

| <b>Local Planning Policy:<br/>           Unrestricted Residential Occupation (URO)</b> |  |
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| <b>Policy Title:</b>   |  |
| <b>Policy No.:</b>   | 2.9  |
| <b>Previous Policy (No.):</b>  | n/a  |
| <b>Date Adopted:</b>   | 17 May 2011 (decision no. 98/11)   |
| <b>Date Last Reviewed:</b>   | n/a  |
| <b>Legal Parent:</b>   | <u>Planning and Development Act 2005</u>   |
| <b>Legal Subsidiary:</b>   | <u>City of Bunbury Town Planning Scheme No. 7, Part 2 – Local Planning Policy Framework.</u> |

Notes: For the proposed dual use of an existing single house or existing grouped dwelling for the optional purpose of providing short term accommodation on a commercial basis and for a time limited period.

## PART A

### 1 PRELIMINARY

#### 1.1 Citation

This Local Planning Policy is made under section 2.1 of the City of Bunbury Town Planning Scheme No. 7 (the “Scheme”), and may be cited as Local Planning Policy: Unrestricted Residential Occupation (URO) (herein referred to as the “Local Planning Policy”).

#### 1.2 Commencement

This Local Planning Policy was adopted by the Council of the City of Bunbury (the “City”) on 17 May 2011. The Local Planning Policy commenced operation on 30 June 2011.

#### 1.3 Relationship to the Scheme and other Local Planning Policies

- 1.3.1 Pursuant to section 2.2 of the Scheme, this Local Planning Policy supplements the provisions of the Local Planning Scheme. Where a provision of this Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.
- 1.3.2 Where a provision of this Local Planning Policy is inconsistent with another adopted Local Planning Policy that relates to a designated area, then the provisions of the Local Planning Policy that relate to design guidelines for a designated area shall prevail.
- 1.3.3 This Local Planning Policy is to be read in conjunction with the Scheme.

- Notes:
1. Land use and development within the Local Planning Policy Area is also subject to the Local Planning Scheme.
  2. A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

## **1.4 Relationship with Local Laws**

- 1.4.1 This Local Planning Policy operates in conjunction with the Local Government's Local Laws in the regulation of development and the use of land within the Scheme Area.
- 1.4.2 Where a provision of this Local Planning Policy is inconsistent with a Local Law, the provision of the Local Law shall prevail.

## **2 PURPOSE**

The purpose of this Local Planning Policy is to:

- (a) guide and regulate the implementation of Unrestricted Residential Occupation (URO) use in accordance with the policy objectives;
- (b) ensure that future planning applications submitted to or referred to the City of Bunbury seeking Unrestricted Residential Occupation use are considered in accordance with the procedures outlined within the Local Planning Policy and as such ensure assessments are accountable, comparable and consistent.

## **3 OBJECTIVES**

In accordance with the Aims of the Scheme, achievement of the following objectives is sought by facilitating Unrestricted Residential Occupation use in conjunction with a residential use -

- (a) to broaden the scope and number of short stay accommodation options available to those visiting the City;
- (b) to enhance the depth and variety of the visitor experience within strategically important tourism locations;
- (c) to provide landowners and investors with greater flexibility in the use and leasing of residential property;
- (d) to seek to ensure that premises with Unrestricted Residential Occupation use are:
  - located within supportive environments; and
  - appropriate to their immediate setting; and
  - suited to the purpose in terms of building form and design; and
  - managed in an orderly and considerate manner.

## 4 LOCAL PLANNING POLICY AREA

This Local Planning Policy applies to all land within the local government district of the City of Bunbury, and as such, the Local Planning Policy Area is the Scheme Area, as depicted by Map 1: Local Planning Policy Area.

Notes: Map 2 shows the area within which Local Government will consider permission of a URO use in accordance with clause 8.3 (a).

## 5 APPLICATION

5.1 Subject to the Scheme, the Unrestricted Residential Occupation use shall be in accordance with the standards and requirements of this Local Planning Policy; and except as otherwise provided, shall require the prior planning approval of the Local Government in accordance with the provisions of the Scheme.

