Light	X	X	X	X	X	X	D	P	P	
Liquor Store - Large	X	A	X	D	D	X	D	X	X	
Liquor Store - Small	X	A	A	P	P	X	P	X	X	
Market	X	P	P	P	P	D	P	X	X	
Medical Centre	X	D	D	D	D	X	D	X	X	
Mining Operations	X	X	X	X	X	X	X	X	X	
Motel	X	A	X	D	D	X	X	X	X	
Motor Vehicle, Boat or Caravan Sales	X	A	X	A	D	X	D	X	X	
Motor Vehicle Repair	X	A	X	A	D	X	D	P	P	
Motor Vehicle Wash	X	A	A	D	P	X	P	P	P	
Nightclub	X	X	X	X	A	X	X	X	X	
Office	X	P	P	P	P	X	D	X	X	
Park Home Park	X	X	X	X	X	X	X	X	X	
Place of Worship	A	P	A	P	P	P	D	D	X	R 6

USE AND DEVELOPMENT CLASS	ZONES									
	Residential	Mixed Use	Local Centre	Neighbourhood Centre	Centre	Private community purposes	Service Commercial	Light Industry	General Industry	Urban Development
Reception Centre	X	A	A	D	P	D	D	X	X	
Recreation - Private	X	P	P	P	P	D	D	D	D	
Renewable Energy Facility	X	X	X	X	X	X	X	D	P	
Residential Care Facility	D	D	D	D	D	D	X	X	X	
Resource Recovery Centre	X	X	X	X	X	X	X	D	P	
Restaurant/Cafe	X	P	P	P	P	X	D	X	X	
Restricted Premises	X	A	A	A	D	X	X	X	X	
Serviced Apartment	A	D	D	D	D	X	X	X	X	
Service Station	X	X	A	D	D	X	P	P	P	
Shop	X	D	P	P	P	X	X	X	X	
Small Bar	X	A	A	A	P	X	X	X	X	
Tavern	X	A	X	A	D	X	X	X	X	
Telecommunications Infrastructure	A	A	D	P	P	X	P	P	P	
Trade Display	X	X	X	X	X	X	D	P	P	
Trade Supplies	X	X	X	X	X	X	D	P	P	
Transport Depot	X	X	X	X	X	X	X	D	P	
Veterinary Centre	X	D	D	P	P	X	P	X	X	
Warehouse/ Storage	X	X	X	X	X	X	P	P	P	
Waste Disposal Facility	X	X	X	X	X	X	X	X	P	
Waste Storage Facility	X	X	X	X	X	X	X	D	P	

18. Interpreting zoning table

- (1) The permissibility of uses of land in the various zones in the Scheme area 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.
- (2) The symbols used in the zoning table have the following meanings —
 - P means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;
 - D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;
 - A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions;
 - X means that the use is not permitted by this Scheme.

Notes for this clause:

 1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances 1 application is made for both the carrying out of works on, and the use of, land.
 2. Under clause 61 of the deemed provisions, certain works and uses are exempt from the requirement for development approval.
 3. Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the local government. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.
- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table —
 - (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and advertise under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or
 - (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land —
 - (a) a structure plan;
 - (b) a local development plan.

19. Additional uses

- (1) The Table sets out —
- classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
 - the conditions that apply to that additional use.

Table 4: Specified additional uses for zoned land in Scheme area

No.	Description of land	Additional use	Conditions
A1	Lots 1-4 (HN 284A-284D) Alexander Drive, Dianella	Medical Centre 'D' use Office 'D' use	
A2	Lot 15 (HN 99) Central Avenue, Mount Lawley	Medical Centre 'D' use	
A3	Lot 35 (HN 157) Duffy Road Carine	Medical Centre 'D' use	
A4	Lot 29 (HN 212) Flinders Street, Yokine	Medical Centre 'D' use	
A5	Lot 4 (HN 294) Grand Promenade, Dianella	Medical Centre 'D' use	
A6	Lot 504 (HN 567) Karrinyup Road, Stirling	Medical Centre 'D' use	
A7	Lot 4 (HN 256) Walcott Street, Menora	Office 'P' use Veterinary Centre 'D' use Consulting Rooms 'D' use Medical Centre 'D' use	
A8	Lot 10 (HN. 698) North Beach Road, Gwelup	Medical Centre 'D' use	
A9	Lot 391 (HN 5) Cheddar Place, Karrinyup	Medical Centre 'D' use	
A10	Lot 11 (HN. 168) Karrinyup Road, Karrinyup	Medical Centre 'D' use	
A11	Lot 73 (HN 135) Swan Street and Lot 62 (HN 198) Wanneroo Road, Yokine	Medical Centre 'D' use	
A12	Lot 10 (HN 10) Lawley Street, North Beach	Motel 'D' use	

- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

20. Restricted uses

There are no restricted uses which apply to this Scheme.

21. Special use zones

- (1) The Table sets out —
 - (a) special use zones for specified land that are in addition to the zones in the zoning table; and
 - (b) the classes of special use that are permissible in that zone; and
 - (c) the conditions that apply in respect of the special uses.

Table 5: Special use zones in Scheme area

No.	Description of land	Special use	Conditions
SU1	Lot 600 (HN. 467) North Beach Road GWELUP	Caravan Park 'P' use	

- (2) A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

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

22. Non-conforming uses

- (1) Unless specifically provided, this Scheme does not prevent —
 - (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
 - (b) the carrying out of development on land if —
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if —
 - (a) the non-conforming use of the land is discontinued; and
 - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government —
 - (a) purchases the land; or
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.

23. Changes to non-conforming use

- (1) A person must not, without development approval —
 - (a) alter or extend a non-conforming use of land; or
 - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
 - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.

- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use —
 - (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
 - (b) is closer to the intended purpose of the zone in which the land is situated.

24. Register of non-conforming uses

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following —
 - (a) a description of each area of land that is being used for a non-conforming use;
 - (b) a description of any building on the land;
 - (c) a description of the non-conforming use;
 - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government —
 - (a) must ensure that the register is kept up-to-date; and
 - (b) must ensure that an up-to-date copy of the register is published in accordance with clause 87 of the deemed provisions.
- (3A) Subclause (3)(b) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

Part 4 — General development requirements

25. R-Codes

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government must ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.
- (2A) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if —
 - (a) the area has a coding number superimposed on it in accordance with subclause (3); or
 - (b) a provision of this Scheme provides that the R-Codes apply to the area.

