

# TOWN OF CLAREMONT SCHEME AMENDMENT

LOCAL PLANNING SCHEME NO. 3 – SCHEME AMENDMENT NO. 138

STIRLING HIGHWAY – EASTERN HIGHWAY PRECINCT

SEPTEMBER 2020



## ***Planning and Development Act 2005***

### **Resolution to Prepare Amendment to Local Planning Scheme**

#### **Town of Claremont Local Planning Scheme No. 3 Amendment No. 138**

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, as follows:

1. Amend the above Local Planning Scheme by:
  - a. Zoning all unzoned portion of lots adjacent to Stirling Highway on the north side of the Highway between Mary Street and Loch Street to 'Highway'.
  - b. Zoning all unzoned portions of lots adjacent to Stirling Highway on the south side of the Highway between 204 Stirling Highway (Lot 30) and 280 Stirling Highway (Lot 1) inclusive of these lots to 'Highway', with the exception of 206 Stirling Highway (Lot 801).
  - c. Zoning the unzoned portions of 206 Stirling Highway (Lot 801) and 8 Bay Road (Lot 802) to 'Special Zone – Restricted Use'.
  - d. Zoning the unzoned portions of 282-288 Stirling Highway (Lots 11051, 848 and 3771) and the under-width road reserve that dissects these lots to 'Highway'.
  - e. Rezoning the southern portion of 264 Stirling Highway (Lot 2012) from 'Special Zone – Restricted Use' to 'Highway'.
  - f. Rezoning 42 Reserve Street (Lots 20 and 21 and Lot 621) from 'Residential' to 'Highway'.
  - g. Amending the Residential density code of the 'Highway' zone and 26 Vaucuse Avenue (Lot 36) to R-AC3.
  - h. Amending the Appendix 7 Permitted Use and Standards/Conditions entries relating to 26 Vaucuse Avenue (Lot 36) as follows:

Permitted Use: Office and Dwelling (Self-contained)

Standards/Conditions: Development of Office with a gross leasable area not to exceed 200m<sup>2</sup> and Dwelling (Self-contained) uses to accord with the requirements relating to the Highway zone.

i. Deleting the Appendix 7 entry relating to 264 Stirling Highway (Lot 2012).

j. Replacing sub-clause 40(9) with:

In the Highway zone, a building may be constructed up to a height of six storeys or 21m provided no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments except as follows:

(a) Where a site is a ‘Designated Landmark Site’ under the Stirling Highway Local Development Plan, an additional two storeys to a maximum height of eight storeys or 27m are permitted providing no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments and the footpath on the southern side of Stirling Highway is not overshadowed by more than 50% of its width.

(b) Where the top floor is limited to service areas and/or ancillary communal facilities (setback so as to not be visible from the footpath on the direct opposite side of the Highway and containing any roof structure not exceeding more than 50% of the floorspace below) and designed to ensure no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments shall not be counted as an additional storey.

k. Replacing clause 70 with:

In considering an application for Development Approval in the Highway zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

(1) The creation of a ‘human scale’ corridor of six storey development along the Highway, and where appropriate and identified as a ‘Designated Landmark Site’ under the Stirling Highway Local Development Plan, the building height may be increased to eight storeys providing non adverse impacts on the amenity of adjacent land results.

(2) Encouragement of a pedestrian-friendly environment along the Highway.

(3) Preserving the commercial nature of the Highway zone as part of a mixed-use residential Precinct by ensuring the ground floor of all developments is used for commercial purposes.

(4) Achieving significant residential infill development.

- (5) Restriction, to a minimum, of direct vehicle access to and from Stirling Highway.
- (6) Achieving a high level of environmental sustainability through design, materials, energy and water consumption and renewable energy generation.
- (7) The preservation of all buildings referred to in Clause 78.

l. Replacing clause 71 with:

- (1) Setbacks to Stirling Highway for mixed-use development may be nil, provided that any development exceeding four storeys is required to be setback a minimum of 3 metres, or further to ensure that any overshadowing to a footpath on the direct opposite side of the Highway to the south does not exceed 50% of the footpath width.
- (2) Setbacks to Residential zoned properties are dependent on the height of the building as follows:
  - a. Where a Residential zoned property is located to the south, the development must be set back so as not to cause any unreasonable overshadowing of the Residential zoned property, as determined in accordance with the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments.
  - b. Where a Residential zoned property is located to the east, west or north, the development in the Highway zone immediately adjacent that Residential zoned property must be set back at least 1m for every 1m of building height above the relative height of development contained on the Residential zoned property.

Council may at its discretion, vary the requirements of sub-clauses 2(a) and 2(b) above to allow part of a development up to 6m high to be constructed no less than 2m from a lot boundary in order to provide visual screening of the building from view of the adjacent residential property. Council will only permit this when, in its opinion, the reduced setback achieves a beneficial outcome for the adjacent property owner.

m. Insert new clause 71A Plot Ratio as follows:

71A PLOT RATIO

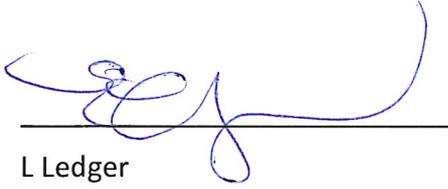
The assigned plot ratio for eight storey ‘Designated Landmark Sites’ is 2.75, subject to variation in consideration of the Plot Ratio Element Objective under the Residential Design Codes Volume 2 – Apartments.

n. Deleting sub-clause (3) of clause 72.

2. Determine the Amendment is Complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as it relates to

development that is of a scale, or will have an impact, that is significant relative to development in the locality.

Dated this 15<sup>th</sup> day of September 2020

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a solid black horizontal line.

L Ledger

Chief Executive Officer

# Scheme Amendment Report

## 1. Introduction

The purpose of this amendment is to finalise the implementation the Town's Stirling Highway Local Development Plan (SHLDP), which was adopted by Council on 5 July 2016 and reviewed by Council on 21 July 2020. This document is part of the Town's response to the State Government's requirement for increased infill housing and will ensure the Town is able to meet or exceed the targets set by the State.

This Scheme Amendment for the Eastern Highway Precinct as identified under the SHLDP has been initiated by the Town following Scheme Amendments Nos 136 and 137 which addressed the Western Residential and Central Town Centre Precincts also identified under the SHLDP. Significant redevelopment is expected in the Eastern Highway Precinct and the intent of this Scheme Amendment is to enable this development while ensuring the impact on adjacent residential properties is minimised.

Community consultation was undertaken in 2016 as part of the SHLDP to inform the preparation of this Amendment. Recent development applications for 256 Stirling Highway and 1 Airlie Street have highlighted further issues that need to be addressed. The proposed changes are intended to encourage quality redevelopment along Stirling Highway that is of benefit to the whole community while protecting the residential amenity of adjacent housing areas which contain significant numbers of Heritage Listed properties, quality single houses and tree-lined streets.

