

Part 5 — General Development Requirements

Note: This part includes the general requirements for development in all zones and should be read in conjunction with the specific provisions applicable to certain zones under Part 6, Special Control Areas and any specific provisions applicable to individual sites.

5.1 Compliance with Development Standards and Requirements

- 5.1.1 Any development of land is to comply with provisions of the Scheme and have due regard for any relevant planning policies effective under the Scheme.
- 5.1.2 Unless otherwise specified in the Scheme, development requirements shall be determined by Council having regard to any relevant local planning policies adopted under the Scheme.

5.2 Residential Design Codes

- 5.2.1 A copy of the *Residential Design Codes* is to be kept and made available for public inspection at the offices of the local government.
- 5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the *Residential Design Codes* is to conform with the provisions of those Codes. The Codes are to have effect in the Scheme as contemplated by section 77(2) of the *Planning and Development Act 2005*.
- 5.2.3 The *Residential Design Codes* density applicable to land within the Scheme area is to be determined by reference to the *Residential Design Codes* density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a *Residential Design Code* density, as being contained within the area defined by the centre-line of those borders.
- 5.2.4 Notwithstanding the provisions of the *Residential Design Codes*, within a dual coded area, when considering an application for approval of a residential development, or a residential built strata application, and when making recommendations to the Commission in respect of a subdivision for 'Residential' zoned land, within a dual coded area, the Council is to apply the base density code, but may increase the density in excess of the base code and up to the maximum of the highest code designated for the site after having regard to the provisions of Clause 5.2.5.
- 5.2.5 In a dual coded area, when considering an application for development approval or a built strata approval which involves more than two (2) grouped dwellings or more than two (2) multiple dwellings on a lot, or when making recommendations to the Commission in respect of a subdivision application for 'Residential' zoned land that proposes more than two (2) lots, in any of those cases, where there is a proposal to apply a density code above the base code as provided in Clause 5.2.4, the following provisions shall apply:
 - (a) The lot the subject of the application must have a total lot area greater than 1,300m²; and
 - (b) Where the application proposes more than four (4) grouped dwellings and/or four (4) multiple dwellings or more than four (4) strata lots, or where the subdivision or survey strata subdivision application proposes to create more than four (4) lots, at least one (1) dwelling or lot must be provided as a single bedroom dwelling or as an aged or dependant persons dwelling.

Inserted by Amend. 92 – Gov. Gaz. 23.10.2015 (Urban Housing Strategy)

5.3 Special Application of Residential Design Codes

- 5.3.1 The Council may consider an application for the development within that part of the Guildford Conservation Precinct, with a *Residential Design Codes* designation of R5 of a single dwelling on a lot which does not comply with the requirements of the minimum land area per dwelling and may grant approval with or without conditions or may refuse the application.
- 5.3.2 The Council may consider an application for the reinstatement within any Conservation Precinct of any grouped dwelling development which has been accidentally destroyed, notwithstanding that the proposed works do not comply with the *Residential Design Codes* requirements for the minimum area of land per dwelling.

5.4. Restrictive Covenants

- 5.4.1 Subject to clause 5.4.2, a Restrictive Covenant affecting any land in the Scheme area by which, or the effect of which is that the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the *Residential Design Codes* which apply under the Scheme.
- 5.4.2 Where clause 5.4.1 operates to extinguish or vary a Restrictive Covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited, unless the application has been dealt with as an "A" use and has complied with all of the advertising requirements of clause 9.4.

5.5 Variations to Site and Development Standards and Requirements

- 5.5.1 Except for development in respect of which the *Residential Design Codes* apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.
- 5.5.2 In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site, which is the subject of consideration for the variation, the local government is to –
- (a) Consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and
 - (b) Have regard to any expressed views prior to making its determination to grant the variation.
- 5.5.3 The power conferred by this clause may only be exercised if the local government is satisfied that –
- (a) Approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
 - (b) Without affecting the generality of (a), the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

5.6 Environmental Conditions

- 5.6.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 10 of the Scheme.
- 5.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- 5.6.3 The local government is to –
- (a) Maintain a register of all relevant statements published under sections 48F and 48G of the *Environmental Protection Act 1986*; and
 - (b) Make the statements available for public inspection at the offices of the local government.

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

5.7 Swan Valley Planning Act

- 5.7.1 For the purposes of this Scheme “Swan Valley Planning Act” means the *Swan Valley Planning Act 1995*.
- 5.7.2 A copy of the Swan Valley Planning Act shall be kept and made available for public inspection at the offices of the City of Swan.
- 5.7.3 In this clause (5.7) the term “Swan Valley” has the same meaning as is given to it in Section 3 of the Swan Valley Planning Act.
- 5.7.4 The Swan Valley may be depicted on the Scheme Map by the authority of this subclause by a solid black line for convenience of reference.

