

Local Planning Scheme No.2 – Other Modifications Report

Further review of LPS2 since its adoption for public advertising has resulted in several recommended modifications **in addition** to the proposed modifications in response to community and government submissions.

The review has identified opportunities to:

- resolve technical issues with the scheme text or maps,
- maximise consistency with changes to the State planning framework and Town strategies, and,
- improve the overall clarity and readability of the scheme text.

These matters warrant attention in addition to those raised in submissions during the public advertising period (undertaken between 4 May – 4 August 2023). A summary/analysis and recommendations for matters not raised in submissions is provided below.

Table 1. Scheme Text issues (not raised in submissions) that require modification

No.	Description of Issue/Opportunity	Recommended modification
1.	<p>Clause 32 – restrictions prohibiting multiple dwellings at ground level on land zoned District Centre, Local Centre or Mixed Use.</p> <p>As advertised the LPS2 restrictions prohibiting residential uses at ground level, for the purpose of encouraging active land uses at street level on land zoned 'District Centre', 'Local Centre' or 'Mixed Use', applies to 'multiple dwellings' only. It is appropriate for the principle of this restriction to also apply to 'single houses' and 'grouped dwellings' residential uses.</p> <p>Additionally, minor changes are proposed to the associated conditions to clarify that for corner lots or other dual frontage</p>	<p>Modify Clause 32 - Additional site and development requirements for land zoned District Centre, Local Centre or Mixed Use:</p> <p>Multiple dwellings, grouped dwellings and single houses are not permitted at ground level unless:</p> <p>a) located behind non-residential uses at the primary commercial street frontage; or,</p> <p>b) designed for future adaptation to non-residential uses; or</p> <p>c) designed to provide residents with security and privacy while maintaining passive surveillance and activation of adjoining public domain areas.</p>

	lots the restriction applies to the primary commercial street frontage only.	
2.	<p>Clause 32 - Primary controls for non-residential only development</p> <p>As advertised LPS2 does not explicitly define the primary built form controls (ie building height, plot ratio and setback requirements) that are applicable to non-residential only development in the absence of a structure plan, local development plan or local planning policy (with the exception of the 'Light Industry' zone).</p> <p>This is an unintended consequence of the removal of the TPS1 Precinct Plans that provide building height, plot ratio and setbacks requirements that apply to both residential and non-residential development.</p> <p>It is recommended that this issue be resolved by inserting an additional Clause 32 provision that applies to non-residential only development on all land zoned 'Residential', 'Mixed Use', 'Local Centre' or 'District Centre' that primary built form controls are in accordance with the assigned R-Code density code.</p>	<p>Insert new Clause 32 provision that applies to all land zoned Residential, Mixed Use, Local Centre or District Centre:</p> <p style="color: red;">"In the absence of an approved Precinct Structure Plan, Structure Plan, Local Development Plan or local planning policy, non-residential buildings shall be designed in accordance with the building height, plot ratio, street and side setback requirements of the R-Codes with regard to the assigned density code."</p>
3.	<p>Schedule C - Mandatory requirements for Local Development Plans (various sites)</p> <p>As advertised, LPS2 requires for a number of sites where Clause 32 Additional site and development requirements apply that any new development or subdivision be guided by a Local Development Plan.</p>	<p>Schedule C – ASR2 – Lot 501 (No.61) Kitchener Avenue, Victoria Park</p> <p>Modify Schedule C – ASR2 by replacing the text with the following:</p> <ol style="list-style-type: none"> 1. In the absence of an approved local development, precinct structure plan or local planning policy, buildings shall be designed in accordance with the primary controls of the R-Codes with regard to the R60 density code.

