

TOWN OF MOSMAN PARK

Local Planning Scheme No. 3

Updated to include AMD 7 GG 05/07/2024



Department of Planning,
Lands and Heritage

Prepared by the
Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal
28 February 2018

Disclaimer

This is a copy of the Local Planning Scheme produced from an electronic version of the Scheme held and maintained by the Department of Planning, Lands and Heritage. Whilst all care has been taken to accurately portray the current Scheme provisions, no responsibility shall be taken for any omissions or errors in this documentation.

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.

Department of Planning,
Lands and Heritage
Gordon Stephenson House
140 William Street
Perth WA 6000

Locked Bag 2506
Perth WA 6001

website: www.dplh.wa.gov.au
email: info@dplh.wa.gov.au

tel: 08 6551 9000
fax: 08 6551 9001

National Relay Service: 13 36 77
Infoline: 1800 626 477

TOWN OF MOSMAN PARK LPS NO. 3 – AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
New Scheme	28/02/18	28/03/18	MLD	LPS 3 Gazetted
3	14/03/2023	14/03/2023	GL	Include the following clause into Supplemental Provisions to the Deemed Provisions to show Clause 62.
1	9/05/2023	23/05/23	GL	Modify Table 4 – Specified additional uses for zoned land in the Scheme area' to delete conditions (a)-€ and modify condition (f) of the Restaurant/ Café' additional use right applicable to Lot 42 Gill St Mosman Park
5	12/05/2023	18/05/2023	GL	Rezone a minor portion of Lot 95 Hill Tce, Mosman Park from Residential density code of R17.5 to R25 and Amend the Town of Mosman Parks LPS No. 3 Scheme Map to reflect the rezoning.
4	12/06/2023	19/06/2023	HB	Modify Table–4 - 'Specified additional uses for zoned land in the Scheme area' to include an Additional Use of Recreation – Private applicable to Lot 9 (No. 30) Glyde Street, Mosman Park.. Amend the scheme map accordingly.
8	7/11/2023	7/12/2023	GL	Amend Table 2- Zone Objectives: Delete text within the objectives of the residential zone. Replace point one of the objectives of the commercial zone. Delete text within the objectives of the commercial zone. Replace point two of the objectives of the mixed use zone. Delete text within the objectives of the mixed use zone. Delete text with the objectives of the centre zone. Delete text with the objectives of the private clubs, institutions & places of worship zone. Amend Table 3 – Zoning table, delete land uses Industry – cottage and Industry – Service. Amend Clause 18. Interpreting zoning table – delete text within Note 1-. Replace Note 2, add additional Note 3. Delete Clause 18(6)(a) and Clause 18(6)(b). Delete Clause 18(7)(b). Modify table 4 – Specified additional uses for zoned land in Scheme area, Delete the word 'Location' from row No.2 column No.2 of the table. Amend Clause 24. Register of non-conforming uses. Replace Clause 24(3)(b). Delete Clause 24(3)©. Insert a new sub-clause (3A) to Clause 24. Amend Clause 25. R-Codes, Replace Clause 25(2). Delete Clause 25(2)(a) and Clause 25 (2)(b). Insert a new sub-clause (2A) to Clause 25. Replace Clause 25(4). Amend Clause 27. State Planning Policy 3.6 to be read as part of Scheme. Replace Clause 27(2). Delete Clause 27(2)(a) and Clause 27(2)(b). Insert a new sub-clause (3) to clause 27. Amend Clause 37. Replace Clause 37(1). Delete Clause 37 (2)(a) and Clause 37(2)(b). Delete part of Clause 37(3). Delete definitions Building height, Commencement day, Frontage, Incidental use, Net lettable area, Non-conforming use, wall height. Insert definitions for Cabin, Chalet and Scheme commencement day. Replace the definition of floor area. Insert a new sub-clause (2) to Clause 37. Amend Clause 38. Delete definitions Industry-cottage and Industry – Service. Move the definition of serviced apartment for it to appear above service station. Amending Schedule A – Supplemental provisions to the deemed provisions. Renumber Clause 13A – Significant Tree Register to Clause 13B.