## 2. Amendment Type

Scheme Amendments are required under the *Planning and Development (Local Planning Scheme) Regulations 2015* (LPS Regs) to be classed as either Basic, Standard or Complex. The classification affects the statutory process and consultation requirements for the Amendment.

This Amendment has been classed as a Complex Amendment as it meets the following definition under the LPS Regs:

- (c) *an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality.*

## 3. Details

### *Affected Properties*

The majority of properties affected by this Amendment are those that are currently wholly or partially zoned 'Highway' under LPS3. In addition, the following sites are included in the Amendment:

- 26 Vaucluse Avenue, currently zoned 'Special Zone – Restricted Use'

- 42 Reserve Street (non-conforming 'Office' use), currently zoned 'Residential' with a density coding of 'R15/20'
- 206 Stirling Highway (Coronado Hotel), currently used as Medical Consulting Rooms with a residential apartment development at the rear.
- 264 Stirling Highway (Congregational Church and Hall), currently zoned 'Special Zone – Restricted Use'
- 282-288 Stirling Highway (former the Police Station, St John Ambulance Office, Town of Claremont Operations Centre, Kindergarten and Meals on Wheels building), currently unzoned (formerly 'Parks and Recreation' Reservation under the MRS and amended to 'Urban' under MRS Amendment No. 1341/57, gazetted 2 July 2019).

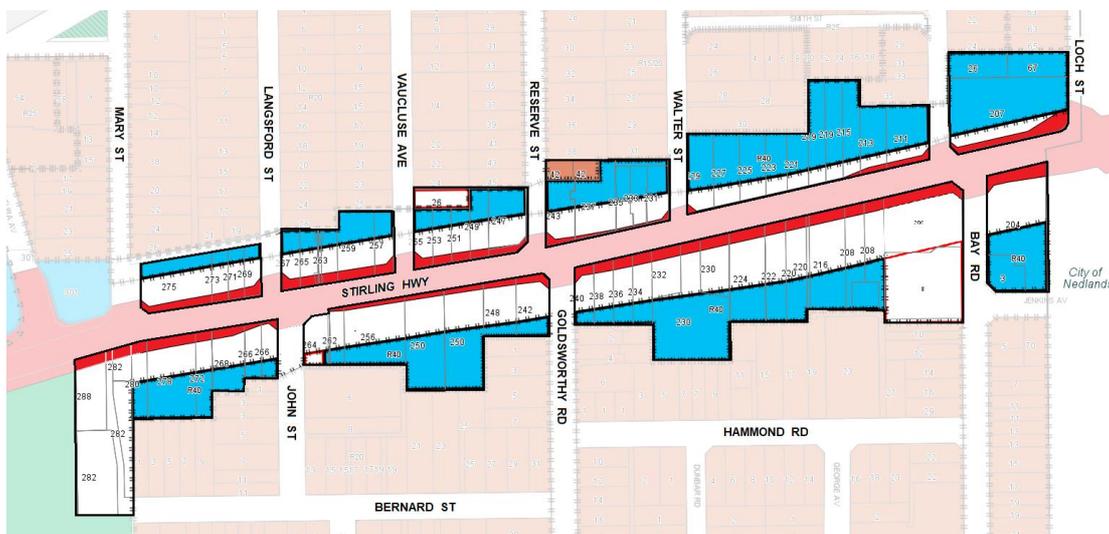


Image 1: Affected lots showing existing zoning under LPS3

### **Zoning Changes**

The majority of changes are to properties that are already partially zoned 'Highway' (coloured blue in Image 1 above). Large parts of these properties were formally reserved as 'Primary Regional Roads' under the MRS and rezoned 'Urban' under MRS Amendment No. 1210/41 (gazetted 9 June 2017) and remain unzoned under LPS3 as a result of the reduced the width of the 'Primary Regional Roads' Reservation for the Highway reserve (coloured red).

Additional properties have been included in the Amendment for reasons as follows:

- 26 Vacluse Avenue:  
This property is currently used in conjunction with the adjacent 'Highway' zoned properties for parking and storage. Appendix 7 of LPS3 only permits the use of 'Office' on this site, subject to the size of the building not exceeding 200m<sup>2</sup>. The site was used for several decades as a service station however in 1993 the current zoning was imposed to allow a specific Office development as a buffer between residents to the north and commercial development fronting the Highway. This development did not occur and the site has been used informally for parking and servicing/deliveries associated with the

commercial development fronting the Highway ever since. This use is inconsistent with the SHLDP and is unnecessarily restrictive. It is proposed to retain the existing 'Special Zone (Restricted Use)' but alter the permitted use to include 'Dwelling (Self-contained)' and alter the development standards to comply with the Highway zone. This will encourage redevelopment in conjunction with the adjacent commercial properties while retaining the current restriction on commercial uses to 'Office' so as to limit impact on the adjacent residential property to the north.

- 42 Reserve Street:

This property is zoned 'Residential' however has non-conforming use rights as an 'Office'. The rear is used for parking by the adjacent 'Highway' zoned properties. Similar to 26 Vacluse, this use is inconsistent with the SHLDP and is unnecessarily restrictive. Rezoning acknowledges the commercial use of the site and will encourage redevelopment in conjunction with the adjacent commercial properties.

- 206 Stirling Highway:

This property is zoned 'Special Zone – Restricted Use'. This zone includes significant heritage protection controls under LPS3 Appendix 7 while allowing redevelopment of the rear of the site, which occurred in 2000. Because of this, and as further redevelopment is unlikely, it is proposed to retain the existing zoning and extend it to cover the unzoned portion of the site.

- 264 Stirling Highway:

This property is zoned 'Special Zone – Restricted Use'. The existing permitted use of this property under Appendix 7 of LPS3 states:

*"All the uses that the land may be used for in the Highway Zone as determined by Table 1 Land Use Table and in addition may be used for the purpose of conducting civil ceremonies. A minimum of 22 car bays are to be available for the wedding guests."*

Redevelopment of the rear of the site has removed the majority of parking and it is no longer possible to provide 22 car bays for civil ceremony uses. Because of this the benefit of the current zoning no longer exists and the zoning should revert to 'Highway' consistent with the SHLDP. It is noted however that the site contains the heritage Listed Congregational Church which will place significant constraints on the capacity for the site to be redeveloped consistent with the SHLDP.

- 282-288 Stirling Highway:

These properties are owned by the State Government and were previously reserved under the MRS for 'Parks and Recreation' and 'Primary Regional Roads'. MRS Amendment Nos 1210/41 (gazetted 9 June 2017) and 1341/57 (gazetted 2 July 2019) changed this to 'Urban' in response to the reduced Highway Reservation requirements, acknowledges the existing developments on the site, and allow for the sale of the former Police Station site as a State Government asset and to allow for future redevelopment. The Town has a

Management Order over (approximately) three quarters of the site (not including the former Police Station site) and is engaged in ongoing discussions with the State Government about the future of this land.