<p>Submissions received during advertising for a number of sites where such provisions apply (such as the Empire Bar site, Lathlain) have requested that such provisions be amended so as to not to enforce unnecessary additional layers to the planning framework. Responses to such submissions has resulted in recommended modifications to remove mandatory requirements for local development plan to be prepared to guide development.</p> <p>For consistency and legibility of the scheme it is considered appropriate that the same principle apply to other sites where such provisions apply including ASR2 (Visibility site) and ASR3 (Carlisle sites).</p>	<p>2. Any new development, substantial extension to existing buildings or subdivision of land shall consider the following:</p> <ul style="list-style-type: none"> a) Minimising impact on any adjoining residential character area through setbacks and building heights; b) Design principles to guide the development of built form frontages to streets that are sympathetic to the streetscape character of the locality; c) Managing vehicle access to the site through access roads/driveways and location of parking areas, supported by a transport demand assessment and management plan. <p>Schedule C - ASR3 - Lot 200 (No. 166), Lot 201 (No. 166), Lot 807 (No.168), Lot 142 (No. 176), Lot 411 (No. 178), Lot 410 (No.180), Lot 409 (No.182), Lot 408 (No.184) and Lot 407 (No. 186) Rutland Avenue, and, Lot 407 (No. 1A, 1B and 1C) Memorial Avenue, Carlisle</p> <p>Modify Schedule C – ASR3 by replacing the text with the following:</p> <p>1. In the absence of an approved local development, precinct structure plan or local planning policy, buildings shall be designed in accordance with the primary controls of the R-Codes with regard to the RAC-3 density code.</p>
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		<p>2. Any new development, substantial extension to existing buildings or subdivision of land shall consider the following:</p> <ul style="list-style-type: none"> a) Minimising impact on the adjoining residential character area through setbacks and building heights; b) Design principles to guide the development of activated built form frontages to streets; c) Managing vehicle access to the site through access roads/driveways and location of parking areas, supported by a transport demand assessment and management plan; d) Creation of community benefits such as community meeting places.
4.	<p>Clause 17 – Zoning Table designations <u>‘cinema/theatre’</u> As advertised ‘cinema/theatre’ is designated as an ‘X’ (prohibited) land use within the ‘Local Centre’ zone under LPS2.</p> <p>The Town’s ‘Making Space for Culture’ strategy recommends reducing barriers to cultural facilities by applying flexible land use permissions.</p> <p>The Town has a number of ‘Local Centre’ zoned places where a small scale ‘cinema/theatre’ could be an appropriate land use (examples include the Carlisle Town Centre and Lathlain Place).</p> <p>It is recommended that ‘cinema/theatre’ be modified to a ‘D’ (discretionary) land use designation within the ‘Local Centre’ zone.</p>	<p>Modify land use permissibility in Table 4 – Zoning Table as follows:</p> <ul style="list-style-type: none"> i. ‘cinema/theatre’ from ‘X’ to ‘D’ under the ‘Local Centre’ zone. ii. ‘garden centre’ from ‘X’ to ‘D’ under the ‘Mixed’ Use, ‘Local Centre’ and ‘District Centre’ zone. iii. ‘residential aged care facility’ from ‘X’ to ‘A’ under the ‘Local Centre’ zone. iv. ‘single house’ from an ‘X’ to ‘D’ under the ‘District Centre’ zone.