26. Modification of R-Codes

- (1) For R40 coded lots identified on the Zoning Map, the maximum number of multiple dwellings is to be calculated by applying the average site area as per the R40 grouped dwelling standard.
- (2) Where land is developed at a density and/or with a plot ratio exceeding that provided for under the relevant density coding, then provided such development has been lawfully established, the local government may permit a variation to the minimum site area and/or the plot ratio requirements under this Scheme, in order to enable re-development to take place up to the same dwelling density and/or plot ratio as the pre-existing development.

Note:

This clause allows the redevelopment of existing residential buildings with densities greater than those set out in the Scheme map to facilitate appropriate demolition and redevelopment of such buildings.

27. DELETED

28. DELETED

29. Other planning codes to be read as part of Scheme

There are no other planning codes that are to be read as part of the Scheme.

30. Modification of planning codes

There are no modifications to a planning code that, under clause 29, is to be read as part of the Scheme.

31. Environmental conditions

There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

32. Additional site and development requirements

- (1) The Table sets out requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans or State or local planning policies.

Table 6: Additional requirements that apply to land in Scheme area

No.	Description of land	Requirement
(1)	All zoned land	<p><u>Land affected by road widening</u></p> <p>(a) Any proposed building shall be setback from the road or right of way as if the road or right of way had been already constructed or widened, unless otherwise approved by the local government or Western Australian Planning Commission.</p> <p>(b) Where a Lot is affected by road widening, the area affected shall be included as part of the Lot for the purpose of calculating the minimum and average site area in determining development potential for the remaining part of the Lot.</p>
(2)	Scarborough Redevelopment Area	Building heights are to be in accordance with the height plan and provisions set out in Schedule 1 of this Scheme.
(3)	Tuart Hill Neighbourhood Centre	Building setbacks to Wanneroo Road are to be in accordance with the provisions set out in Schedule 2 of this Scheme.
(4)	All land zoned Service Commercial, Light Industry and General Industry	For land identified within the Priority 3 (P3) Public Drinking Water Source Area depicted in Schedule 3 of this Scheme, the local government shall refer all applications for development approval to the Department of Water and Environmental Regulation for comment where the application is for a use which is identified as 'compatible with conditions' or 'incompatible' in the Department of Water and Environmental Regulation's <i>Water Quality Protection Note 25: Land Use Compatibility in Public Drinking Water Source Areas</i> .
(5)	All land zoned Centre, Neighbourhood Centre, Local Centre and Mixed Use	Residential uses are not permitted at ground level unless: <ul style="list-style-type: none"> (a) located behind non-residential uses at the street frontage; (b) fronting a right of way; or (c) the use forms part of a multi-storey development and is designed for future adaptation to non-residential uses.
(6)	All land zoned Centre	Where no approved structure plan or local development plan is in place, development is to be in accordance with the relevant requirements under the R80 density coding of the Residential Design Codes.
(7)	All land zoned Residential	<p>(a) Amenities and land uses associated with and supporting 'Residential Care Facilities' and/or 'Independent Living Complexes' that are accessible to residents, staff, visitors and the general public are considered to be incidental and ancillary amenities and will be determined under the above land use definitions.</p> <p>(b) The total retail floorspace of incidental uses on the site is limited to 500m² NLA.</p>

- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, a precinct structure plan, a local development plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

33. Additional site and development requirements for areas covered by structure plan or local development plan

There are no additional requirements that apply to this Scheme.

34. Variations to site and development requirements

- (1) In this clause —

additional site and development requirements means requirements set out in clauses 32 and 33.

- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must —
 - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64(4) of the deemed provisions; and
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that —
 - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67(2) of the deemed provisions; and
 - (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

35. Restrictive covenants

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant —
 - (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
 - (b) the local government must not grant development approval for the construction of the residential dwelling unless it advertises the application for development approval in accordance with clause 64 of the deemed provisions.

Part 5 — Special control areas

36. Special control areas

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area is set out in the Table.

Table 7: Special control areas in Scheme area

Name of area	Purpose	Objectives	Additional provisions
Development Contribution Areas (SCA 1)	The purpose of a development contribution area is as established in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .	The objectives for preparing a development contribution plan for a development contribution area as outlined in <i>State Planning Policy 3.6</i> .	Development Contributions areas as shown on the Scheme Map as DCA with a number and included in Schedule 4.

36A Development Contribution Areas

(1) Land Excluded

In calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, land that has been identified as not generating demand for infrastructure should be excluded from the Development Contribution Area, and may include –

- (a) roads designated under a region scheme as primary regional roads and other regional roads;
- (b) existing public open space;
- (c) areas identified as having environmental values (unless providing community recreation benefit included in functional Public Open Space);
- (d) existing and planned Government primary and secondary schools;
- (e) any other land specified in the DCP, including land and/or development that has been identified as not generating demand for infrastructure.

(2) Development Contribution Plan Report and Cost Apportionment Schedule

- (a) Within 90 days of the Development Contribution Plan coming into effect, the local government is to adopt and make available a Development Contribution Plan Report and Cost Apportionment Schedule to all Owners in the Development Contribution Area.
- (b) The Development Contribution Plan Report and the Cost Apportionment Schedule shall set out in detail the calculation of the Cost Contribution for each Owner in the Development Contribution Area, based on the methodology provided in the Development Contribution Plan, and shall consider any proposed staging of the development.
- (c) The Development Contribution Plan Report and the Cost Apportionment Schedule do not form part of the Scheme, but once adopted by the local government are subject to review as provided under clause 36A(3)(b).

(3) Cost Contributions Based on Estimates

- (a) The determination of Infrastructure Costs and Administrative Costs is to be based

on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.

- (b) Where a Cost Apportionment Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government –
 - (i) In the case of land to be acquired, in accordance with clause 36A(4); and
 - (ii) In all other cases, in accordance with the best and latest information available to the local government, until the expenditure on the relevant item of Infrastructure or Administrative Costs has occurred.
- (c) The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an Owner when requested to do so.
- (d) Where any Cost Contribution has been calculated on the basis of an estimated cost, the local government –
 - (i) Is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs; and
 - (ii) May accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the owner accordingly.
- (e) Where an Owner's Cost Contribution is adjusted under clause 36A(3)(d), the local government, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.
- (f) If an Owner objects to the amount of a Cost Contribution, the Owner may give notice to the local government requesting a review of the amount of the Cost Contribution by an appropriately qualified person ('independent expert') agreed by the local government and the Owner at the Owner's expense, within 28 days after being informed of the Cost Contribution.
- (g) If the independent expert does not change the Cost Contribution to a figure acceptable to the Owner, the Cost Contribution is to be determined –
 - (i) By any method agreed between the local government and the Owner; or
 - (ii) If the local government and the Owner cannot agree on a method pursuant to (i) or on an independent expert, by arbitration in accordance with the *Commercial Arbitration Act 1985*, with the costs to be shared equally between the local government and owner.