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
				Delete Clause 61 (1) (l), Delete Clause 61 (1)(m). Delete Clause 61(1)(n)
2	30/01/2024	13/02/2024	HAB	Recode 11-19 Riversea View, Mosman Park from R 12.5 to R25. Amend the Scheme map accordingly.
7	5/07/2024	30/07/2024	GL	Modify Schedule A – Supplemental provisions to the deemed provisions by deleting Clause 61(1)(k). Delete Schedule 2 – Exempted Advertisements.

SCHEME DETAILS

TOWN OF MOSMAN PARK **LOCAL PLANNING SCHEME NO. 3**

The Town of Mosman Park under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

TABLE OF CONTENTS

PART 1 - PRELIMINARY

1.	Citation	7
2.	Commencement	7
3.	Scheme revoked.....	7
4.	Notes do not form part of Scheme	7
5.	Responsibility for Scheme.....	7
6.	Scheme area	7
7.	Contents of Scheme	7
8.	Purposes of Scheme.....	8
9.	Aims of Scheme.....	8
10.	Relationship with local laws	9
11.	Relationship with other local planning schemes	9
12.	Relationship with region planning scheme	9

PART 2 - RESERVES

13.	Regional Reserves.....	10
14.	Local reserves	10
15.	Additional uses for local reserves	11

PART 3 - ZONES AND THE USE OF LAND

16.	Zones	10
17.	Zoning table.....	12
18.	Interpreting zoning table.....	13
19.	Additional uses	15
20.	Restricted uses.....	16
21.	Special use zones.....	16
22.	Non-conforming uses.....	16
23.	Changes to non-conforming use	17
24.	Register of non-conforming uses	17

PART 4 - GENERAL DEVELOPMENT REQUIREMENTS

25.	R-Codes	19
26.	Modification of R-Codes.....	19
27.	State Planning Policy 3.6 to be read as part of Scheme	20
28.	Modification of State Planning Policy 3.6.....	20
29.	Other State planning policies to be read as part of Scheme	20
30.	Modification of State planning policies	20
31.	Environmental conditions	21
32.	Additional site and development requirements	21
1.	Commercial zone.....	25
2.	Mixed Use zone.....	26
3.	Centre zone.....	27

4.	Private clubs, institutions & places of worship zone	28
5-7.	Scheme area	28
33.	Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan	24
34.	Variations to site and development requirements	24
35.	Restrictive covenants	25

PART 5 - SPECIAL CONTROL AREAS

36.	Special control areas	26
-----	-----------------------------	----

PART 6 - TERMS REFERRED TO IN SCHEME

	Division 1 - General definitions used in Scheme	27
37.	Terms used	27
	Division 2 - Land use terms used in Scheme	29
38.	Land use terms used	29

SCHEDULES

	Schedule A - Supplemental provisions to the deemed provisions	35
	Schedule 1 – Car parking requirements	36
	Schedule 2 – Exempted advertisements	39

TABLES

	Table 1 - Reserve objectives	10
	Table 2 - Zone objectives	10
	Table 3 - Zoning Table	12
	Table 4 - Specified additional uses for zoned land in Scheme area	15
	Table 5 - Special use zones in Scheme area	16
	Table 6 - Additional requirements that apply to land in Scheme area	21

Part 1 - Preliminary

1. Citation

This local planning scheme is the Town of Mosman Park Local Planning Scheme No. 3.

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 is revoked -

Town of Mosman Park Town Planning Scheme No. 2 gazetted 8 October 1999.

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 Town of Mosman Park 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 (or part) is also subject to the Metropolitan Region 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); and

(b) the Scheme Map.