	<p><u>'garden centre'</u> As advertised 'garden centre' is designated as an 'X' (prohibited) use under the 'Mixed' Use, 'Local Centre' and 'District Centre' zones in LPS2.</p> <p>The 'garden centre' land use can be considered to meet the objectives of these zones therefore prohibiting the use is not considered appropriate under LPS2..</p> <p>It is recommended that 'garden centre' be modified to a 'D' (discretionary) land use designation within the 'Mixed' Use, 'Local Centre' and 'District Centre' zones.</p> <p><u>'residential aged care facility'</u> As advertised 'residential aged care facility' is designated as an 'X' (prohibited) use under the 'Local Centre' zone in LPS2.</p> <p>Other residential land uses such as 'single houses', 'grouped dwellings' and 'multiple dwellings' are designated as either discretionary or permitted uses within the 'Local Centre' zone. Similarly, the 'residential aged care facility' land use can be considered to meet the objectives of these zones therefore prohibiting the use is not considered appropriate under LPS2.</p> <p>It is recommended that 'residential aged care facility' be modified to a 'A' (discretionary) land use designation within the 'Local Centre' zone.</p>	
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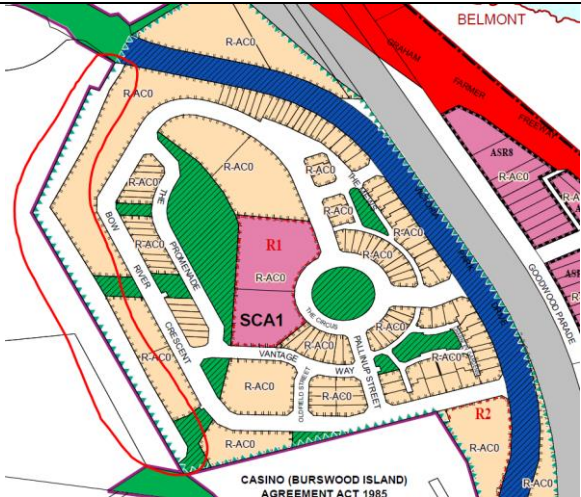
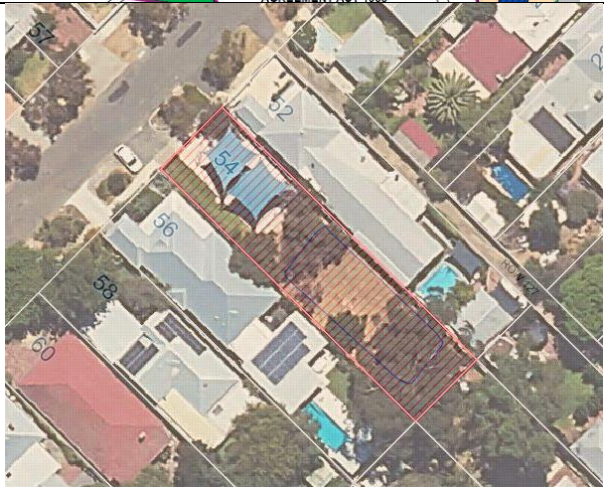
	<p><u>'single house'</u> As advertised 'single house' is designated as an 'X' (prohibited) use under the 'District Centre' zone in LPS2.</p> <p>Other residential land uses such as 'grouped dwellings' and 'multiple dwellings' are designated as either discretionary or permitted uses within the 'District Centre' zone. Similarly, the 'residential aged care facility' land use can be considered to meet the objectives of these zones therefore prohibiting the use is not considered appropriate under LPS2.</p> <p>It is recommended that 'single house' be modified to a 'D' (discretionary) land use designation within the 'District Centre' zone under LPS2.</p>	
5.	<p>Clause 18 – Interpreting zoning table Under Clause 18 the 'I' (incidental) land use designation describes that a use would be classified as a 'I' use when it is <i>"consequent on, or naturally attaching, appertaining or relating to the predominant use of the land"</i>, however, does not clarify what land use permissibility applies (ie 'P', 'D', 'A' or 'X') should the proposed land use not be deemed to meet this definition.</p> <p>The legibility of the scheme can be improved through providing a note that clarifies that if a use which is proposed as an 'I' is deemed not to comply with the 'I' definition that the use will be treated as an 'X' (prohibited) land use.</p>	<p>Insert additional note under Clause 18 as follows: 5. Where proposed development identified as an I use in the zoning table does not comply with the I definition of the scheme as they relate to the use of land, then it is to be treated as an X use.</p>
6.	<p>Clause 20 – Restricted Uses, R1 No.30 and No.19 The Circus, Burswood</p>	<p>Insert 'small bar' as a 'D' restricted use in Table 4 – R1 Lot 12 (No.30) and Lot 13 (No.19) The Circus, Burswood (Mixed Use Zone).</p>


	<p>The restricted land uses applicable to No.30 and No.19 The Circus, Burswood were applied under draft LPS2 with the intent to be consistent with the Burswood Lakes Structure Plan and the land use permissibility contained within TPS1.</p> <p>As advertised 'small bar' is designated as an 'X' (prohibited) land use under Clause 20 - Restricted Uses for No.30 and No.19 The Circus, Burswood. It has been identified that existing small bars have been approved and are operating at No.19 The Circus, Burswood (with consideration for the Burswood Lakes Structure Plan) therefore it is not considered appropriate to maintain 'small bar' as an 'X' use.</p> <p>It is recommend that 'small bar' is designated as a 'D' (discretionary) land use within the R1 restricted land uses.</p>	
7.	<p>Clause 38 – Land use terms – absence of definition for 'winery'</p> <p>As advertised LPS2 includes 'brewery' as a land use however does not include 'winery'. Small urban 'wineries' producing small batch wine is urban facilities is an emerging land use within the Town (queries and development applications related to the use received for properties in the Burswood 'Mixed Use' zone) and is currently treated as a 'use not listed' under TPS1.</p> <p>The Town notes that DPLH are preparing updates to the Regulations to consolidate both 'brewery' and 'winery' under a 'liquor production facility' definition to address this issue and is supported by the Town.</p>	<p><u>Clause 34 – Land use terms</u> Add definition for 'winery' as follows: <i>winery - means premises used for the production of viticultural produce and associated sale of the produce.</i></p> <p><u>Clause 17 – Zoning Table</u> Insert 'winery' land use in the Table 4 - Zoning Table and designate the land use permissibility as:</p> <ul style="list-style-type: none"> • 'X' under the 'Residential' zone, • 'A' under the 'Mixed Use', 'Local Centre' and 'District Centre' zones, and • 'D' under the 'Light Industry' zone.