Maps showing the existing and proposed rezoning are included at the end of this report.

### ***R-Code Changes***

The Residential Density Codes Volume 2 – Apartments (RDC Vol. 2 Apartments) establish the permitted amount of residential development on land. RDC Vol. 2 Apartments primarily determine the height of buildings, residential plot ratios and building setbacks (in addition to other requirements designed to improve the amenity of apartments and address impacts on surrounding properties).

It is proposed to increase the density code within the Highway Zone from ‘R40’ to ‘R-AC3’ (Activity Centre 3). This is higher than the ‘R100’ recommended for the Eastern Highway Precinct in the SHLDP for reasons set out below.

The ‘RAC-3’ density coding was not considered in the preparation of the SHLDP because the Local Development Plan was prepared prior to the release of the RDC Vol.2 Apartments.

The RDC Vol.2 Apartments provides a new classification system for desired streetscapes that groups the density codes into Streetscape Character Types, inclusive of Suburban Contexts (Low-Rise, Medium-Rise and Neighbourhood Centre) and Urban Contexts (Higher Density Residential, Mid-Rise Urban Centres and High Density Urban Centres). The Streetscape Character Types are further differentiated to default settings applying the Low-rise residential (R40 and R50), Medium-rise residential (R60 and R80) and High density urban residential (R100 and R160). Where designated by local government in a Local Planning Scheme, Activity Centre Plan, Structure Plan, Local Development Plan or Local Planning Policy, mixed commercial use options are provided for a Neighbourhood Centre (R-AC4), Medium-rise urban centre (R-AC3), High density urban centres (R-AC2 and R-AC1) and Planned areas (R-AC0). The purpose of each is to ensure that the primary controls set out in Table 2.1 of the RDC Vol. 2 Apartments properly align with intended streetscape outcomes.

Under this new system, the desired outcome for Stirling Highway is primarily aligned with the ‘Mid-rise urban centres’ (equivalent of ‘Medium-rise urban centres’) category which is defined as follows:

#### ***Mid-rise Urban Centres***

*Context: Urban centres may include town/district centres, urban corridors, activity centres and station precincts. Urban centres typically comprise development up to approximately 6-storeys that has direct street frontage and is often built to boundary. Urban centres are highly walkable with close proximity to high-frequency transit services, public open space, commercial and/or retail uses and community infrastructure.*

*Character: Urban centres are characterised by mid-rise buildings and contiguous, pedestrian friendly street frontages that include some activation. New development should create an attractive and coherent street frontage*

*that complements adjoining buildings, has a pedestrian scale and provides passive surveillance of the street.*

Mid-rise (Medium-rise) urban centres are designated as aligning with the R-AC3 density code and it is recommended the Town adopt this density code to ensure the desired built-form and streetscape character as identified in the SHLDP is achieved.

The following table outlines the existing and proposed key development requirements for the 'Highway' zoned properties under LPS3, the SHLDP and RDC Vol. 2 Apartments:

	<b>R40 (Existing)</b>	<b>SHLDP proposals</b>	<b>R100 (Primary SHLDP proposal)</b>	<b>R-AC3 (Proposed)</b>	<b>R-AC2 (Considered for SHLDP 'Designated Landmark Sites')</b>	<b>R-AC1 (Considered for SHLDP 'Designated Landmark Sites')</b>
<b>Maximum height</b>	2 storeys (9m)	6 storeys (21.6m) for all properties other than 'Designated Landmark Site' – 8 storeys (28.8m)	4 storeys (15m)	6 storeys (21m)	7 storeys (24m)	9 storeys (30m)
<b>Maximum plot ratio</b>	0.6	Former RDC requirement of 1.25 envisaged	1.3	2.0	2.5	3.0
<b>Boundary wall height</b>	1 storey to one boundary only and not exceed 2/3 boundary length	Former RDC requirement of 6m average envisaged	2 storeys, to one boundary only and not exceed 2/3 boundary length	3 storeys	4 storeys	4 storeys
<b>Minimum rear setback</b>	3m	Former RDC requirement of 3-4m envisaged	6m	6m	Nil	Nil

As shown, the primary development requirements for the majority of properties along the Highway as proposed by the SHLDP align better with the 'R-AC3' requirements (other than plot ratio and requirements for 'Designated Landmark Sites' under the SHLDP).

The envisaged height of six storeys under the SHLDP no longer aligns with the 'R100' requirement of four storeys, which is provided for under the 'R-AC3' coding. The

envisaged plot ratio of 1.25 under the former RDC requirements for 'R100' does not align with revised plot ratio standards of 2.0 under the RDC Vol. 2 Apartments requirements to reflect the six storey built form outcome. Accordingly, the proposal to apply the 'R-AC3' requirements for the Highway brings the SHLDP proposals into alignment with the modern RDC Vol. 2 Apartments requirements.

It is noted that the SHLDP provides for an additional two storeys to be developed on 'Designated Landmark Sites' which would result in a total height of 27m of the RDC Vol.2 Apartments requirements. Within the Eastern Highway Precinct, these sites include 207 Stirling Highway (Lot 333) and 256 Stirling Highway (Lot 102 – SHLDP Rev. 1 July 2020). The SHLDP proposal of eight storeys for these sites does not fit well with the alternatives provided for under the RDC Vol.2 Apartment density codings. As indicated above, options considered of 'R-AC2' provide for a height of seven storeys and 'R-AC1' provides for a height of nine storeys. As a result, the height proposed for 'Designated Landmark Sites' are considered to be more appropriately controlled by height requirements under cl.40(9) of LPS3 (see below) than by applying either of these density codings.

Similarly, plot ratio requirements for 'Designated Landmark Sites' under 'R-AC2' (2.5) and 'R-AC1' (3.0) under the RDC Vol. 2 – Apartments requirements do not reflect the eight storey built form outcomes. As a result, the plot ratio for 'Designated Landmark Sites' are considered to be more appropriately controlled by new plot ratio requirement additions under cl. 70 of LPS3 (see below) than by applying either of these density codings.

It should be noted that the increase in plot ratio provided for under the 'R-AC3' and cl.70 proposals above are balanced by a far more comprehensive assessment framework under the RDC Vol.2 Apartments. While previous assessment criteria primarily dealt with height, setbacks and car parking, the new requirements include Design Elements relating to such matters as tree canopies, interface with the public domain, response to site, light and ventilation, internal design of apartments, universal design and energy/water efficiency. These requirements are intended to drive substantially improved design outcomes than previously.

These modifications will allow for residential development that meets the desired built form outcomes adopted by Council in the SHLDP.