5.2 Unrestricted Residential Occupation shall be applied as a dual use and only:  
(a) in conjunction with an existing single house or individual grouped dwelling<sup>1</sup>; and  
(b) for a time limited duration, in accordance with clause 10.6 of the Scheme (i.e. Temporary Planning Approval).

5.3 Owners of existing single dwellings or grouped dwellings that seek approval to operate with Unrestricted Residential Occupation use are required to submit a planning application to the local government for permission to extend the authorised permanent residential use. Where it is intended to apply the use to more than one grouped dwelling on the same parent lot, a separate planning application and fee shall be required in each instance.

5.4 The initial planning fee for new applications seeking the Unrestricted Residential Occupation use shall be commensurate with the fee for a 'Change of Use' as shown within the relevant Planning Fees and Charges Schedule. Unless specifically stated otherwise within the Planning Fees and Charges Schedule, the renewal fee shall be commensurate with that rate for the renewal of a Home Based Business.

Notes: The applicant will also be required to pay an "Advertising Fee" (set out in the City of Bunbury's Schedule of Fees & Charges) prior to the commencement of advertising.

5.5 Where the proposal relates to survey strata lots or lots incorporating common property, the explicit written support of the appropriate body corporate and/or all other owners with an interest in that land will be required to be submitted at the same time as the making of the planning application.

5.6 A planning application that includes the Unrestricted Residential Occupation use shall, in keeping with the overall scale and complexity of the proposal, provide supplementary supporting information/documentation to the satisfaction of the Local Government that demonstrates how and to what extent the design requirements of this Local Planning Policy have been incorporated into the proposal.

5.7 In considering an application for planning approval where a variation is proposed to one or more Acceptable Development requirements prescribed under the Residential Design Codes and/or in order to adequately satisfy requirements under part 5.6 of this

<sup>1</sup> Where short stay accommodation is proposed in conjunction with new build development or in relation to existing multiple dwellings, then approval for 'Unrestricted Residential Accommodation' should be sought.

Local Planning Policy, the Local Government may require the submission of a Development Impact Statement (with terms of reference determined by the Local Government), which has been undertaken by an appropriately qualified person or body at the applicant's expense, as part of any application for planning approval.

- Notes:
1. Unrestricted Residential Occupation (URO) use is not specifically mentioned within the current Zoning Table of the City of Bunbury Town Planning Scheme No.7 and thus is required to be dealt with as a land use "not listed".
  2. Landowners/managers of property incorporating a proposed URO use are advised to seek independent legal advice regarding the intended future use and management of their premises. This would include, but is not limited to checking the requirements of the Equal Opportunity Act 1984 and the Fair trading Act 1987.
  3. As many residential public liability insurance policies exclude the use of premises for short term rentals, landowners/managers of a property proposing to incorporate a URO use are recommended to check this matter with their insurance providers.

## 6 EXEMPTIONS FROM PLANNING APPROVAL

Except where provided for within the provisions of the Residential Design Codes and subject to compliance with the relevant development requirements and standards of the Scheme, there are no other exemptions or exclusions permitted under the Scheme.

## 7 MEANING OF TERMS

7.1 Unless the context otherwise requires, words and expressions used in this Local Planning Policy have the same meaning as they have -

- (a) in the Planning and Development Act 2005; or
- (b) if they are not defined in that Act -
  - i. in the Dictionary of Defined Words and Expressions in Schedule 1 of the City of Bunbury Town Planning Scheme No. 7;
  - ii. in the Residential Design Codes;
  - iii. Building Code of Australia; or
  - iv. in a relevant Australian Standard.

7.2 The meaning of other specific words and expressions relevant to this Local Planning Policy are given below:

- (a) General definitions -

**“Dual Use”** means

the use of land and/or buildings for activities that fall within two distinct land use classes where neither one of those uses is considered as being incidental to the other.

- Notes: Unlike some examples of a dual use where two distinct land uses may operate concurrently, the use of a residence as a dwelling or alternatively as Unrestricted Residential Occupation is unable to occur simultaneously.