	<p>It is recommended that LPS2 includes 'winery' as a land with the same use permissibility as 'brewery' under the zoning table pending the introduction of the 'liquor production facility' land use into the Regulations.</p>							
<p>8.</p>	<p>Administrative/Technical Issues</p> <p>i) <u>Clause 33 / Schedule E</u> Clause 33 refers to 'Schedule E', however, 'Schedule E' was deleted as a result of the pre-advertising modifications required by the WAPC.</p> <p>Recommend deleting reference to 'Schedule E' and reinstate MST wording that <i>'There are no additional requirements that apply to this Scheme.'</i></p> <p>ii) <u>Clause 17 – Zoning Table 'Urban Development' zone</u> The 'Urban Development' column of the zoning table states 'Refer to Clause 18(7)' however, this clause does not exist.</p> <p>Resolve by replacing with correct reference to 'Clause 18(6)'.</p> <p>iii) <u>Clause 32 / Schedule C – Additional site and development requirements</u> To improve the legibility of the scheme it is recommended that Clause 32 and Schedule C is re-arranged so that additional site and development</p>	<p>i) Delete Clause 33 reference to 'Schedule E' and insert <i>'There are no additional requirements that apply to this Scheme.'</i></p> <p>ii) Delete 'Urban Development' zone column reference to 'Refer to Clause 18(7)' and insert 'Refer to Clause 18(6)'.</p> <p>iii) Insert Table 5 - Additional site and development requirements that apply to land in Scheme area to Clause 32 (1).</p> <p>Make modifications to Table 5 and Clause 33 as per other related recommended modifications.</p> <p>Insert the following in Table 5.</p> <table border="1" data-bbox="1283 1086 2040 1362"> <thead> <tr> <th>No.</th> <th>Description of land</th> <th>Requirement</th> </tr> </thead> <tbody> <tr> <td>4.</td> <td>Land set out in Schedule C of this Scheme</td> <td>Development shall comply with any site or development requirement set out in Schedule C of this Scheme</td> </tr> </tbody> </table>	No.	Description of land	Requirement	4.	Land set out in Schedule C of this Scheme	Development shall comply with any site or development requirement set out in Schedule C of this Scheme
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	<p>requirements that apply to whole zones are inserted under the Clause 32 Table 5 and that other additional site and development requirements that apply to specific properties are contained in Schedule C.</p>	
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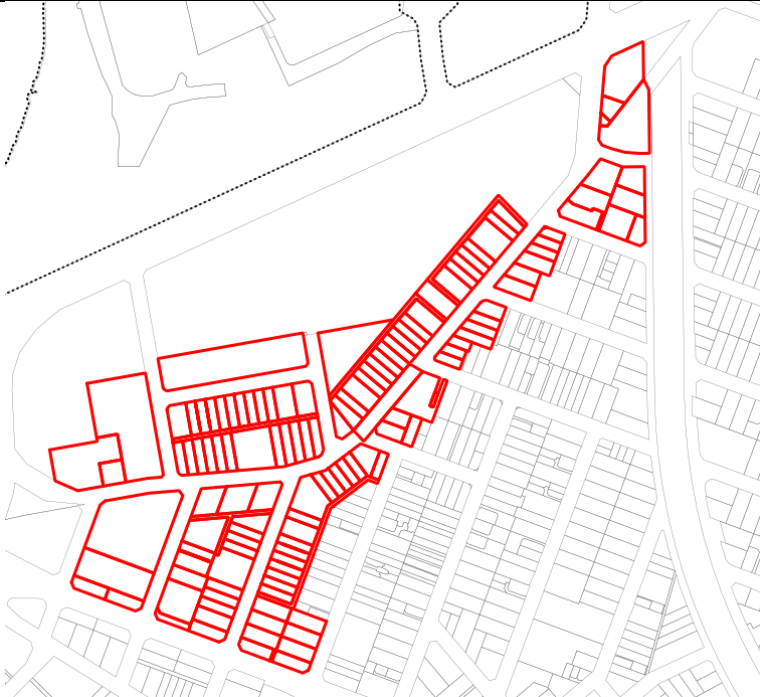
Table 2 Scheme Map issues (not raised in submissions) that require modification

No.	Description of Issue/Opportunity	Comment and recommended modification	
1.	<p>Lot 42 (No.175B) Burswood Road, Burswood Identified unzoned piece of land in Burwood Lakes estate that is designated for drainage purposes in the Burswood District Structure Plan.</p>	<p>RECOMMENDATION: Resolve through modification to replace the 'No zone' with a 'Drainage / waterways' reserve over Lot 42 (No.175B) Burswood Road, Burswood</p>	
2.	<p>Lot 77 (No.54) State Street, Victoria Park Identified existing public open space including existing playground and drainage sump that is zoned 'Residential'.</p>	<p>Land is owned by the Town of Victoria Park.</p> <p>Site recognised as 'State Street Reserve' in the Town's Public Open Space strategy.</p> <p>The Town's Land Asset Optimisation Strategy recommends that the site be retained for its current use as a micropark.</p> <p>RECOMMENDATION: Resolve by replacing the 'Residential' zone with a 'Public Open Space' reserve</p>	