### ***Scheme Text Changes***

Significant text changes are proposed to LPS3. This is to allow for increased development while ensuring adjacent low-density residential properties are not significantly impacted by overshadowing and building bulk. Controls for building heights and setbacks are proposed to be incorporated into the Scheme to add a measure of control over LPS provisions, which until now have not been subject to discretion.

'Due regard' considerations have been recently highlighted in a Development Approval at granted (by the Metro Inner-North Joint Development Assessment Panel) for 1 Airlie Street. In that specific case, LPS3 required the site to be controlled by a Structure Plan, however the LPS Regs provided for this to be varied and the SHLDP height requirements were considered a 'due regard' matter where discretion may

apply taking into account other design requirements under the RDC Vol. 2 Apartments. In this case the height was varied as the built form impacts were primarily contained within the property due to the size and orientation of the property and accordingly the amenity impacts on surrounding development was considered to be substantially mitigated.

It is noted that in a more recent case, an eight storey development was approved (as a variation to the SHLDP) at 256 Stirling Highway. In that instance the orientation and size of the lot resulted in an acceptable overshadowing impact on the property to the south as determined by the Orientation Element Objectives of the RDC Vol. 2 Apartments. Again, in this instance, the ‘Urban’ zoning under the MRS allowed consideration of the height a ‘due regard’ consideration.

While ‘due regard’ considerations in exercising discretion on Design Elements of the RDC- Vol. 2 Apartment and LPS3 requirements are likely to become more prevalent in the development industry, the following Amendments to LPS3 provisions will provide some measure of guidance to reduce amenity impacts on adjacent low-density residential properties and address some of the applicable RDC Vol. 2 Apartments density coding shortcomings as detailed above:

Table 1: Essential Changes:

Existing Clause	Proposed Change	Reason for Change
<p>Clause 40(9) - Height of Buildings in the Highway zone</p> <p><i>In the Highway Zone a building shall not exceed 12m in height provided that, if the Council is of the opinion that it is necessary to do so in a particular case to avoid any adverse effect on the amenity of any part of the Residential Zone, the Council may require a building to be constructed to a lower height in than 12m.</i></p>	<p>Replace cl. 40(9) with the following:</p> <p><i>In the Highway zone, a building may be constructed up to a height of six storeys or 21m provided no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments except as follows:</i></p> <p><i>a) Where a site is a ‘Designated Landmark Site’ under the Stirling Highway Local Development Plan, an additional two storeys to a maximum height of eight storeys or 27m are permitted providing no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives</i></p>	<p>The SHLDP recommends a six storey limit with ‘Designated Landmark Sites’ of up to eight storeys.</p> <p>Height limits are required to allow for the intended development along Stirling Highway while protecting the amenity of adjacent residential property to the south and to ensure the footpath on the southern side of Stirling Highway is not overshadowed to the extent that it will discourage pedestrian use.</p> <p>Adverse amenity impacts under the RDC Vol. 2 Apartments requirements are measured against the Orientation Element Objectives which seek to ensure that building layouts respond to streetscape, topography and site attributes while optimising solar and daylight access within the development and the building form and orientation minimises</p>

Existing Clause	Proposed Change	Reason for Change
	<p><i>contained in the Residential Design Codes Volume 2 – Apartments and the footpath on the southern side of Stirling Highway is not overshadowed by more than 50% of its width.</i></p> <p><i>b) Where the top floor is limited to service areas and/or ancillary communal facilities (setback so as to not be visible from the footpath on the direct opposite side of the Highway and containing any roof structure not exceeding more than 50% of the floorspace below) and designed to ensure no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments, shall not be counted as an additional storey.</i></p>	<p>overshadowing of the habitable rooms, open space and solar collectors of neighbouring properties during mid-winter.</p> <p>A change to include storeys as a height measure in addition to heights in meters is proposed to align with the RDC Vol.2 Apartments requirements and to encourage better built outcomes including high internal ceilings and rooftop amenities.</p> <p>Inclusion of minimal facilities on the rooftop is not considered significant and is encouraged providing adverse amenity impacts do not result.</p>
<p>Clause 44 - Stirling Highway Vehicular Access</p> <p><i>Where land having a frontage to Stirling Highway has an alternative means of vehicular access to another street or road, a person shall not create and direct vehicular access to or from that land to Stirling Highway.</i></p> <p>It is noted that this clause works in conjunction with cl.72 (see below) which allows Council to approve direct vehicle access to the Highway as a temporary measure or to require access over a site to the benefit of an adjoining property.</p>	<p>Replace cl.44 with the following:</p> <p><i>Where land having a frontage to Stirling Highway has sufficient alternative means of safe vehicular access to another street, either directly or via a Right of Way or Right of Carriageway connecting to a side street, a person shall not create and direct vehicular access to or from that land to Stirling Highway.</i></p>	<p>The intent of the existing clause is to reduce the number of crossovers on Stirling Highway as a means of improving traffic flow and safety.</p> <p>As evident from assessing the proposed development at 256 Stirling Highway, clarity is desirable to ensure that where sufficient safe alternative access is available from a Right of Way or Right of Carriageway (in addition to a street), access directly to Stirling Highway should not be permitted.</p>

Existing Clause	Proposed Change	Reason for Change
<p>Clause 70 - Objectives</p> <p><i>In considering an application for planning approval for development in the Highway Zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:</i></p> <p>(1) <i>a mixture of residential and commercial developments;</i></p> <p>(2) <i>the restriction, to a minimum, of direct vehicular access to and from Stirling Highway;</i></p> <p>(3) <i>the volume of traffic likely to be generated;</i></p> <p>(4) <i>a landscape and townscape within the Zone compatible with the desired scale of Stirling Highway;</i></p> <p>(5) <i>the preservation of all buildings referred to in Clause 78.</i></p>	<p>Replace cl.70 with the following:</p> <p><i>In considering an application for Development Approval in the Highway zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:</i></p> <p>(1) <i>The creation of a ‘human scale’ corridor of six storey development along the Highway, and where appropriate and identified as a ‘Designated Landmark Site’ under the Stirling Highway Local Development Plan, the building height may be increased to eight storeys providing non adverse impacts on the amenity of adjacent land results.</i></p> <p>(2) <i>Encouragement of a pedestrian-friendly environment along the Highway.</i></p> <p>(3) <i>Preserving the commercial nature of the Highway zone as part of a mixed-use residential Precinct by ensuring the ground floor of all developments is used for commercial purposes.</i></p> <p>(4) <i>Achieving significant residential infill development.</i></p> <p>(5) <i>Restriction, to a minimum, of direct vehicle access to and from Stirling Highway, and</i></p>	<p>The objectives of the Highway zone require updating to match the objectives identified in the SHLDP. Additional criteria are also recommended based on the Town’s Local Planning Strategy (Clearly Claremont 2011).</p>