(4) Valuation of Land

- (a) Terms used in clause 36A –

value means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arm's length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The value of land is to be determined according to the methodology outlined by the applicable Development Contribution Plan Report.

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

- (b) If an Owner objects to a valuation made by the Valuer, the Owner may give notice

to the local government requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value.

- (c) If, following a review, the Valuer's determination of the Value of the land is still not a figure acceptable to the Owner, the Value is to be determined –
 - (i) By any method agreed between the local government and the Owner; or,
 - (ii) If the local government and the Owner cannot agree, the Owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the *Planning and Development Act 2005*.

(5) Liability and Triggers for Cost Contributions

- (a) An Owner must make a Cost Contribution in accordance with the applicable Development Contribution Plan and the provisions of clause 36A.
- (b) An Owner's liability to pay the owner's cost contribution to the local government arises on the earlier of –
 - (i) The Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the Owner's land within the Development Contribution Area;
 - (ii) The commencement of any development on the Owner's land within the Development Contribution Area;
 - (iii) The approval of any strata plan by the local government or Western Australian Planning Commission on the Owner's land within the Development Contribution Area; or,
 - (iv) The approval of a change or extension of use by the local government on the Owner's land within the Development Contribution Area.
- (c) Notwithstanding clause 36A(5)(b), an Owner's liability to pay the Owner's Cost Contribution does not arise if the Owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the Development Contribution Plan.
- (d) Where a Development Contribution Plan expires, an Owner's liability to pay the Owner's Cost Contribution under that Development Contribution Plan shall be deemed to continue in effect and be carried over into any subsequent Development Contribution Plan which includes the Owner's land, subject to such liability.

(6) Payment of Cost Contribution

- (a) The Owner, with the agreement of the local government, is to pay the Owner's Cost Contribution by –
 - (i) Cheque or cash;
 - (ii) Transferring to the local government or a public authority land in satisfaction of the Cost Contribution;
 - (iii) The provision of physical infrastructure;
 - (iv) Some other method acceptable to the local government; or,
 - (v) Any combination of these methods.
- (b) The Owner, with the agreement of the local government, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner acceptable to the local government.
- (c) Payment by an Owner of the Cost Contribution, including a Cost Contribution

based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the Owner's liability under the Development Contribution Plan and the local government shall provide certification in writing to the Owner of such discharge if requested by the Owner.

(7) Unpaid Contributions

- (a) The amount of any Cost Contribution for which an Owner is liable under clause 36A(5), but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the local government may lodge a caveat, at the Owner's expense, against the Owner's certificate of title to that land.
- (b) The local government, at the Owner's expense and subject to such other conditions as the Local government thinks fit, can withdraw a caveat lodged under clause 36A(7)(a) to permit a dealing and may then re-lodge the caveat to prevent further dealings.
- (c) If the Cost Contribution is paid in full, the local government, if requested to do so by the Owner and at the expense of the Owner, is to withdraw any caveat lodged under clause 36A(7)(a).

(8) Administration of Funds

- (a) The local government is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for the Infrastructure Costs and Administrative Costs within that Development Contribution Area will be paid.
- (b) The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.
- (c) Interest earned on Cost Contributions credited to a reserve account in accordance with clause 36A(8)(a) is to be applied in the Development Contribution Area to which the reserve account relates.
- (d) The local government is to publish an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

(9) Shortfall or Excess in Cost Contributions

- (a) If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government may —
 - (i) Make good the shortfall;
 - (ii) Enter into agreements with Owners to fund the shortfall; or,
 - (iii) Raise loans or borrow from a financial institution,but nothing in clause 36A(9)(a)(i) restricts the right or power of the local government to impose a differential rate to a specified Development Contribution Area in that regard.
- (b) If there is an excess in funds available to the Development Contribution Area when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government is to refund the excess funds to contributing Owners for that Development Contribution Area. To the extent, if any, that it is not reasonably practicable to identify Owners and/or their entitled amount of refund, any excess in funds shall be applied to the provision of additional facilities or improvements in that Development Contribution Area.

(10) Powers of the Local Government

- (a) The local government in implementing the Development Contribution Plan has the power to –
- (i) Acquire any land or buildings within the Scheme area under the provisions of the *Planning and Development Act 2005*; and,
 - (ii) Deal with or dispose of any land which it has acquired under the provisions of the *Planning and Development Act 2005* in accordance with the law and for such purpose may make such agreements with other Owners as it considers fit.

(11) Arbitration and Dispute Resolution

Subject to clauses 36A(4)(c) and 36A(4)(d), any dispute between an Owner and the local government in connection with the Cost Contribution required to be made by an Owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 2012*.

(12) Transitional Provisions

Clause 36A and associated sub-clauses shall cease to have effect two years from the Scheme commencement day.

Part 6 — Terms referred to in Scheme

Division 1 — General definitions used in Scheme

37. Terms used

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows —

building envelope	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;
cabin	means a dwelling forming part of a tourist development or caravan park that is — (a) an individual unit other than a chalet; and (b) designed to provide short-term accommodation for guests;
chalet	means a dwelling forming part of a tourist development or caravan park that is — (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and (b) designed to provide short-term accommodation for guests;
commercial vehicle	means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including — (a) a utility, van, truck, tractor, bus or earthmoving equipment; and (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);
floor area	has meaning given in the Building Code;
minerals	has the meaning given in the <i>Mining Act 1978</i> section 8(1);
plot ratio	means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;
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 incidental;
retail	means the sale or hire of goods or services to the public;
Scheme commencement day	means the day on which this Scheme comes into effect under section 87(4) of the Act;
short-term accommodation	means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;
wholesale	means the sale of goods or materials to be sold by others.

- (2) A word or expression that is not defined in this Scheme —
- (a) has the meaning it has in the *Planning and Development Act 2005*; or
 - (b) if it is not defined in that Act — has the same meaning as it has in the R-Codes.