5.8 Telecommunications Infrastructure

- 5.8.1 When considering an application for planning approval for Telecommunications Infrastructure, the Council shall have regard to any relevant planning policy adopted by the Council pursuant to clause 2.4, WAPC State Planning Policy 5.2 (Telecommunications Infrastructure), any other relevant State Planning Policy and to the following objectives:
- (a) To encourage co-location as a means of preventing unnecessary proliferation and duplication of such infrastructure;
 - (b) To minimise the visual impact of such infrastructure on the surrounding locality; and
 - (c) To prevent ad-hoc development of such infrastructure by requiring applicants to provide a report in accordance with the requirements of WAPC State Planning Policy 5.2 and any other relevant State Planning Policy and to demonstrate an industry-wide strategic approach to the location of such infrastructure throughout the City.

5.9 Re-use of Disused Vehicles

- 5.9.1 Without affecting the generality of the other provisions of this Scheme dealing with the approval of the commencement of carrying out of any development, no person shall use store or allow to remain stationary for more than thirty days any disused

vehicle, on any land in the Scheme Area without the prior Development Approval of the Council.

5.9.2 In considering an application made pursuant to paragraph (a), the Council shall have regard to:

- (i) The type, size and condition of the vehicle;
- (ii) The potential of the vehicle to be located and modified, as necessary, so as to be complementary with its surroundings and any associated development;
- (iii) The capability and suitability of the vehicle to be used for the purpose for which it is proposed to be used;
- (iv) The purpose of the zone in which the vehicle is proposed to be located;
- (v) The provisions of clause 10.2 insofar as they are applicable;
- (vi) Any other matter which Council considers relevant whether or not of the same kind as the foregoing.

5.9.3 Notwithstanding the provisions of clause 5.5, the maximum number of disused vehicles that can be approved by the Council on any land owned or occupied as one parcel shall not exceed four (4) unless the land is an approved Salvage Yard, Transport Depot or Vehicle Wrecking Premises, as defined under the Scheme.

5.9.4 In addition to the requirement for Development Approval, no person shall place, park or otherwise locate, or permit or suffer the placing, parking or locating of one (1) or more disused vehicles on any land within the Scheme Area unless a building licence has first been applied for and issued in respect thereof.

5.10 Parking of Commercial Vehicles

5.10.1 Subject to this clause, the parking or garaging of a commercial vehicle(s) on any land within the Scheme Area requires the prior approval of the Council.

5.10.2 An application for the approval of the Council under this clause may be made on the form prescribed in Schedule 6.

5.10.3 This clause does not apply where the proposed parking or garaging of a commercial vehicle(s):

- a) Occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);
- b) Is solely for the purpose of visiting the subject lot or the delivery or receiving of goods and is for a duration of no longer than two (2) hours between 7am to 7pm in any 24 hour period for Residential zones and no longer than five (5) hours in any 24 hour period for Rural zones;
- c) Is approved under this Scheme as a transport depot;
- d) Is considered to be ancillary to an approved use of the land upon which the commercial vehicle(s) is parked or garaged; or
- e) Is exempted from the need to obtain approval pursuant to Schedule 5.

- 5.10.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.10.1 is set out in Schedule 14.
- 5.10.5 An approval under this clause may only be granted where an occupier of the lot upon which the commercial vehicle(s) is to be parked is also:
- a) The owner of; or
 - b) The driver of; or
 - c) The proprietor of a business which owns or operates,
every commercial vehicle which is to be parked or garaged there.
- 5.10.6 The requirements of clause 5.10.4 and clause 5.10.5 are not capable of variation by clause 5.5 of the Scheme except in the following manner:
- a) Council may vary the 'maximum number of motorised commercial vehicles' as stipulated in Column No.3 of Schedule 14 by a maximum of one (1) additional motorised commercial vehicle in each of the 'lot size' categories, provided that Council is of the opinion that the additional commercial vehicle:
 - i) Satisfies each of the criteria outlined within clause 5.10.5;
 - ii) Is sufficiently screened from view of the surrounding streets and adjacent properties; and
 - iii) Does not detrimentally impact on the character, safety or amenity of the surrounding locality.
 - b) Council may vary the 'maximum number of trailers designed to be attached to a motorised commercial vehicle', as stipulated in Column No.4 of Schedule 14, if Council is of the opinion that additional trailers or other attachments:
 - i) Are only used by the applicant in conjunction with an approved motorised commercial vehicle(s) that is permitted to be parked on the subject lot;
 - ii) Are sufficiently screened from view of the surrounding streets and adjacent properties; and
 - iii) Do not detrimentally impact on the character of the surrounding locality.

Note: Approval will not be granted for the parking of restricted access vehicles (RAV's) unless the applicant can demonstrate approval has been granted from the relevant authority for the operation of these vehicles within the road network.

Inserted by Amend. 40 – Gov. Gaz. 09.12.2011 (Transport Depots)