(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, activity centre 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 direct and control the development of the Scheme area in a manner that promotes and safeguards the health, safety, convenience, economic and general welfare of its inhabitants and amenities of every part of the Town, through appropriate decision making; and
- (b) to facilitate the development of the Stirling Highway Activity Corridor in a manner accommodating a variety of higher density residential and mixed use commercial development; and
- (c) to protect and enhance the environmental values and natural resources of the Town and to promote ecologically sustainable land use and development; and
- (d) to consolidate commercial activities in appropriate locations and facilitate a diversity of activity in identified activity centres; and
- (e) to protect residential areas from non-residential uses that would disrupt desired residential character and amenity; and
- (f) to enhance the amenity of residential areas and maintain the lifestyle enjoyed by residents; and
- (g) to encourage the development of aged persons accommodation and care facilities within the Town, particularly within walking distance from major transport routes and activity centres; and
- (h) to encourage the development of tourist accommodation facilities in appropriate locations within the Town; and

- (i) to encourage the re-development of existing multi-storey flats and single dwellings for the purpose of accommodating infill development including detached, semi-detached and multiple dwellings in appropriate locations; and
- (j) to preserve and enhance places of natural beauty, historic buildings and objects of historical and scientific interest; and
- (k) to maintain and enhance the amenity and quality of streetscapes throughout the Town; and
- (l) to encourage the establishment of an ecological corridor on Wellington Street linking the Indian Ocean to the Swan River via plantings and related treatments within the public realm; and
- (m) to control the orderly and proper planning of undeveloped areas within the Town, including reserves, with regard to:
 - (i) the environmental and historic attributes of the site;
 - (ii) the health, safety and convenience, economic and general welfare of its inhabitants and the amenities of every part of the Town;
 - (iii) the existing or proposed land uses in the surrounding locality and the intensities of such land uses;
 - (iv) the needs of the residents of the Town.

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 Town of Mosman Park 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	Objective
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> section 152. • To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.
Social Care Facilities	<ul style="list-style-type: none"> • Civic and Community which specifically provide for a range of essential social care facilities.
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.
Government Services	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of government services.
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

There are no additional uses for land in local reserves that apply to this Scheme.

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 2 - Zone objectives

AMD 8 GG 7/11/23

Zone name	Objective
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.
Commercial	<ul style="list-style-type: none"> • To provide for a range of shops, offices, restaurants and other commercial outlets in defined townsites or activity centres. • To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades. • To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.
Mixed Use	<ul style="list-style-type: none"> • To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels. • To allow for the development of a mix of varied by compatible land uses such as housing, offices, showrooms, amusement centres, 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.
Centre	<ul style="list-style-type: none"> • To designate land for future development as a town centre or activity centre. • 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 Clubs, Institutions & Places of Worship	<ul style="list-style-type: none"> • To provide sites for privately owned and operated recreation, institutions and places of worship. • To integrate private recreation areas with public recreation areas wherever possible.

Zone name	Objective
	<ul style="list-style-type: none"> • 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 -

Table 3 - Zoning Table

AMD 8 GG 7/11/23

USE AND DEVELOPMENT CLASS	ZONES				
	Residential	Commercial	Mixed Use	Centre	Private Clubs, Institutions & Places of Public Worship
Amusement Parlour	X	D	X	D	X
Art Gallery	X	D	A	A	D
Bed and Breakfast	A	D	A	D	X
Bulky Goods Showroom	X	D	X	X	X
Caretakers Dwelling	D	D	D	D	D
Car Park	X	D	D	D	D
Child Care Premises	A	D	A	D	D
Cinema/Theatre	X	D	X	D	D
Civic Use	A	D	D	D	D
Club Premises	X	P	A	D	D
Commercial Vehicle Parking	X	P	X	A	X
Community Purpose	X	P	A	D	D
Consulting Rooms	X	P	D	D	X
Convenience Store	X	D	A	D	X
Dwelling – Grouped	P	D	D	D	X
Dwelling – Multiple	D	D	D	D	X
Dwelling – Single House	P	X	D	D	X
Educational Establishment	X	D	A	A	D
Exhibition Centre	X	D	A	A	D
Family Day Care	P	X	D	D	X
Fast Food Outlet	X	D	X	D	X
Garden Centre	X	D	X	X	X
Home Business	D	D	P	D	X
Home Occupation	P	D	P	P	X
Home Office	P	P	P	P	X
Home Store	A	D	A	D	X
Hospital	X	A	A	X	X
Hotel	X	D	X	A	X
Industry	X	X	X	X	X
Liquor Store – Large	X	X	X	X	X
Liquor Store – Small	X	P	X	D	X
Market	X	A	X	X	X
Medical Centre	X	P	A	D	X