Division 2 — Land use terms used in Scheme

38. Land use terms used

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —

- Abattoir** means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;
- Amusement Parlour** means premises —
- (a) that are open to the public; and
 - (b) that are used predominantly for amusement by means of amusement machines including computers; and
 - (c) where there are 2 or more amusement machines;
- Art Gallery** means premises —
- (a) that are open to the public; and
 - (b) where artworks are displayed for viewing or sale;
- Betting Agency** means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;
- Brewery** means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*;
- Bulky Goods Showroom** means premises —
- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes —
 - (i) automotive parts and accessories;
 - (ii) camping, outdoor and recreation goods;
 - (iii) electric light fittings;
 - (iv) animal supplies including equestrian and pet goods;
 - (v) floor and window coverings;
 - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;
 - (ix) office equipment and supplies;
 - (x) babies' and children's goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools; or
 - (b) used to sell by retail goods and accessories by retail if —
 - (i) a large area is required for the handling, display or storage of the goods; or
 - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods;
- Caravan Park** means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);
- Caretaker's Dwelling** means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant;

Car Park	means premises used primarily for parking vehicles whether open to the public or not but does not include — (a) any part of a public road used for parking or for a taxi rank; or (b) any premises in which cars are displayed for sale;
Child Care Premises	means premises where — (a) an education and care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> section 5(1), other than a family day care service as defined in that section, is provided; or (b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided;
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 State 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;
Commercial Vehicle Parking	means premises used for parking of one or 2 commercial vehicles but does not include — (a) any part of a public road used for parking or for a taxi rank; or (b) parking of commercial vehicles incidental to the predominant use of the land;
Community Purpose	means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;
Consulting Rooms	means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;
Container Deposit Recycling Centre	means a refund point that has or can accommodate facilities for the consolidation or sorting of empty containers pending collection for the purposes of the container deposit scheme;
Convenience Store	means premises — (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and (b) operated during hours which include, but may extend beyond, normal trading hours; and (c) the floor area of which does not exceed 300 m ² 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;
Dwelling	has the meaning given in the R-Codes.
Educational Establishment	means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;
Exhibition Centre	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;
Family Day Care	means premises where a family day care service as defined in the <i>Education and Care Services National Law (Western Australia)</i> is provided;

<i>Fast Food Outlet / Lunch Bar</i>	means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten — (a) without further preparation; and (b) primarily off the premises;
<i>Fuel Depot</i>	means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used — (a) as a service station; or (b) for the sale of fuel by retail into a vehicle for use by the vehicle;
<i>Funeral Parlour</i>	means premises used — (a) to prepare and store bodies for burial or cremation; (b) to conduct funeral services;
<i>Garden Centre</i>	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;
<i>Holiday Accommodation</i>	means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;
<i>Holiday House</i>	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;
<i>Home Business</i>	means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession — (a) does not involve employing more than 2 people who are not members of the occupier's household; and (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and (c) does not occupy an area greater than 50 m ² ; and (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

- Home Occupation** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —
- (a) does not involve employing a person who is not a member of the occupier's household; and
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
 - (c) does not occupy an area greater than 20 m²; and
 - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and
 - (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
 - (f) does not —
 - (i) require a greater number of parking spaces than normally required for a single dwelling; or
 - (ii) result in an increase in traffic volume in the neighbourhood;
 and
 - (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
 - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
 - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;
- Home Office** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —
- (a) is solely within the dwelling; and
 - (b) does not entail clients or customers travelling to and from the dwelling; and
 - (c) does not involve the display of a sign on the premises; and
 - (d) does not require any change to the external appearance of the dwelling;
- Home Store** means a shop attached to a dwelling that —
- (a) has a net lettable area not exceeding 100 m²; and
 - (b) is operated by a person residing in the dwelling;
- Hospital** means premises used as a hospital as defined in the *Health Services Act 2016* section 8(4);
- 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 the premises;
- Independent Living Complex** means a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility

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 facilities on the premises for any of the following purposes — (a) the storage of goods; (b) the work of administration or accounting; (c) the selling of goods by wholesale or retail; (d) the provision of amenities for employees; (e) incidental purposes;
Industry - Extractive	means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes — (a) the processing of raw materials including crushing, screening, washing, blending or grading; (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;
Industry - Light	means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;
Liquor Store - Large	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of more than 300 m ² ;
Liquor Store - Small	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300 m ² ;
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 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;
Mining Operations	means premises where mining operations, as that term is defined in the <i>Mining Act 1978</i> section 8(1) is carried out;
Motel	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> — (a) used to accommodate guests in a manner similar to a hotel; and (b) with specific provision for the accommodation of guests with motor vehicles;
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 other than panel beating, spray painting or chassis reshaping of vehicles; or (b) repairs to tyres other than recapping or re-treading of tyres;
Motor Vehicle Wash	means premises primarily used to wash motor vehicles;
Nightclub	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> ;

Office	means premises used for administration, clerical, technical, professional or similar business activities;
Park Home Park	means premises used as a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> Schedule 8;
Place of Worship	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple;
Reception Centre	means premises used for hosted functions on formal or ceremonial occasions;
Recreation - Private	means premises that are — (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge;
Renewable Energy Facility	means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary.
Residential Care Facility	means a residential facility providing personal and/or nursing care primarily to people who are frail and aged or dependent persons which, as well as accommodation, may include: a) appropriate staffing to meet the nursing and personal care needs of residents b) meals and cleaning services c) furnishings, furniture and equipment. This may consist of multiple components that include communal amenities and land uses for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short-term) care and an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility.
Resource Recovery Centre	means premises other than a waste disposal facility used for the recovery of resources from waste;
Restaurant/Cafe	means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> ;
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 <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); or (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or (c) smoking-related implements;
Serviced Apartment	means a group of units or apartments providing — (a) self-contained short stay accommodation for guests; and (b) any associated reception or recreational facilities;

Service Station	means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for — (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;
Shop	means premises other than a bulky goods showroom, a liquor store large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
Small Bar	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> ;
Tavern	means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> ;
Telecommunications Infrastructure	means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;
Trade Display	means premises used for the display of trade goods and equipment for the purpose of advertisement;
Trade Supplies	means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises — (a) automotive repairs and servicing; (b) building including repair and maintenance; (c) industry; (d) landscape gardening; (e) provision of medical services; (f) primary production; (g) use by government departments or agencies, including local government;
Transport Depot	means premises used primarily for the parking or garaging of 3 or more commercial vehicles including — (a) any ancillary maintenance or refuelling of those vehicles; and (b) any ancillary storage of goods brought to the premises by those vehicles; and (c) the transfer of goods or persons from one vehicle to another;
Veterinary Centre	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;
Warehouse/ Storage	means premises including indoor or outdoor facilities used for — (a) the storage of goods, equipment, plant or materials; or (b) the display or sale by wholesale of goods;
Waste Disposal Facility	means premises used — (a) for the disposal of waste by landfill; or (b) the incineration of hazardous, clinical or biomedical waste;

**Waste Storage
Facility**

means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

Schedule A - Supplemental provisions to the deemed provisions

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) contained in the Planning and Development (Local Planning Schemes) Regulations 2015.