Existing Clause	Proposed Change	Reason for Change
	<p>(6) <i>Achieving a high level of environmental sustainability through design, materials, energy and water consumption and renewable energy generation.</i></p> <p>(7) <i>The preservation of all buildings referred to in Clause 78.</i></p>	
<p>Clause 71 - Building Setback Distances</p> <p><i>Where the Council grants an application for planning approval the minimum setback from Stirling Highway shall be 7 metres except that Council may vary that distance having regard to the following matters:</i></p> <p>(1) <i>the need for shops and other commercial uses to be exposed to the Highway;</i></p> <p>(2) <i>the desirability of variety in setback distances;</i></p> <p>(3) <i>the desirability of reducing noise impact from the Highway;</i></p> <p>(4) <i>the desirability of providing space for landscaped area; and</i></p> <p>(5) <i>the desirability of providing flexibility in residential development.</i></p>	<p>Replace cl.71 with the following:</p> <p>(1) <i>Setbacks to Stirling Highway for mixed-use development may be nil, provided that any development exceeding four storeys is required to be setback a minimum of 3 metres, or further to ensure that any overshadowing to a footpath on the direct opposite side of the Highway to the south does not exceed 50% of the footpath width.</i></p> <p>(2) <i>Setbacks to Residential zoned properties are dependent on the height of the building as follows:</i></p> <p>(a) <i>Where a Residential zoned property is located to the south, the development must be set back so as not to cause any unreasonable overshadowing of the Residential zoned property, as determined in accordance with the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments.</i></p>	<p>The existing 7m front setback requirement is primarily redundant given the new cl.70 objectives detailed above to encourage a 'human scale' mixed-use residential and commercial streetscape along the Highway as promoted by the SHLDP.</p> <p>The 3 metre front setback for development above four storeys is consistent with the above objective as articulated in the SHLDP.</p> <p>Side and rear setback controls are necessary where development abuts 'Residential' zoned land. The proposed setbacks are greater than required under the RDC Vol.2. Apartments. In the Town's opinion, those limits do not adequately consider the impact of tall buildings on existing houses. These impacts include overshadowing and increased building bulk compared to previous building standards along the Highway.</p> <p>The proposed setbacks are similar to existing requirements for southern boundaries, where overshadowing is of most concern. Proposed east, west and north setbacks are less as overshadowing is</p>

Existing Clause	Proposed Change	Reason for Change
	<p><i>(b) Where a Residential zoned property is located to the east, west or north, the development in the Highway zone immediately adjacent that Residential zoned property must be set back at least 1m for every 1m of building height above the relative height of development contained on the Residential zoned property.</i></p> <p><i>Council may at its discretion, vary the requirements of sub-clauses 2(a) and 2(b) above to allow part of a development up to 6m high to be constructed no less than 2m from a lot boundary in order to provide visual screening of the building from view of the adjacent residential property. Council will only permit this when, in its opinion, the reduced setback achieves a beneficial outcome for the adjacent property owner.</i></p>	<p>technically measured to the south.</p> <p>Limited discretion is proposed to allow development closer to the boundary where this can screen upper floors from view. The benefit to immediately adjacent residences is that new developments will appear mostly as two-storey buildings, with upper floors largely screened from view. This can reduce the impact of technically compliant overlooking from multiple apartments by screening lower level apartments further removed from the boundary from view.</p>
New Clause 71A – Plot Ratio	<p>Insert new cl.71A as follows:</p> <p><b>71A PLOT RATIO</b></p> <p><i>The assigned plot ratio for eight storey ‘Designated Landmark Sites’ is 2.75, subject to variation in consideration of the Plot Ratio Element Objective under the Residential Design Codes Volume 2 – Apartments.</i></p>	<p>As indicated above, eight storey apartment development falls between the mixed-use R-AC2 and R-AC1 requirements of 2.5 (for seven storey development) and 3.0 (for nine storey development). The new provision assign a commensurate plot ratio, which may be varied in the same circumstances which apply to plot ratio variations under the Element Objective which requires consideration of the overall bulk and scale of development which is appropriate for the existing</p>

Existing Clause	Proposed Change	Reason for Change
		or planned character of the area.
<p>Clause 72 - Control of Access</p> <p><i>(1) The Council may in respect of any planning approval require that an easement be granted over the land in favour of any other parcel of land for the purpose of providing access for vehicles from a street or right of way other than Stirling Highway.</i></p> <p><i>(2) The Council may in respect of any planning approval, require that the development be so designed as to allow future access to be taken from a street or right of way other than Stirling Highway and in such cases may limit the time for which access from Stirling Highway may be permitted to such time as an adequate alternative access to a street or right of way is not available.</i></p> <p><i>(3) Where access is available solely from Stirling Highway the Council may reduce the extent of the development to be permitted on the site to the extent it determines in the interest of safety and convenience for users of the Highway.</i></p>	Delete sub-clause 3.	Sub-clause 3 is contrary to the intent of the SHLDP which seeks to increase the level of development along the Highway to provide for mixed-uses including 'human scale' apartments.
<p>Appendix VII – Location Particulars Relative to Restricted Uses (cl.14A)</p> <p><i>Location: No. 264 Stirling Highway</i></p> <p><i>Particulars of Land: Lot 1 of Swan Location 621 on Plan 1133 and a portion</i></p>	Delete entry relating to 264 Stirling Highway	<p>This entry relates to the Congregational Church which is a significant Heritage Listed building.</p> <p>Redevelopment of the rear of the site has removed the majority of parking on the site and it is no longer possible to provide 22 car</p>

Existing Clause	Proposed Change	Reason for Change
<p><i>of Certificate of Title Volume 1738, Folio 887 and 889.</i></p> <p><i>Permitted Use: All the uses that the land may be used for in the Highway Zone as determined by Table 1 Land Use Table and in addition may be used for the purpose of conducting civil ceremonies.</i></p> <p><i>Standards/Conditions: A minimum of 22 car bays are to be available for the wedding guests.</i></p>		<p>bays for civil ceremony uses. As a result the provision is no longer applies and the zoning should revert to 'Highway'.</p> <p>The Heritage List protections of buildings on the site will not be affected.</p>
<p>Appendix VII – Location Particulars Relative to Restricted Uses (cl.14A)</p> <p><i>Location: No. 26 Vaucluse Street</i></p> <p><i>Particulars of Land: Portion of Swan Location 62 being Lot 36 on Plan 1234 and a portion of the land subject to Certificate of Title Volume III, Folio 465.</i></p> <p><i>Permitted Use: Office</i></p> <p><i>Standards/Conditions: Gross leasable area of building not to exceed 200m<sup>2</sup>.</i></p>	<p>Amend the Permitted Use and Standards/Conditions entries relating to 26 Vaucluse as follows:</p> <p><i>Permitted Use: Office and Dwelling (Self-contained)</i></p> <p><i>Standards/Conditions: Development of Office with a gross leasable area not to exceed 200m<sup>2</sup> and Dwelling (Self-contained) uses to accord with the requirements relating to the Highway zone.</i></p>	<p>It appears that 26 Vaucluse formed part of a former BP service station site and has been used for parking and storage/servicing of the adjoining properties at 251-255 Stirling Highway for a number of years following demolition of the service station in 1991. Council amended TPS3 in 1993 (Amendment No. 41) to provide an Office buffer to the adjoining residential properties to the north, however the Office use has not been developed and the site has continued to be used informally for parking and servicing/storage.</p> <p>The Restrictive Use limits placed on development do not fully align with the SHLDP. As the site has a history of commercial use and as Amendment No. 41 intended to provide for a buffer to the commercial uses fronting the Highway, it is recommended that the Restricted Use requirements be modified to allow for Office and Apartment development subject to all development restrictions placed in the Scheme for the Highway zone. This will</p>

Existing Clause	Proposed Change	Reason for Change
		ensure that a buffer is maintained on the site to separate the more intensive commercial uses fronting the Highway from the single residential uses to the north as intended by Amendment No 41.