**“Short-stay accommodation”** means

a building or buildings used for the purpose of providing accommodation for a person or persons on a temporary basis for a period of time not exceeding three months in duration within a 12 month period.

**“Strategic Tourism Location”** means

a destination node or area of visitor interest represented by pockets and clusters within the City that hold special appeal and add to the value of the tourism product in Bunbury.

(b) Land use definitions -

**“Unrestricted Residential Accommodation”** means:

a premises comprising a dwelling or dwellings (either single, grouped or multiple) that benefit from extended rights in that they may be occupied either permanently as a residential dwelling, or temporarily for short-stay accommodation.

**“Unrestricted Residential Occupation”** means

a premises comprising a single house or grouped dwelling that benefits from extended rights in that they may be occupied either permanently as a residential dwelling, or temporarily for short-stay accommodation on a time limited basis.

7.3 Notes and instructions printed in italics are not part of the Local Planning Policy.

## **PART B**

### **8 GENERAL STANDARDS FOR LAND USE & DEVELOPMENT**

#### **8.1 Land Use & Development of Unrestricted Residential Accommodation**

The development of premises for the purposes of Unrestricted Residential Occupation use is to be in accordance with the requirements of –

- (a) this Local Planning Policy: Unrestricted Residential Occupation (URO); and
- (b) the Residential Design Codes for residential developments, subject to the variations; and
- (c) the applicable zone provisions under the Scheme; and
- (d) relevant Special Control Area(s); and
- (e) relevant Local Planning Policies or Local Laws; and
- (f) applicable Australian Standards.

Notes: Section 8 “General Standards for Land Use & Development” of this Local Planning Policy sets out the prescriptive provisions against which the URO use must be evaluated as part of any land use and development within the Scheme Area.

#### **8.2 Dual Use**

Proposals seeking approval need to be submitted in the form of a dual use in the following manner:

- (a) Single House/Unrestricted Residential Occupation; or
- (b) Grouped Dwelling/Unrestricted Residential Occupation

#### **8.3 Location**

Unrestricted Residential Occupation use will be considered by the Local Government where the site falls within:

- (a) the extent of the area shown on Map 2 of this LPP, comprising of the CBD and residential areas with a high strategic value in respect of tourism; or
- (b) Special Uses Zones subject to provisions of the Scheme.

- Notes:
1. With the exception of Special Use Zones, the extent is initially limited to the CBD and to those residential areas closest to Bunbury's waterfront that benefit from good access to a supporting range of attractions, activities and services.
  2. Areas of the City within which Unrestricted Residential Occupation use may be considered for support by Local Government will be subject to future review and revision in accordance with clause 13.2 of this LPP. In undertaking this review, particular regard shall be paid to guidance contained within the adopted City of Bunbury Local Planning Strategy for Tourism, copies of which are available for viewing at the City of Bunbury Council offices or may be accessed via the City of Bunbury website <http://www.bunbury.wa.gov.au/>.

#### 8.4 Setting (Grouped Dwellings)

In order to limit incidences of lifestyle conflict and potential for disturbance that may result from the mixing of short stay occupants and permanent residents at close quarters, in the case of a grouped dwelling, approval will be considered by local government only where the residential amenity afforded to other grouped dwellings forming part of the same survey strata scheme will not, in the opinion of Local Government, be seriously adversely affected. In assessing the appropriateness of the setting, attention shall be paid to the overall lot layout and to the degree of separation afforded to individual dwellings and proposals shall demonstrate that:

- (a) dedicated parking is able to be provided to the minimum standard within the boundary of the survey strata lot the subject of the planning application; and
- (b) the main entrance to the dwelling is able to be accessed on foot directly from the public highway without a requirement to cross common property; and
- (c) boundaries between shared spaces and private spaces are clearly visible within the survey strata scheme.