<p>Part 3 - Heritage Protection Clause 13B - Significant Tree Register</p>	<p>(1) The local government may establish and maintain a significant tree register to identify trees within the Scheme area that are worthy of preservation.</p> <p>(2) The significant tree register -</p> <ul style="list-style-type: none"> a. Must set out a description of each tree, its location and the reason for its entry in the significant tree register; and b. Must be available for public inspection. <p>(3) The local government must not enter a tree or remove a tree from the significant tree register unless the local government has received a written nomination from the owner of the land which contains the tree.</p> <p>(4) Upon receiving a written nomination in accordance with subclause (3), the local government may:</p> <ul style="list-style-type: none"> a. Carry out any other consultation the local government considers appropriate; and b. Following any consultation and consideration of the submissions made on the proposal, resolve that the tree be entered into the significant tree register with or without modifications, or that the tree be removed from the significant tree register. <p>(5) If the local government enters a tree in the significant tree register or modifies an entry of a tree in the significant tree register, the local government must give notice of the entry or modification to each owner and occupier of the land which contains the tree.</p> <p>(6) The local government may require assessment or certification by an arboriculturist to be carried out prior to the determination of an application for development approval for land which contains a tree identified on the significant tree register.</p>
<p>Part 7 - Requirement for development approval Clause 60 - Development for which development approval is required</p>	<p>Development approval of the local government is required prior to the removal, destruction, and/or interference with any tree included on the local government's significant tree register.</p>

Schedule 1

Scarborough Redevelopment Area

- (1) Building heights shall be in accordance with the building height plan below.
- (2) Approval of development above the base height, up to the maximum potential bonus height applicable to a site, is at the discretion of the local government, subject to the achievement of one or more of the following criteria:
 - Achievement of a minimum Green Building Council of Australia 5 Star Green Star rating, or approved equivalent.
 - Delivery of a minimum 3 star hotel with at least 50 rooms.
 - Provision of a publicly accessible vehicle or pedestrian accessway to be protected by an easement or other legal agreement in perpetuity.
 - For properties on West Coast Highway or Scarborough Beach Road, a road or laneway widening requirement that equates to 10% or more of the total lot area.
 - Provision of 15% or more dwellings as Affordable Housing dwellings within the development.
 - The provision of a public car parking facility with a minimum of 100 bays, in perpetuity.



Schedule 2

Tuart Hill Neighbourhood Centre

Building setbacks shall be in accordance with the plan below.



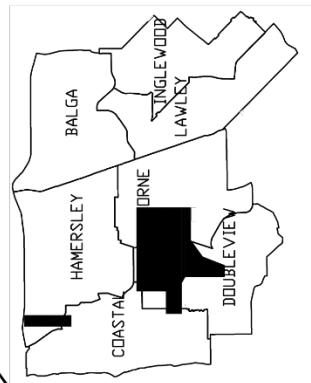
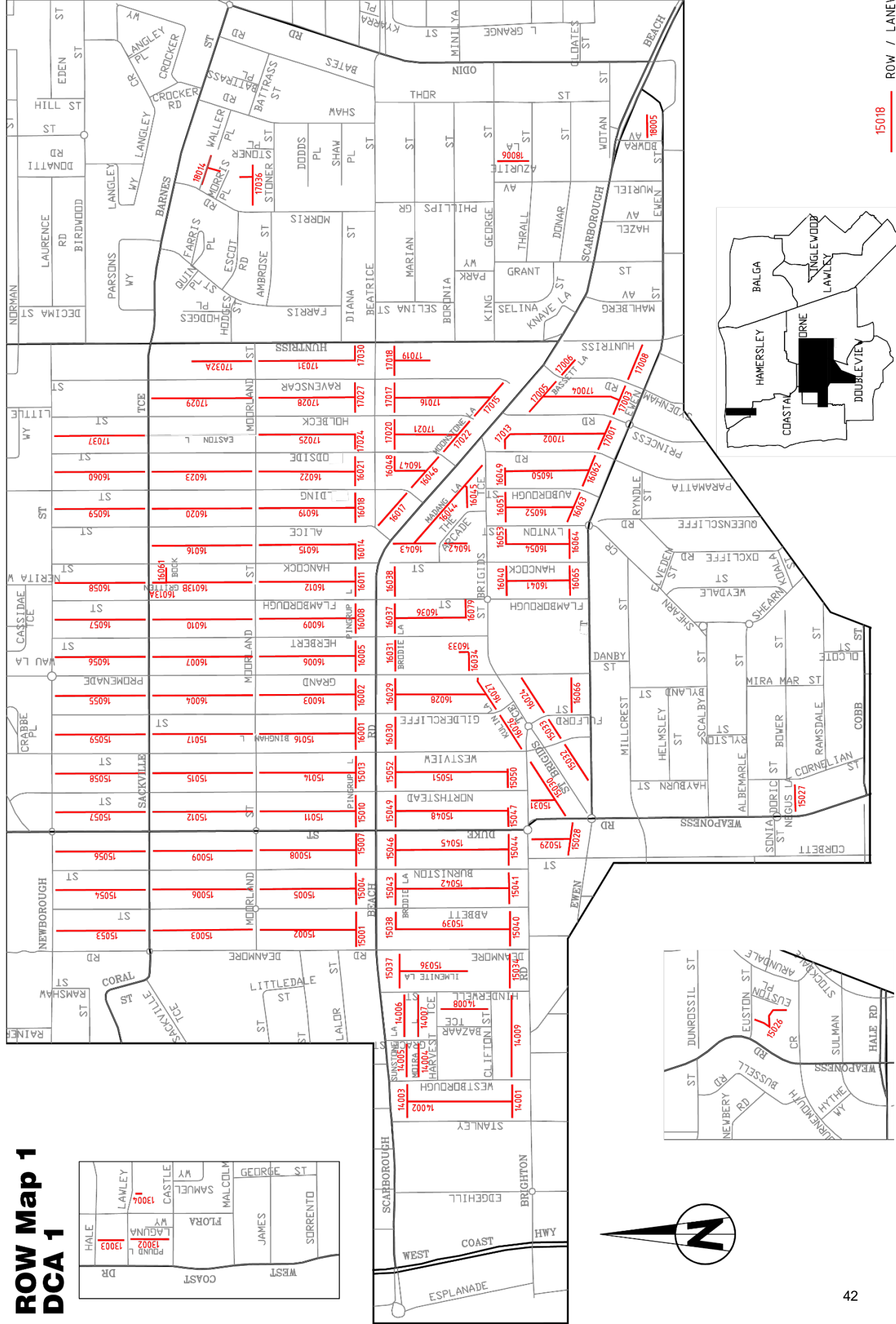
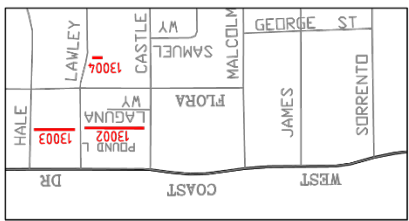
Schedule 4A