## 4. Planning Framework

### *Stirling Highway Local Development Plan*

The SHLDP was approved by the Town in 2016 and amended in July 2020 (Rev. 1). It is the local planning framework document used to prepare this Amendment as it establishes the Town’s vision for future development along Stirling Highway and provides background, research and reasoning to support this vision.

The SHLDP establishes the following broad outcomes for this section of Stirling Highway:

- Building heights of 6-8 storeys
- Residential density code of R100 with a plot ratio of 1.3
- Stepped building setbacks to ensure residential properties to the south are not affected by overshadowing
- Nil setbacks to Stirling Hwy (allowing for future widening)
- Commercial uses at ground level with commercial and residential uses above.

The SHLDP proposes the creation of a ‘human scale’ corridor of six storey development along the Highway with ‘Designated Landmark Sites’ having the capacity to rise to eight storeys. The concept of human scale is scientifically based on providing social connection between residents and surrounding community. Evidence shows that when apartments are more than six storeys high, the sense of connection between residents and the outside world (and vice versa) decreases significantly. This is desirable as a way of improving the social sustainability of development in the Town and maintaining a strong sense of community. It is acknowledged that the additional two storeys permitted on ‘Designated Landmark Sites’ is slightly inconsistent with the ‘human scale’ intent. The additional height is desired on these sites to create visual landmarks and to provide variety in building form along Stirling Highway. Linking building height to strong community, heritage and environmental outcomes as proposed will encourage best-practice and innovative designs that create a lasting benefit to the community. It also recognises that Stirling Highway is a car dominated (rather than pedestrian) setting and that higher apartments will be less impacted by noise which is a desirable outcome.

Recommended changes to LPS3 and a draft Local Planning Policy were included in the SHLDP. These have been reviewed in light of more detailed investigation and the new

RDC Vol.2 – Apartments requirements. Changes from these draft recommendations are intended to deliver an improved vision for development along the Highway consistent with the SHLDP objectives and proposals.

### ***Local Planning Strategy – Clearly Claremont (2011)***

Claremont’s Local Planning Strategy identified Stirling Highway as a site for future urban regeneration. Page 9 of the Strategy (under the section Main Development Features) states:

Stirling Highway is currently the subject of a study being led by the Department of Planning that also focuses on urban regeneration. The intention of this study is to guide urban regeneration of by integrating land use planning and transport planning that allows for increases in residential density and compatibility of land uses along the Highway. This study has yet to be finalised.

The proposed Amendment is supported by a range of Position Statements in the Strategy, in particular the following:

- *X1 The Town supports more people living and working in direct vicinity to Stirling Highway, the Town Centre, local centres and around train stations.*
- *L2 The Town will support a mix of housing sizes and types, taking into account the requirements of different groups of people.*
- *L3 The Town will require that every major development contributes to active, healthy communities through appropriate design and function.*
- *W6 The Town supports land uses that generate activity outside normal business hours (e.g. hospitality and entertainment venues, community facilities, gymnasiums, and indoor sports facilities) in the town centre, local centres and along Stirling Highway.*

### ***Design WA Stage 1 – Apartment Design***

Formally titled State Planning Policy 7.3 (SPP 7.3) Residential Design Codes Volume 2 – Apartments, and adopted as part of a suite of Design of the Built Environment requirements under State Planning Policy (SPP) 7.0, this represents a major overhaul of the assessment criteria for apartment development in Western Australia. The new assessment criteria are far more comprehensive than before as part of the Residential Design Codes and will ensure improved built form outcomes and residential living standards.

The proposed Amendment has been modified from its draft form as set out in the SHLDP. These changes take advantage of the far more comprehensive building controls included in the RDC Vol.2 - Apartments. In particular, many controls that were proposed to be included in a Local Planning Policy (LPP) to accompany this Amendment are made redundant by the RDC Vol.2 – Apartments provisions. Further assessment of the LPP proposals will be undertaken during the course of this Amendment to focus on development aspects that are unique to the Highway zone as well as commercial development (which are not covered by the RDC Vol. 2 – Apartments and LPS3 provisions – as amended by this Amendment).

### ***Design WA Stage 2 – Precinct Design Guidelines***

State Planning Policy 7.2 (SPP 7.2) relative to Precinct Design Guidelines under the Design WA Stage 2 package was released as a draft for public comment in August 2019. It calls for a 'Precinct Plan' to guide development within the area subject to this Amendment. While SPP 7.2 is not yet a formal requirement, revisions are proposed to be advertised and adopted in late 2020. Notwithstanding the unknown modification (at this time), the August 2019 Draft Precinct Design Guidelines have been taken into consideration in the preparation of this Amendment to ensure (as far as possible at this point) that there are no conflicts that will need to be corrected in the future.

Noting the references above to ensuring any LPP does not unnecessarily duplicate the RDC Vol. 2 - Apartments and LPS3 provisions (as amended by this Amendment), the proposed LPP may be designed as a 'Precinct Plan' in accordance with the Guidelines to ensure it is supported by the Western Australian Planning Commission (WAPC).

### ***Metropolitan Region Scheme***

Under the provisions of the Metropolitan Region Scheme (MRS) the affected land is all zoned 'Urban'. The proposed rezoning is consistent with this.

The front 1-9m of lots that front Stirling Highway are reserved under the MRS for Primary Regional Roads. These portions of land will be acquired by the State Government at some point in the future to allow for the widening of Stirling Highway. All new buildings will need to be set back along the reserve boundary to ensure they are not impacted by the future road widening. The proposed Scheme Amendment is consistent with this requirement.

### ***State Planning Policy 5.4 – Road and Rail Noise***

State Planning Policy 5.4 (SPP 5.4) was updated in September 2019. It impacts strategic planning proposals (i.e. Scheme Amendments) as well as Development Applications.