- Notes:
1. Notwithstanding that an application involving a grouped dwelling must, in accordance with this LPP, have the full support of the responsible body corporate/all landowners, the immediate living environment should nevertheless be regarded as conducive to the mixing of short term occupiers and longer term residents/tenants.
  2. Major openings and private spaces associated with dwellings of permanent residents should not be exposed to a passing flow of unfamiliar persons on foot crossing common property to access their short stay accommodation. The possibility for unintentional trespass should also be avoided. Accordingly, the main entrances to dwellings proposing a URO use should therefore be able to be accessed directly on foot from both dedicated private parking bays and from the public highway without being required to cross over land held in common ownership.
  3. Any measures intended to be introduced to reduce the likelihood of lifestyle conflict or nuisance occurring should be addressed as part of proposed Design Considerations and/or within the Operational Management Plan.

## **8.5 Building Fitness**

- 8.5.1 Dwellings the subject of a planning application incorporating an Unrestricted Residential Occupation use must be fit for the purpose at the time of use.
- 8.5.2 Dwellings with an approved Unrestricted Residential Occupation use must comply with the Building Code of Australia (BCA) before the use is commenced.

Notes:

1. It will be a condition of planning approval that a building licence is submitted to and approved by Local Government before premises are first occupied for the purpose of short stay accommodation. The premises may be required to comply with BCA standards of more than one building class and in such cases the premises shall be required to satisfy the BCA standards relevant to each class.
2. Applicants are advised to obtain professional advice at the earliest opportunity in regard to extent of building modifications and other works that may be necessary to their property in order to fully comply with the BCA and meet any Fire and Emergency Services Authority (FESA) requirements.

## **8.6 Design Considerations**

- 8.6.1 Development applications seeking Unrestricted Residential Occupation use shall provide detailed designs and other supporting information that demonstrates the extent to which additional measures have been introduced into the proposal that seek to achieve and maintain privacy between the application site and neighbouring dwellings / properties (e.g. in respect of private amenity space provision, boundary treatments, balcony screening etc.);

Notes: Given the extended use of the residential premises and the potential for the frequent rotation of occupiers, it is reasonable to expect privacy standards in excess of that required for a single purpose dwelling.

- 8.6.2 The dwelling the subject of the application must not be altered or modified in such a manner that would be contrary to the relevant provisions of the Residential Design Codes (R-Codes).
- 8.6.3 Car parking provision to a minimum standard shall be in accordance with requirements of the Residential Design Codes.

Notes: Car parking provision above the minimum standard will potentially allow greater flexibility in establishing the controls that will form part of the Operational Management Plan (e.g. in setting the maximum number of occupiers).

## **8.7 Operational Management Plan**

- 8.7.1 An Operational Management Plan will be required to be submitted as part of the planning application and the agreed plan shall form part of any subsequent planning approval. The management plan shall address the manner in which the short stay element is to be operated and must include:

- (a) a nominated local manager/caretaker (with a 24hr contact number) responsible for the day to day smooth running of the premises and for adherence to the



approved Operational Management Plan;

- (b) house cleaning/garden maintenance/domestic waste disposal arrangements;
- (c) proposed renter (agreement) controls in respect of:
  - i. maximum number of occupants
  - ii. gatherings and guest/visitor number limitations at any one time
  - iii. noise curfews
  - iv. use of outdoor areas
  - v. car parking
  - vi. trailer/equipment storage
  - vii. pets
- (d) details of how reports of nuisance will be followed up and dealt with in a timely and appropriate manner;
- (e) a fire and emergency response plan

8.7.2 Where the planning application relates to an existing grouped dwelling, the Operational Management Plan as submitted (and subsequently modified if required) must be agreed by the responsible body corporate or by each individual owner holding an interest in the land.

## **8.8 Signage**

Signage shall be limited to and consistent with that normally associated with a dwelling (e.g. a nameplate). Additional advertising signage will not be supported.

## **PART C**

### **9. DEVELOPMENT REQUIREMENTS**

- 9.1 Development in accordance with this policy is deemed to comply.
- 9.2 In exercising any discretion the Local Government should ensure that the variation will not contravene the following provisions of the Scheme -
- (a) intent & objectives of this Local Planning Policy;
  - (b) section 1.6 The Aims of the Scheme;
  - (c) section 4.2 Zone Objectives; and
  - (d) section 10.2 Matters to be Considered by Local Government.