		<p>over Lot 77 (No.54) State Street, Victoria Park</p>	
<p>3.</p>	<p>Lot 410 (No.29) Miller Street, Victoria Park Identified existing public open space that is zoned 'Residential'.</p>	<p>Land is owned by the Town of Victoria Park.</p> <p>Site recognised as 'Miller Street Reserve' in the Town's Public Open Space strategy.</p> <p>Approximately 1/5 of the land is affected by Primary Regional Road reservation within the Metropolitan Region Scheme (MRS) for the future upgrade of Shepperton Road.</p> <p>The Town's Land Asset Optimisation Strategy recommends that the site be retained for its current use public open space.</p> <p>RECOMMENDATION: Resolve by replacing the 'Residential' zone with a 'Public Open Space' reserve over Lot 410 (No.29) Miller Street, Victoria Park</p>	

<p>4.</p>	<p>Lot 300 (No.152) Albany Highway, Victoria Park Identified existing public open space that is zoned 'Mixed Use'.</p>	<p>Land is owned by the Town of Victoria Park.</p> <p>Site recognised as 'Asquith Reserve' in the Town's Public Open Space Strategy.</p> <p>The Town's Land Asset Optimisation Strategy does not include the site. The site has a state heritage listed wishing well and windmill located on it. These being a category 1 Heritage listed property (inHerit link - place number 03898).</p> <p>The preliminary investigations of the Albany Highway Precinct Structure Plan (currently underway) recommend that the site be retained as public open space.</p> <p>RECOMMENDATION: Replace 'Mixed Use' zone with 'Public Open Space' reserve over Lot 300 (No.152) Albany Highway, Victoria Park</p>	
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<p>5.</p>	<p>Lot 50 (No.180) Burswood Road, Burswood Identified unzoned piece of land in proximity of Burswood Station owned by the Public Transport Authority</p>	<p>The site was zoned 'Special Use' under TPS1, however, it is outside of the area covered by the 'Burswood Lakes Structure Plan' that is otherwise applicable to the 'Special Use' zone.</p> <p>The land is designated as 'Mixed Use' under the overarching 'Burswood Peninsula District Structure Plan'.</p> <p>RECOMMENDATION: Resolve by modifying the 'No zone' to a 'Mixed Use' (RAC0) for Lot 50 (No.180) Burswood Road, Burswood.</p>	
<p>6.</p>	<p>Lot 100 (No.231) Great Eastern Highway, Burswood Identified unzoned piece of land in proximity of Burswood Station owned by the Town of Victoria Park (plus unallocated Crown Land at Landgate PIN 151817)</p>	<p>The site was zoned 'Special Use' under TPS1, however, it is outside of the area covered by the 'Burswood Lakes Structure Plan' that is otherwise applicable to the 'Special Use' zone.</p> <p>The land is designated as 'Mixed Use' under the overarching 'Burswood Peninsula District Structure Plan'.</p> <p>RECOMMENDATION: Resolve by modifying the 'No zone' to a 'Mixed Use' (RAC0) for Lot 100 (No.231) Great Eastern Highway, Burswood.</p>	

<p>7.</p>	<p>Causeway Precinct Land within the Causeway Precinct development requirements inconsistent with LPP22 - Development standards for the Causeway Precinct.</p>	<p>In preparing LPS2, where possible, the R-Codes applicable to land under the existing TPS1 Precinct Plans were normalised within the Scheme.</p> <p>For the Causeway Precinct this saw the LPP22 – Development standards for the Causeway Precinct R-Codings applied to the Scheme Map.</p> <p>This approach was not appropriate for the Causeway Precinct as LPP22 allows for building heights and plot ratios much greater than permitted under the equivalent R-coding (for example for sites coded R160, LPP22 allows for building heights up to 18 storeys and a plot ratio of 3.0, while the R-Codes allows for a building height up to 5 storeys and a maximum plot ratio of 2.0 only).</p> <p>As per the approach that has been undertaken for Burswood Station East, it is appropriate that the primary controls applicable to this area reflect LPP22 (as permitted under the R-Codes RAC-0 coding).</p> <p>RECOMMENDATION:</p>	
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		Modify R-Code applicable to the Causeway Precinct from R60, R80 and R160 to R-AC0.	
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