The intent of SPP 5.4 is to *“minimise the adverse impact of road and rail noise on noise-sensitive land-use and/or development within the specified trigger distance of strategic freight and major traffic routes and other significant freight and traffic routes.”*

Stirling Highway is identified as an 'Other Significant Freight/Traffic Route' under the SPP 5.4 with a "trigger distance" of 200m. The properties affected by this Amendment are all within this distance.

Land adjacent to Stirling Highway is classed as being within Noise Category 'C' (out of a possible range of A-E) and residential developments will generally require a Noise Management Plan to be lodged as part of any Development Application.

### ***SHACS - Stirling Highway Activity Corridor Study (2006-2013)***

This Stirling Highway Activity Corridor Study (SHACS) was prepared by the Department of Planning in conjunction with Main Roads WA with substantial input from affected local governments. It proposes a future road design for Stirling Highway that allows for the

Highway's Primary Regional Road Reserve under the MRS to be reduced from 80m wide to 30-37m wide for most of its length. This reduction in the MRS reserve was implemented under MRS Amendment 2010/41 in 2016.

SHACS was intended to have two stages – a road reserve/carriageway design stage and an urban design stage. Stage one was concluded in 2013 with MRS Amendment 1210/41, however carriageway designs provided are provisional and subject to refinement prior to construction.

The SHLDP and Scheme Amendment Nos 136, 137 and 138 are a direct continuation of the planning undertaken in the SHACS.

## **5. Conclusion**

The proposed Scheme Amendment is the culmination of a significant amount of planning across State and Local Governments. It will generate a substantial amount of new development along Stirling Highway. This Precinct will be transformed from a showroom and car-based commercial strip to a mixed use form with a more diverse commercial environment and substantial amount of new apartment living based on the concept of 'human scale' development.

Changes to the Scheme Text will protect adjacent houses from unacceptable impacts whilst the new Residential Design Codes Vol.2 - Apartments will ensure new developments meet high standards of design and sustainability.

More broadly, this Amendment will preserve the attractive and highly desirable low-density residential areas characterised by quality housing options inclusive of a significant number of Heritage Listed dwelling and tree-lined streets within Claremont by concentrating development along the Highway (and at other strategic locations through the Town). It will enable the Town to comfortably achieve the infill density targets set by the State Government while ensuring there is enough suitable land elsewhere in the Town to accommodate future infill requirements.

# ***Planning and Development Act 2005***

## **Resolution to Amend Local Planning Scheme**

### **Town of Claremont Local Planning Scheme No. 3**

#### **Amendment No. 138**

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, as follows:

(a) Amend the above Local Planning Scheme by:

- a. Zoning all unzoned portion of lots adjacent to Stirling Highway on the north side of the Highway between Mary Street and Loch Street to 'Highway'.
- b. Zoning all unzoned portions of lots adjacent to Stirling Highway on the south side of the Highway between 204 Stirling Highway (Lot 30) and 280 Stirling Highway (Lot 1) inclusive of these lots to 'Highway', with the exception of 206 Stirling Highway (Lot 801).
- c. Zoning the unzoned portions of 206 Stirling Highway (Lot 801) and 8 Bay Road (Lot 802) to 'Special Zone – Restricted Use'.
- d. Zoning the unzoned portions of 282-288 Stirling Highway (Lots 11051, 848 and 3771) and the under-width road reserve that dissects these lots to 'Highway'.
- e. Rezoning the southern portion of 264 Stirling Highway (Lot 2012) from 'Special Zone – Restricted Use' to 'Highway'.
- f. Rezoning 42 Reserve Street (Lots 20 and 21 and Lot 621) from 'Residential' to 'Highway'.
- g. Amending the Residential density code of the 'Highway' zone and 26 Vaucluse Avenue (Lot 36) to R-AC3.
- h. Amending the Appendix 7 Permitted Use and Standards/Conditions entries relating to 26 Vaucluse Avenue (Lot 36) as follows:  
Permitted Use: Office and Dwelling (Self-contained)

Standards/Conditions: Development of Office with a gross leasable area not to exceed 200m<sup>2</sup> and Dwelling (Self-contained) uses to accord with the requirements relating to the Highway zone.

- i. Deleting the Appendix 7 entry relating to 264 Stirling Highway (Lot 2012).

- j. Replacing sub-clause 40(9) with:

In the Highway zone, a building may be constructed up to a height of six storeys or 21m provided no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments except as follows:

- (a) Where a site is a ‘Designated Landmark Site’ under the Stirling Highway Local Development Plan, an additional two storeys to a maximum height of eight storeys or 27m are permitted providing no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments and the footpath on the southern side of Stirling Highway is not overshadowed by more than 50% of its width.

- (b) Where the top floor is limited to service areas and/or ancillary communal facilities (setback so as to not be visible from the footpath on the direct opposite side of the Highway and containing any roof structure not exceeding more than 50% of the floorspace below) and designed to ensure no adverse amenity effects result on adjacent residential properties to the south as determined by the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments shall not be counted as an additional storey.

- k. Replacing clause 70 with:

In considering an application for Development Approval in the Highway zone the Council, in addition to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (1) The creation of a ‘human scale’ corridor of six storey development along the Highway, and where appropriate and identified as a ‘Designated Landmark Site’ under the Stirling Highway Local Development Plan, the building height may be increased to eight storeys providing non adverse impacts on the amenity of adjacent land results.
- (2) Encouragement of a pedestrian-friendly environment along the Highway.

- (3) Preserving the commercial nature of the Highway zone as part of a mixed-use residential Precinct by ensuring the ground floor of all developments is used for commercial purposes.
- (4) Achieving significant residential infill development.
- (5) Restriction, to a minimum, of direct vehicle access to and from Stirling Highway.
- (6) Achieving a high level of environmental sustainability through design, materials, energy and water consumption and renewable energy generation.
- (7) The preservation of all buildings referred to in Clause 78.

I. Replacing clause 71 with:

- (1) Setbacks to Stirling Highway for mixed-use development may be nil, provided that any development exceeding four storeys is required to be setback a minimum of 3 metres, or further to ensure that any overshadowing to a footpath on the direct opposite side of the Highway to the south does not exceed 50% of the footpath width.
- (2) Setbacks to Residential zoned properties are dependent on the height of the building as follows:
  - (a) Where a Residential zoned property is located to the south, the development must be set back so as not to cause any unreasonable overshadowing of the Residential zoned property, as determined in accordance with the Orientation Element Objectives contained in the Residential Design Codes Volume 2 – Apartments.
  - (b) Where a Residential zoned property is located to the east, west or north, the development in the Highway zone immediately adjacent that Residential zoned property must be set back at least 1m for every 1m of building height above the relative height of development contained on the ‘Residential’ zoned property.

Council may at its discretion, vary the requirements of sub-clauses 2(a) and 2(b) above to allow part of a development up to 6m high to be constructed no less than 2m from a lot boundary in order to provide visual screening of the building from view of the adjacent residential property. Council will only permit this when, in its opinion, the reduced setback achieves a beneficial outcome for the adjacent property owner.