### **10 DEVELOPMENT IMPACT STATEMENT**

- 10.1 In conjunction with part 5.7 of this Local Planning Policy, if a proposal is considered to have the potential to significantly impact upon residential amenity within the immediate area, the Local Government shall require a Development Impact Statement to be submitted for assessment as part of an application for planning approval, unless this requirement has been waived by the Local Government.
- 10.2 The Development Impact Statement shall comprise a report that is undertaken to the satisfaction of the Local Government and contain the following information in sufficient detail to permit the Local Government to make a thorough assessment of the proposal as far as it relates the proposed Unrestricted Residential Occupation use, including :
- (a) the adequacy of physical measures employed to protect or enhance the level of privacy afforded to occupiers of the proposal and that afforded to the occupants of neighbouring residential premises;
  - (b) the adequacy of physical noise mitigation measures employed that will act to retain or enhance the residential amenity afforded to occupiers of the proposal and that afforded to the occupants of neighbouring residential premises;
  - (c) the adequacy of controls to be introduced within the management plan (and within subsequent letting agreements) that seek to ensure that the residential amenity of the area is safeguarded.

### **11 NOTIFICATION & ADVERTISING**

Advertising will be undertaken in accordance with the provisions under Clause 9.4 of the Scheme.

- Notes:
1. Where an application involves a use not listed in the Zoning Table of the Scheme, local government may give notice or require the applicant to give notice in one or more of the following ways:
    - (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
    - (b) notice of the proposed use or development published in a newspaper circulating in the Scheme Area stating that submissions may be made to the local government by a specified date being not less than fourteen

days from the day the notice is published;

(c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

2. The applicant shall be required to pay an "Advertising Fee" (as set out in the City of Bunbury's Schedule of Fees & Charges) prior to the commencement of advertising.

## **12. GRANTING OF PLANNING APPROVAL**

12.1 Where a proposal is acceptable on planning grounds, the Unrestricted Residential Occupation use may be granted subject to conditions and a time limited period of 12 months in order to reasonably monitor the management of the development and thereafter consider further renewal(s) in the light of recent experience.

12.2 Where the Local Government grants planning approval to operate an Unrestricted Residential Occupation use, the following provisions shall apply:

- (a) The approval shall be personal to the applicant and shall not be transferred or assigned to any other person;
- (b) The approval shall not run with the land in respect of which it was granted;
- (c) The person to whom approval is given by the Local Government to operate the Unrestricted Residential Occupation use shall not before or after the granting of that approval carry on that use at any premises other than the land in respect of which the Local Government's approval was granted; and
- (d) If an Unrestricted Residential Occupation use has been operating with the approval of the Council and if in the opinion of the Council such use is causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, the Council may rescind the approval granted by it and after being rescinded, no person upon the subject land shall operate the Unrestricted Residential Occupation use unless a further approval to do so is granted by the Local Government.

Notes: 1. In retaining the option of residency on a permanent basis, the application of the URO use class should not be interpreted as meeting any tourism accommodation requirement (i.e. in ratio calculations the URO use would necessarily fall into the permanent residential proportion).

2. Following the granting of planning permission for an URO use, owners /managers are encouraged to seek accreditation from the Tourism Council of Australia. Accreditation is a non-regulatory, voluntary means of addressing customer service and consumer protection issues. Further information is available from the Tourism Council: <http://www.tourismcouncilwa.com.au>