USE AND DEVELOPMENT CLASS	ZONES				
	Residential	Commercial	Mixed Use	Centre	Private Clubs, Institutions & Places of Public Worship
Motel	X	D	X	X	X
Motor Vehicle, Boat or Caravan Sales	X	D	X	X	X
Motor Vehicle Repair	X	D	X	X	X
Motor Vehicle Wash	X	D	X	X	X
Nightclub	X	A	X	X	X
Office	X	P	D	D	D
Place of Worship	X	X	A	X	D
Reception Centre	X	D	A	A	X
Recreation – Private	X	X	D	D	D
Residential Aged Care Facility	A	X	A	X	X
Residential Building	D	X	A	A	X
Restaurant/cafe	X	D	D	D	X
Restricted Premises	X	X	X	X	X
Service Station	X	A	X	X	X
Serviced Apartment	A	D	A	A	X
Shop	X	D	D	D	X
Small Bar	X	D	A	A	D
Tavern	X	D	X	A	X
Telecommunications Infrastructure	X	D	D	D	D
Trade Display	X	D	X	X	X
Veterinary Centre	X	D	A	A	X
Warehouse/Storage	X	D	X	X	X

18. Interpreting zoning table

AMD 8 GG 7/1123

- (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;
- I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and 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 giving notice in accordance with clause 64 of the deemed provisions;
- X means that the use is not permitted by this Scheme.

Note: 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 one application is made for both the carrying out of works on, and the use of, land.

2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.

(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 give notice 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 or class I 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 a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless -
- (7) 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) Table 4 sets out -
- (a) 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
 - (b) 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
1.	Lot 42 (No 13) Gill Street, Mosman Park. <i>AMD 1 GG 9/05/2023</i>	Restaurant/cafe	(a) As determined by the local government via an application for development approval, following advertisement in accordance with clause 64 of the deemed provisions.
2.	Lot 2 (HN 62) 111 Glyde Street, Mosman Park <i>AMD 8 GG 7/11/23</i>	Office	(a) As determined by the local government.
3.	Strata Lots 1 & 2 on Strata Plan 4393 (HN 49 & 51) Harvey Street, Mosman Park	Consulting Rooms	(a) Redevelopment of the land must incorporate on-site parking at a ratio of 5 car bays per practitioner or as otherwise determined by the local government.
4.	Memorial Hall, Lot 586 (HNs 12 - 16) Lochee Street, Mosman Park	Restaurant/cafe	(a) The Restaurant/cafe may only operate within the classification of tea room under the local government (b) Health Local Laws. (c) Operating times to be restricted to the hours between 8.00am and 6.30pm or as otherwise determined by the local government.

No.	Description of land	Additional use	Conditions
5.	Lot 1 (HN 666) Stirling Highway, Mosman Park	Office	(a) As determined by the local government.
6	Lot 9 (No. 30) Glyde Street, Mosman Park	Recreation - Private	This use shall be treated as a 'P' use <i>AMD 4 GG 16/06/2023</i>

- (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) Table 5 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
1.	Lot 1 - 4 (HN 676) Stirling Highway, Mosman Park	Service station	(a) A maximum plot ratio of 0.5. (b) In considering development applications within this zone, the local government shall be guided by the height and boundary setback of buildings in the adjoining areas and the amenity and parking provisions of Part 4 - General Development Requirements of the Scheme.

- (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 and
- AMD 8 GG 7/11/23*
- (3A) Subclause (3)(b) is an ongoing publication requirement for the purpose 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 *AMD 8 GG 7/11/23*

- (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 the Scheme provides that the R-Codes apply to the area.

26. Modification of R-Codes

- (1) In the Residential zone, in areas coded R30 or less, open areas of accessible and usable flat roofs of dwellings (i.e. 'roof terraces' including roof gardens, roof pools, viewing platforms or other roof-top recreational use and development), that would normally be counted towards the provision of open space, are excluded from being counted towards the provision of open space.
- (2) Where, on the gazettal date, 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 of the 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.
- (3) No increase in plot ratio floor space in excess of that which had previously been lawfully established is to be permitted in relation to re-development as provided for under subclause (2) unless the additional floor space is provided for under the scheme or the R-Codes. Should no plot ratio be identified in the R-Codes, the proposed development shall meet the open space requirements of the R-Codes for the relevant coding.