Reference No.	DCA1 – Rights of Way Improvement Works
Area Name:	<p>Rights of Way Improvement Works Development Contribution Area identified as Development Contribution Area 1 (DCA1) on Maps 1, 2 and 3 as included in this Schedule.</p> <p>DCA1 includes all land situated adjacent to and sharing a common boundary with a right of way (ROW) or laneway (or any land set aside for the purpose of widening of such ROW or laneway) as identified on ROW Maps 1, 2 and 3 excluding land designated for public open space, right of way, public roads or other public uses.</p>
Relationship with Other Planning Instruments:	<p>The development contribution plan generally conforms to the:</p> <ul style="list-style-type: none"> • City of Stirling Rights of Way Management Strategy (as amended). • City of Stirling Local Planning Policy 6.5 'Development Abutting Rights of Ways'. • Rights of Way Improvement Works Table as included in the Development Contribution Plan Report, and Maps 1, 2 and 3.
Infrastructure and Administrative Items to be Funded:	<p>The rights of way or laneways to be upgraded in this plan, together with the nature of upgrade works to be completed for each right of way or laneway, are shown delineated on the <i>Rights of Way Improvement Works Table</i>.</p> <p>The following infrastructure items are to be funded by cost contributions:</p> <ul style="list-style-type: none"> • Road construction; • Kerbing; • Site clearing and preparation; • Crossovers; • Retaining walls; • Stormwater drainage; • Street lighting and electrical; • Works incidental or ancillary to these other infrastructure items; • Borrowing costs; <p>The infrastructure items referred to above include those carried out, contracted or undertaken by the City whether before or after the development contribution plan to which they relate was incorporated in Schedule 4A and those infrastructure items proposed to be carried out, contracted or undertaken by the City.</p>
Method for Calculating Contributions:	<p>In relation to development or subdivision of land within the Development Contribution Area, a cost contribution is not required to be paid in the following circumstances:</p> <ul style="list-style-type: none"> • the subdivision is solely for the purpose of transferring land for public uses; • the Owner or preceding Owner of the land has constructed the ROW

Reference No.	DCA1 – Rights of Way Improvement Works
	<p>or laneway at its own expense to the City's satisfaction, in which case a cost contribution for Lighting Cost only is required;</p> <ul style="list-style-type: none"> • the Owner or preceding Owner of the land has paid a cash contribution determined by the City based on the estimated cost of constructing the ROW or laneway at the time of the payment, in which case a cost contribution for Lighting Cost only is required; • the ROW or laneway adjacent to the land has been constructed to the City's satisfaction at the expense of neither the City nor the Owner, in which case a cost contribution for Lighting Cost only is required; • the development is a minor addition or modification to an existing development where the addition or modification is valued at \$100,000 or less which value shall be adjusted from time to time by Council to reflect construction cost inflation, and there is no proposed new access nor modification to an existing access to the ROW or laneway from the land; • the development is the erection of a patio or pergola (as defined in the R- Codes) or shade sail for residential purposes; • the development is the erection of or modification to a boundary fence or retaining wall; • the development is solely demolition. <p><u>Corner Lots</u></p> <p>The Owner of land adjacent to and sharing a common boundary with more than one ROW or laneway identified in the Development Contribution Area shall only be required to make a cost contribution based on the ROW or laneway with which the Owner's land shares the rear boundary.</p> <p><u>Strata Lots</u></p> <p>Where land the subject of a strata plan or survey-strata plan is situated adjacent to and shares a common boundary with a ROW or laneway, the Owner of lots shown on the strata plan or survey-strata plan are liable to pay equal shares of the cost contribution for the land comprising the strata plan or survey-strata plan. Where a strata lot is the only land in the strata plan adjacent to and sharing a common boundary with a ROW or laneway, the Owner of that lot will be solely liable to pay the cost contribution.</p> <p><u>Cost Contribution Calculation</u></p> <p>An Owner's cost contribution shall be determined on the basis of estimated infrastructure costs and calculated with reference to the "Nature of Upgrade" indicated for the relevant laneway abutting the development or subdivision on the <i>Rights of Way Improvement Works Table</i>, the <i>Construction Rate</i> and/or the <i>Lighting Rate</i> and the boundary of the Owner's lot abutting the laneway using the following method:</p> <p>Construction Cost (A):</p> <p style="padding-left: 40px;">Length of Lot, strata plan or survey-strata plan boundary to laneway (m) x Construction Rate (\$ per linear m)</p> <p>Lighting Cost (B):</p> <p style="padding-left: 40px;">Length of Lot, strata plan or survey-strata plan boundary to laneway (m) x Lighting Rate (\$ per linear m)</p>