## **13 IMPLEMENTATION & REVIEW**

### **13.1 Why a Local Planning Policy?**

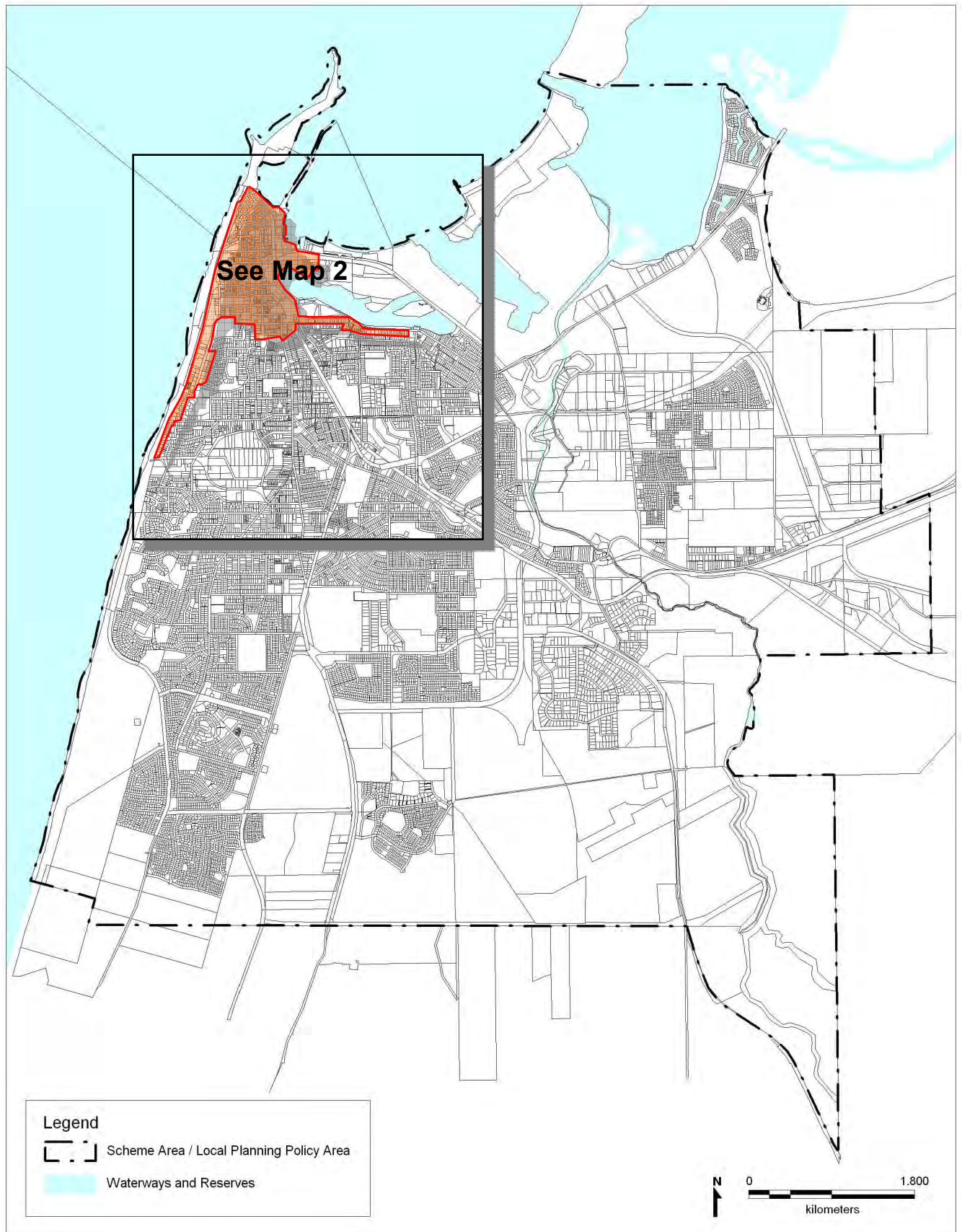
The Scheme is a prescriptive instrument that sets out the legal provisions for how land may be used and developed. Sole reliance upon it for regulating all forms of development under all circumstances is not always practical and the Scheme makes allowance for this by enabling the Local Government to adopt Local Planning Policies

from time to time in order to address specific issues or a range of issues in a specific place.

A Local Planning Policy is a tool to assist developers in preparing proposals with a greater understanding of the Council's desired outcomes for the City. This helps to ensure that developers can invest the time and resources needed in preparing applications for planning approval with increased confidence; and that the City's staff and Councillors can assess development proposals in a more consistent and transparent manner.