(4) In areas where dual coding applies, the local government may support development and/or recommend support for subdivision to the higher density code where:

(a) battleaxe arrangements are not proposed for:

- (i) lots between Baring and Solomon Streets coded R15/25;
- (ii) lots bound by Samson, Owston, Manning and Beagle Streets coded R20/25;

(b) in the case of battleaxe arrangements:

- (i) lots between Downey Drive, Riverside Drive, Caporn Street and Reserve 25466 (Swan River Foreshore) coded R12.5/25;
- (ii) lots between Beagle Street, Glenn Avenue, Briggs Street, Hanlin Street, McCabe Street and Reserve 32588 coded R15/25;

are provided with a secondary frontage to a Parks and Recreation reservation or Public Open Space Reservation.

(5) Battleaxe arrangements will not be supported for:

- (i) lots bound by Beagle, Owston, Hanlin and Briggs Streets and Glenn Avenue coded R25; and,
- (ii) lots bound by Marshall, Bateman and Caporn Streets and Riverside Drive coded R25.

27. State Planning Policy 3.6 to be read as part of Scheme

AMD 8 GG 7/11/23

- (1) *State Planning Policy 3.6 - Development Contributions for Infrastructure*, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The local government must ensure that State Planning Policy 3.6 is published in accordance with clause 87 of the deemed provisions
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 8787(5)(a) of the deemed provisions.

28. Modification of State Planning Policy 3.6

There are no modifications to State Planning Policy 3.6.

29. Other State planning policies to be read as part of Scheme

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

30. Modification of State planning policies

There are no modifications to a State planning policy 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) Table 6 sets out requirements relating to development that are additional to those set out in the R-Codes, activity centre 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.	Commercial zone	<p><u>Building height</u></p> <p>(a) Residential and Non-Residential development within the Commercial Zone is subject to the height requirements for the R-AC3 coding in accordance with the R-Codes.</p>
2.	Mixed Use zone	<p><u>Building height</u></p> <p>(a) Maximum external wall height on street frontages shall not exceed 7.5 metres.</p> <p>(b) Maximum external wall and building height shall not exceed 10.5 metres, with building components above 7.5 metres being setback a minimum of 4 metres from boundaries.</p> <p>(c) On lots fronting McCabe Street, the maximum external wall and building height shall not exceed 8.5 metres.</p>
3.	Centre zone	<p>(a) Prior to making an application for development approval, a local development plan is to be prepared and approved in accordance with Part 6 of the deemed provisions.</p> <p>(b) In respect of the Monument Street Neighbourhood Centre (Lot 54 Harvey Street and land identified under Certificate of Title 1028/123):</p> <p style="padding-left: 40px;">(i) Maximum external wall height on street frontages shall not exceed 7.5 metres.</p> <p style="padding-left: 40px;">(ii) Maximum external wall and building height shall not exceed 14 metres, with building components above 7.5 metres being setback a minimum of 4 metres from boundaries.</p> <p>(c) In respect of the Wellington Street Neighbourhood Centre (Lots 3, 570, 571, 572, 573, 574, 575, 576 Wellington Street, Lots 9, 10, 11, 20, 21, 411 and 412 Manning Street, Turnbull Way and land identified under Certificate of Title 1073/437, Mosman Park):</p> <p style="padding-left: 40px;">(i) Residential and non-residential development is to comply with the plot ratio, height and open space requirements of the R60 density code as</p>