Reference No.	DCA1 – Rights of Way Improvement Works
	<p>Total Cost Contribution = (A) + (B)</p> <p>Where:-</p> <p>Length of Lot, strata plan or survey-strata plan boundary to laneway (m) is the surveyed boundary of the lot, strata plan or survey-strata plan abutting the laneway and shown on the relevant survey plan lodged at Landgate;</p> <p>Construction Rate is the estimated infrastructure cost, per linear metre of lot frontage, for constructing and draining a laneway;</p> <p>Lighting Rate is the estimated infrastructure cost, per linear metre of lot frontage, for installing lighting in a laneway.</p>
<p>Payment of Cost Contribution:</p>	<p>An owner's liability to pay the owner's cost contribution to the Council arises on the earlier of:</p> <ul style="list-style-type: none"> (a) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area; (b) the commencement of any development on the owner's land within the development contribution area; (c) the approval of any strata plan by the Council or Western Australian Planning Commission on the owner's land within the development contribution area; or (d) the approval of a change or extension of use by the Council on the owner's land within the development contribution area. <p>The liability arises only once upon the earliest of the above listed events.</p> <p>Unless an agreement is entered into with the local government, an owner must pay a cost contribution within 60 days of the event which gave rise to the liability to pay the cost contribution or at such other time as is specified by a condition of development approval issued by the City of the commencement of development.</p>
<p>Interest on Unpaid Cost Contributions:</p>	<p>Interest shall be paid on any cost contribution which is due at the maximum rate of interest prescribed for the purposes of section 6.13 of the Local Government Act 1995.</p> <p>Interest payable on any cost contribution or portion of a cost contribution (as the case may be) shall be paid from the date an owner becomes liable.</p>
<p>Period of Operation:</p>	<p>The DCP shall have effect until 15 December 2035.</p>
<p>Priority and Timing:</p>	<p>In accordance with the adopted Rights of Way Management Strategy and the laneway upgrade works program determined by the City.</p>
<p>Review Process:</p>	<p>The Development Contribution Plan will be reviewed when considered appropriate, but at a time that is no longer than 5 years after the date of gazettal.</p> <p>The estimated infrastructure costs shown in the cost apportionment schedule will be reviewed at least annually.</p>

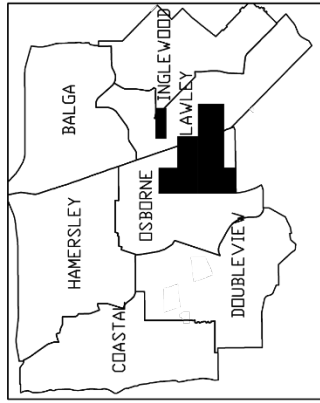
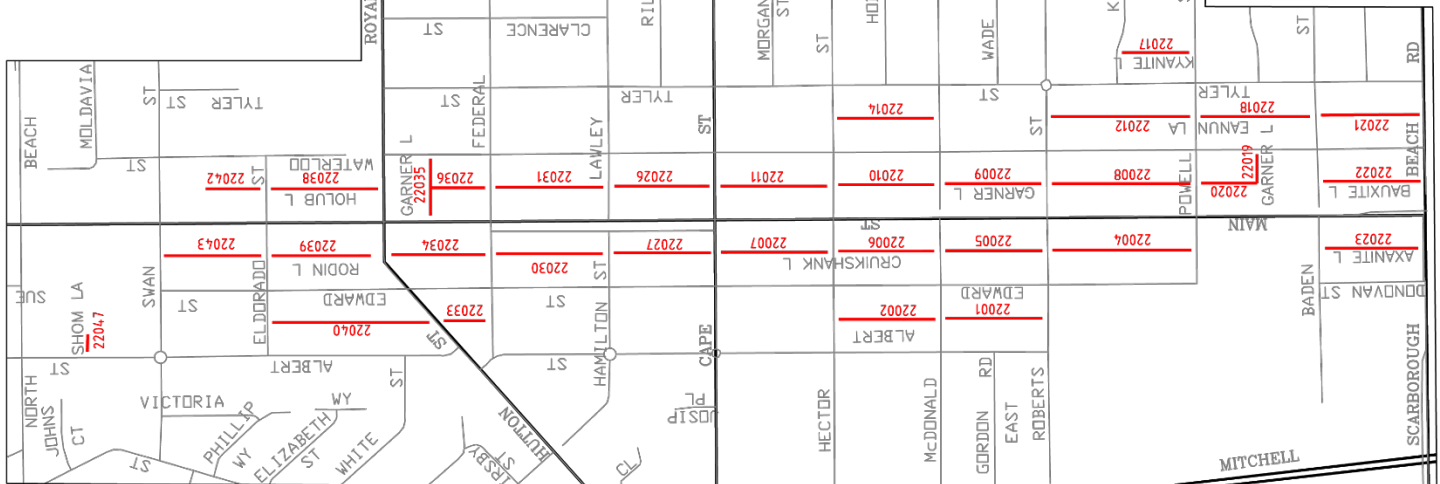
ROW Map 1 DCA 1



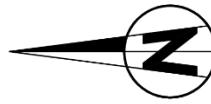
Reference Map

15018 ROW / LANEWAY

ROW Map 2 DCA 1

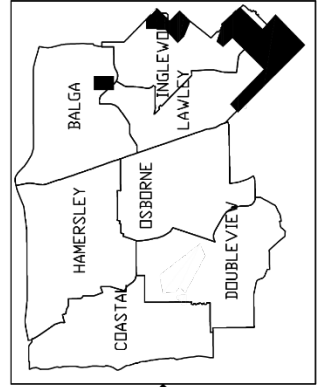
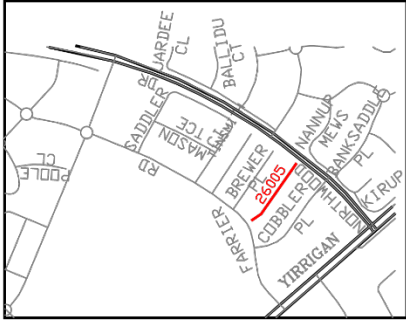


Reference Map



15018 ROW / LANEWAY

ROW Map 3 DCA 1



Reference Map

15018 ROW / LANEWAY

Schedule 4B

Reference No.	DCA2 – Scarborough
Area name:	Development Contribution Area 2 as shown on the Scheme Map.
Relationship with other Planning Instruments:	The Development Contribution Plan (DCP) should be read in conjunction with the Scarborough Design Guidelines and Development Policies.
Infrastructure and Administrative Items to be Funded:	<p>The key components of the DCP are defined below:</p> <p>1. Development Contribution Plan Administration</p> <p>Costs associated with preparation, implementation and review of the DCP, including:</p> <ul style="list-style-type: none"> • DCP preparation and review costs; • DCP administration costs; • Legal fees; • Land valuations. <p>2. Beachside Precinct Works</p> <p>Works to enhance and revitalise the Scarborough foreshore area, which provides for the following:</p> <ul style="list-style-type: none"> • Road upgrades and improved parking arrangements • Hard landscaping • Soft landscaping • Signage • Street furniture • Play equipment • Community recreation facilities • Scarborough Square (including Clock Tower Piazza) • Upgrades to the public realm north and south of the Scarborough Amphitheatre. <p>3. Streetscape Upgrades East of West Coast Highway</p> <p>Provision of new infrastructure and upgrades to existing infrastructure, including local area traffic management, to the following streets located east of West Coast Highway:</p> <ul style="list-style-type: none"> • Hastings Street between Kay Street and Scarborough Beach Road; • Brighton Road between West Coast Highway and Stanley Street; • Scarborough Beach Road between West Coast Highway and Hinderwell Street; and • Manning Street between West Coast Highway and Joyce Street. <p>Specific streetscape upgrade works to be undertaken include:</p> <ul style="list-style-type: none"> • Provision of additional embayed on-street car parking; • Provision of new footpaths;