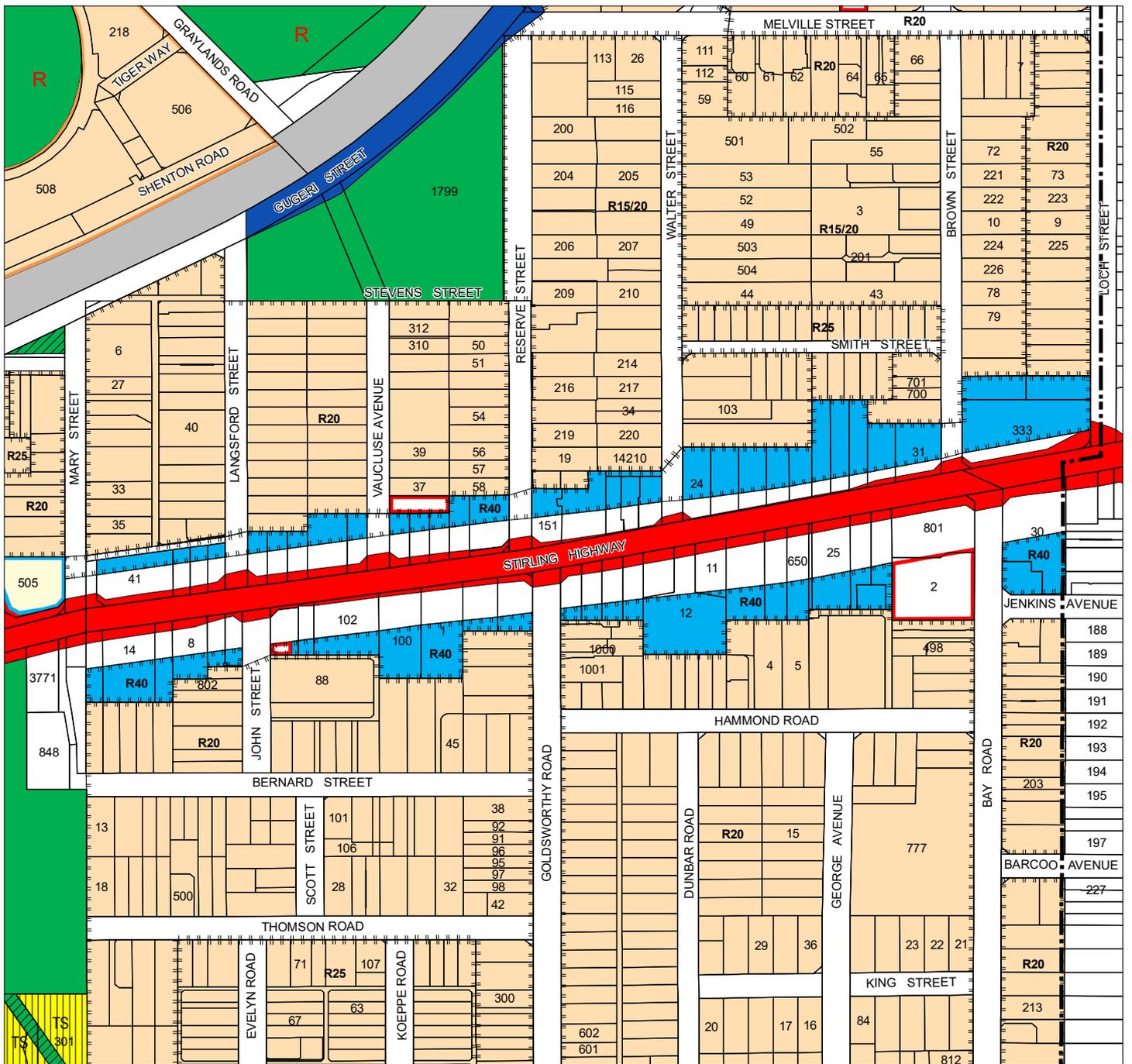
- m. Insert new clause 71A Plot Ratio as follows:

71A PLOT RATIO

The assigned plot ratio for eight storey 'Designated Landmark Sites' is 2.75, subject to variation in consideration of the Plot Ratio Element Objective under the Residential Design Codes Volume 2 – Apartments.

- n. Deleting sub-clause (3) of clause 72.

- (c) Determine the Amendment is Complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as it relates to development that is of a scale, or will have an impact, that is significant relative to development in the locality.



**EXISTING SCHEME MAP**

**Legend**

-  Cadastre with Lot number
-  Special zone - restricted use
-  Railways
-  Scheme boundary
-  Town centre
-  R Codes
- LPS Reserves**
-  Local reserves - recreation
- LPS Zones**
-  Development
- Existing Region Scheme Reserves**
-  TS Educational : Technical school
-  Other regional roads
-  Highway
-  Parks and recreation
-  Residential
-  Primary regional roads



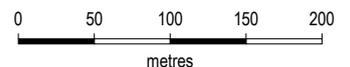
**Department of Planning,  
Lands and Heritage**

**Town of Claremont**

Town Planning Scheme No. 3

Amendment No. 138

Produced by Geospatial Research and Modelling,  
Department of Planning, Lands and Heritage, Perth WA  
Base Information supplied by Western Australian  
Land Information Authority SLIP 1096-2018-1





**PROPOSED SCHEME AMENDMENT MAP**

**Legend**

-  Cadastre with Lot number
-  Primary regional roads
-  R Code amendments
-  Railways

**LPS Zones and Reserves Amendments**

-  Highway
-  Special zone - restricted use

**Existing Region Scheme Reserves**

-  Other regional roads
-  Parks and recreation



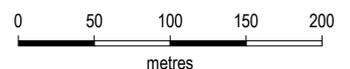
Department of Planning,  
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Land Information Authority SLIP 1096-2018-1



Form 6a

### Council Adoption

This Complex Amendment was adopted by resolution of the Council of the Town of Claremont at the Ordinary Meeting of the Council held on 15 September, 2020.

\_\_\_\_\_  
J Barker  
Mayor

\_\_\_\_\_  
L Ledger  
Chief Executive Officer

### Council Recommendation

This Amendment is recommended for support by resolution of the Town of Claremont at the Ordinary Meeting of the Council held on \_\_\_\_\_ and the Common Seal of the Town of Claremont was hereunto affixed by the authority of a resolution of the Council in the presence of:

\_\_\_\_\_  
J Barker  
Mayor

\_\_\_\_\_  
L Ledger  
Chief Executive Officer

### WAPC Endorsement (r.63)

\_\_\_\_\_  
(Delegated under s.16 of the *Planning and Development Act 2005*)  
Date: \_\_\_\_\_

### Approval Granted

\_\_\_\_\_  
Minister for Planning  
Date: \_\_\_\_\_