No.	Description of land	Requirement
		<p>specified under Table 4 of the R-Codes;</p> <p>(ii) Setbacks for residential and non-residential development are to be a minimum of 4 metres from boundaries.</p>
4.	Private clubs, institutions & places of worship zone	<p><u>Plot ratio and site cover</u></p> <p>(a) Except as provided in subsection (b) and (c) below, the maximum plot ratio shall be 0.5.</p> <p>(b) For St. Hilda's Anglican School for Girls, on Lot 207 and Lot 17 Bay View Terrace, Mosman Park the maximum plot ratio shall be 0.45 and the maximum site cover shall be 38%.</p> <p>(c) For Iona Presentation College on Lot 75 Palmerston Street, Mosman Park the maximum plot ratio shall be 0.48 and the maximum site cover shall be 30%.</p> <p>(d) In considering development applications within this zone, the local government shall be guided by the height and boundary setback of buildings in the adjoining areas and the amenity and parking provisions of Part 4 – General Development Requirements, Schedule 1 – Car Parking Requirements, and the requirements of any approved local development plan or local planning policy.</p>
5.	Scheme Area	<p><u>Car parking</u></p> <p>(a) Car parking shall be provided in accordance with:</p> <p style="padding-left: 40px;">(i) The R-Codes for residential development; and,</p> <p style="padding-left: 40px;">(ii) Schedule 1: Car Parking Requirements.</p> <p style="padding-left: 40px;">and shall be rounded to the nearest whole number.</p> <p>(b) If the Scheme does not specify the number of spaces required in respect of any particular land use, the number of spaces required shall be determined by the local government, having regard to other relevant or similar uses.</p> <p>(c) Where a building or land is used for more than one purpose, the number of car parking spaces to be provided in accordance with Schedule 1 or as determined by the local government shall be calculated separately for each part of the building or land used for a different purpose.</p> <p>(d) Where the use of any building or land is changed to another use, parking spaces shall be provided to meet the requirements of the Scheme.</p> <p>(e) Where any existing building or land is redeveloped, additional parking spaces to meet the requirements of the Scheme shall be provided only in respect of any additional development, expansion of net lettable area or</p>

No.	Description of land	Requirement
		<p>enlargement of the previously approved development, but not in respect of any previously approved development or net lettable area.</p> <p>(f) Where the new development of any land occurs, parking spaces to meet the requirements of the Scheme shall be provided in respect to the new development.</p> <p>(g) In determining the extent (if any) of the concession in car parking requirements sought for a proposed development under clause 34, the local government is to be satisfied that the lesser parking is reasonable having regard to a demonstrated lesser demand and taking into consideration the matters set out in clause 34 and the following matters:</p> <ul style="list-style-type: none"> (i) whether a demand for car parking associated with the proposed development, which is less than the requirement in Schedule 1 has been demonstrated; (ii) the availability and likely use of modes of transport other than the private car; (iii) the practicability and likelihood that carpooling will be employed, as a means of reducing the demand for parking; (iv) the availability and likely level of use of end-of-trip bicycle facilities; (v) the availability of public parking in the locality including street parking; (vi) any reduction in car parking demand due to the joint use of car spaces; (vii) any car parking deficiency or surplus associated with the existing use of the land; and (viii) any other relevant consideration. <p>(h) Before making a determination under clause 34 and subsection (g) above, the local government may require the applicant to provide, at the applicant's expense, a traffic or transport study prepared by a suitably qualified and experienced transport planner or engineer.</p> <p>(i) The local government may accept a shortfall cash payment in lieu of the provision of any car parking spaces required under the Scheme, having regard to an adopted local planning policy made under this scheme for this purpose.</p> <p>(j) payments made under sub-clause (i) shall be paid into a reserve fund and shall only be used:</p> <ul style="list-style-type: none"> (i) for the provision of public parking or facilities, infrastructure and services for cyclists, pedestrians and public transport users; and

No.	Description of land	Requirement
		(ii) for reimbursing the local government for any expenses incurred for the purpose of sub-clause (i) including loan repayments.
6.	Scheme Area	<p><u>Bicycle parking</u></p> <p>(a) Bicycle Parking shall be provided in accordance with an adopted local planning policy made under this scheme for this purpose and shall be rounded to the nearest whole number.</p>
7.	Scheme Area	<p><u>Stirling Highway Vehicular Access</u></p> <p>(a) Residential and Non-Residential development abutting Stirling Highway is required to rationalise existing access to Stirling Highway to improve safety. In its consideration of any application for development approval, the local government will consider:</p> <ul style="list-style-type: none"> (i) the availability of vehicle access from streets or public ways other than Stirling Highway; and (ii) the standard of construction and width of abutting public ways; <p>and may impose conditions relating to access arrangements.</p>

- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, an activity centre 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, activity centre 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 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 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 gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

Part 5 - Special control areas

36. Special control areas

There are no special control areas which apply to this scheme.