Reference No.	DCA2 – Scarborough																		
	<ul style="list-style-type: none"> • Undergrounding of existing overhead power transmission lines; • Provision of street furniture; • Provision of new street trees and coastal plantings to verge areas; and • Upgrading of existing street lighting. <p>The costs also include the design and construction of traffic calming infrastructure such as speed bumps, plateaus and intersection treatments to provide a safe, pedestrian orientated environment.</p>																		
<p>Method for Calculating Contributions:</p>	<p>The method for calculating costs is one in which the estimated Development Costs are apportioned across the total developable site area based on the maximum number of building levels permitted under the Schedule 1.</p> <table border="0" data-bbox="472 667 1206 896"> <tr> <td>2 storeys / 8 metres</td> <td style="text-align: right;">\$16.82</td> </tr> <tr> <td>3 storeys / 11.5 metres</td> <td style="text-align: right;">\$25.23</td> </tr> <tr> <td>4 storeys / 15 metres</td> <td style="text-align: right;">\$33.64</td> </tr> <tr> <td>8 storeys / 29 metres</td> <td style="text-align: right;">\$67.29</td> </tr> <tr> <td>12 storeys / 43 metres</td> <td style="text-align: right;">\$100.93</td> </tr> </table> <p>A higher proportion of the Development Costs will be attributed to sites where increased height and density is afforded.</p> <p>An owner's development contribution shall be calculated by multiplying the applicable contribution rate by the owners total Site Area, as illustrated in the following example:</p> <table border="0" data-bbox="472 1115 1425 1294"> <tr> <td>Site Area:</td> <td style="text-align: right;">1,000m²</td> </tr> <tr> <td>Max Permitted Building Height:</td> <td style="text-align: right;">8 storeys / 29 metres</td> </tr> <tr> <td>Contribution Rate:</td> <td style="text-align: right;">\$67.29 per m²</td> </tr> <tr> <td>Total Development Contribution:</td> <td style="text-align: right;">1,000 × \$67.29 = \$67,290</td> </tr> </table>	2 storeys / 8 metres	\$16.82	3 storeys / 11.5 metres	\$25.23	4 storeys / 15 metres	\$33.64	8 storeys / 29 metres	\$67.29	12 storeys / 43 metres	\$100.93	Site Area:	1,000m ²	Max Permitted Building Height:	8 storeys / 29 metres	Contribution Rate:	\$67.29 per m ²	Total Development Contribution:	1,000 × \$67.29 = \$67,290
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Total Development Contribution:	1,000 × \$67.29 = \$67,290																		
<p>Payment of Cost Contribution:</p>	<p>An owner of land in the Development Contribution Area is required to make a Development Contribution in accordance with the applicable Development Contribution Plan. An owner's liability to pay the Development Contribution arises on the earlier of:</p> <ul style="list-style-type: none"> • the approval of any development on the owner's land within the Development Contribution Area, unless the development meets the exemption requirements set out below; • the approval of any subdivision of the owner's land within the Development Contribution Area; <p>No person shall commence or carry out any subdivision or development the subject of a subdivision approval or a development approval until the owner's cost contribution in respect of the land has been paid in full, or other arrangements for payment have been made to the satisfaction of the Local Government.</p> <p>Where, prior to the operative date, DevelopmentWA (or the Metropolitan Redevelopment Authority) has given to an owner of land notice in writing that it accepts a payment made by the owner in full and final satisfaction in respect of that land, then the notice is to be taken to be a discharge of that owner's liability under clause 36A(6)(c) of the Scheme.</p>																		

Schedule 4C

Reference No.	DCA3 – Innaloo Deferred Costs
Area Name:	Development Control Area 3 as shown on the Scheme Map.
Provisions:	<ol style="list-style-type: none"> 1. A cost contribution shall be payable by an owner who was required to pay a general costs contribution or precinct costs contribution under the City's previous Town Planning Scheme No. 38 (TPS38) which remained outstanding. 2. All works from TPS38 have been completed and no new works or cost share arrangements are proposed. 3. The amount of the cost contribution shall comprise the amount payable under TPS38 together with any interest payable in respect of these contributions under TPS38. 4. An owner's costs contribution is not payable for so long as the owner's land continues to be used solely for residential purposes where the density of residential development does not exceed R40. 5. An owner must pay the cost contribution within 60 days of the cost contribution being triggered, unless otherwise agreed to by the local government.

COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME

Adopted by resolution of the Council of the **[INSERT LOCAL GOVERNMENT]** at the **[INSERT MEETING TYPE]** Meeting of Council held on the **[DATE]**

CHIEF EXECUTIVE OFFICER
CHIEF EXECUTIVE OFFICER

CHIEF EXECUTIVE OFFICER
MAYOR

COUNCIL RESOLUTION TO SUPPORT / NOT SUPPORT* SCHEME FOR APPROVAL

Council resolved to **support / not support*** approval of the draft Scheme of the **[INSERT LOCAL GOVERNMENT]** at the **[INSERT MEETING TYPE]** Meeting of Council held on the **[DATE]**

The Common Seal of the **[INSERT LOCAL GOVERNMENT]** was hereunto affixed by authority of a resolution of the Council in the presence of:

CHIEF EXECUTIVE OFFICER
CHIEF EXECUTIVE OFFICER

CHIEF EXECUTIVE OFFICER
MAYOR

WAPC Recommended for Approval

CHIEF EXECUTIVE OFFICER

Delegated under S.16 of the *Planning and Development Act, 2005*

Date: _____

Approval Granted

CHIEF EXECUTIVE OFFICER
MINISTER FOR PLANNING

Date: _____