Part 6 - Terms referred to in Scheme

Division 1 - General definitions used in Scheme

37. Terms used

AMD 8 GG 7/11/23

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows:
 - (a) in the *Planning and Development Act 2005*; or
 - (b) if it is not defined in that Act — has the same meaning as it has:
 - (i) in Part 6 of this Scheme; or
 - (ii) in the R-Codes.
- (2) If there is a conflict between the meaning of a word or expression in Part 6 of this Scheme and the meaning of that word or expression in the R-Codes:
- (3) 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.

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. AMD 8 GG 7/11/23

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. AMD 8 GG 7/11/23

commercial vehicle means a vehicle, whether licensed 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 the meaning given in the Building Code. AMD 8 GG 7/11/23.

minerals has the meaning given in the *Mining Act 1978* 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 *AMD 8 GG 7/11/23*

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.

Division 2 - Land use terms used in Scheme

38. Land use terms used

AMD 8 GG 7/11/23

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 -

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;

bed and breakfast means a dwelling -

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms;

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) office equipment and supplies;
 - (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;

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 Education and Care Services National Law (Western Australia) 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 Child Care Services Act 2007 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.

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 300m² net lettable area.

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 Education and Care Services National Law (Western Australia) is provided.

fast food outlet 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.

garden centre means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

home business 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 50m²; 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;
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood;
- (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 20m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2m²; 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;
- (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 100m²; and
- (b) is operated by a person residing in the dwelling.

hospital means premises used as a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1).

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.

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 administrative or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes.

liquor store – large means premises the subject of a liquor licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300m².

liquor store – small means premises the subject of a liquor licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300m².

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.

motel means premises, which may be licensed under the *Liquor Control Act 1988* —

- (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 *Liquor Control Act 1988*.

office means premises used for administration, clerical, technical, professional or similar business activities.

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.

residential aged care facility means a residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture, shops and equipment. May also include residential respite (short term) care but does not include a hospital or psychiatric facility.

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 *Liquor Control 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 *Classification (Publications, Films and Computer Games) Act 1995* (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 license granted under the *Liquor Control Act 1988*.

tavern means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*.

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.

veterinary centre means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases of 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;

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*.

Clause 13B

Significant Tree Register AMD 8 GG 7/11/23, AMD 7 GG 5/07/2024

- (1) The local government must establish and maintain a significant tree register to identify trees within the scheme area that are of worthy of preservation.
- (2) The significant tree register -
 - 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, with the scheme documents, for public inspection during business hours at the offices of the local government; and
 - c) may be published on the website of the local government.
- (3) The local government must not enter a tree in, or remove a tree from, the significant tree register or modify the entry of a tree in the significant tree register unless the local government -
 - a) notifies in writing each owner and occupier of the land which contains the tree and provides each of them with a description of the tree and the reason for its proposed entry; and
 - b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and
 - c) carries out any other consultation the local government considers appropriate; and
 - d) following any consultation and consideration of the submissions made on the proposal, resolves 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.
- (4) If the local government enters a place 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.
- (5) 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.

Clause 61(1)(o)

satellite dishes that:

- (a) have a diameter less than 1 metre;
- (b) are not visible from a public street;
- (c) are located behind the front setback;
- (d) do not project above the ridgeline of the building to which it is attached; and

- (e) are a compatible colour with existing improvements.

Clause 61(1)(p) microwave antennas that:

- (a) have a diameter less than 500mm; and
 (b) do not project higher than 3 metres above the ridgeline of the roof to which it is attached.

Clause 61(1)(q) The removal of a tree unless it is identified on the significant tree register.

Clause 62 Transitional arrangements for Heritage-Listed properties and designation of HeritagePrecinct areas.

Where a property has been included:

- on the Town's Municipal Inventory of Heritage Places (Local Heritage Survey) or
- designation of a Heritage Precinct area under the Town Planning Scheme No. 2 and/or
- in accordance with the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*,

they shall continue to have effect, as if they were included on a Heritage List under Local Planning Scheme No. 3 and may be amended or revoked.

AMD 3 GG 14/03/2023

Schedule 1 – Car parking requirements

Land use	Number of car parking spaces
Amusement Parlour Convenience Store Liquor Store - small Shop	1 per 20m ² net lettable area (nla).
Bed and Breakfast	As per R-Codes, plus 1 per guest bedroom.
Caretakers Dwelling	1 per dwelling.
Child Care Premises	1 per employee and 1 per 10 children allowed under maximum occupancy with a minimum of 3 spaces.
Family Day Care	A paved pick-up area in addition to residential requirements.
Cinema/Theatre Civic Use Club Premises Community Purpose Nightclub Place of Worship Reception Centre Recreation – Private Restaurant/cafe Small Bar Tavern	1 per 4m ² of eating, drinking or lounge area, plus 1 per 4m ² of public assembly and/or seating area, with other use areas as determined by the local government.
Consulting Rooms	4 per practitioner.
Industry - Service Industry – Cottage	1 per 50m ² of open space used for industrial purposes, plus 1 per 50m ² gross floor area (gfa); or 1 for each employee, whichever is the greater.
Educational Establishment	<p><u>Pre-Primary and Primary Schools:</u> 1 per staff member; 1 per 50 students; and 1 drop off bay per 20 students.</p> <p><u>High Schools:</u> 1 per staff member; 1 per 20 students; and 1 drop off bay per 20 students.</p> <p><u>Tertiary Education Institutions:</u> As determined by the local government.</p> <p>Unless otherwise varied by an approved local planning policy or local development plan.</p>
Fast Food Outlet	6 per 100m ² nla plus 1 per 4 seated customers (car queuing areas may be permitted to be calculated as parking spaces).
Medical Centre	4 per practitioner plus 1 per 20m ² gfa available to the public.
Home Business	As per R-Codes, plus spaces as required by

Land use	Number of car parking spaces
Home Occupation Home Office Home Store	relevant policy.
Hospital Residential Aged Care Facility	1 per 4 beds plus 1 per staff member on duty.
Hotel Motel	1 per 4m ² eating, drinking or lounge area plus 1 per bedroom.
Motor Vehicle, Boat or Caravan Sales	1 per 100m ² display area, with a minimum of 3 spaces.
Motor Vehicle Repair Motor Vehicle Wash	1 per 50m ² nla or 1 per employee, whichever is the greater.
Office	1 per 40m ² nla.
Serviced Apartments	1 per unit of accommodation.
Service Station	1 per service bay plus 1 per employee (bowser bays shall be excluded from any calculation of parking bays).
Art Gallery Bulky Goods Showroom Exhibition Centre Garden Centre Market	1 per 40m ² nla.
Warehouse/Storage	1 per 100m ² outdoor storage area.
Trade Display	1 per 50m ² nla. 1 per 100m ² outdoor display area.
Veterinary Centre	4 per employee.
Any other use	To be determined by the local government.

Schedule 2 – Exempted advertisements

Deleted by AMD 7 GG 5/07/2024

COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME

Adopted by resolution of the Council of the Town of Mosman Park at the Ordinary Meeting of Council held on the 28 April 2015.

CHIEF EXECUTIVE OFFICER

MAYOR

COUNCIL RESOLUTION TO SUPPORT SCHEME FOR APPROVAL

Council resolved to support approval of the draft Scheme of the Town of Mosman Park at the Ordinary Meeting of Council held on the 23 February 2016.

The Common Seal of the Town of Mosman Park was hereunto affixed by authority of a resolution of the Council in the presence of:

CHIEF EXECUTIVE OFFICER

MAYOR

WAPC Recommended for Approval

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

Date: _____

Approval Granted

MINISTER FOR PLANNING

Date: _____