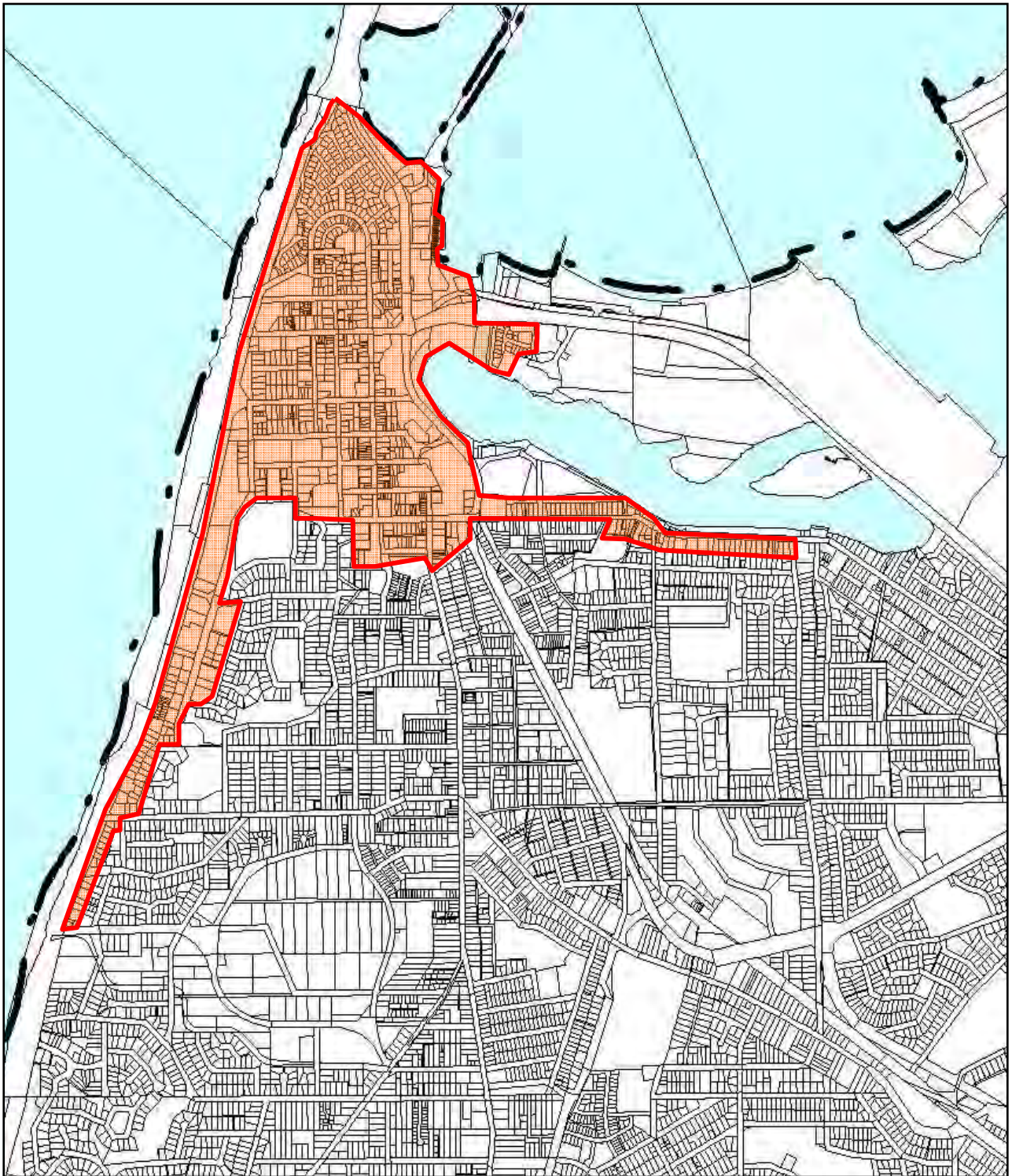
### **13.2 Policy Review**

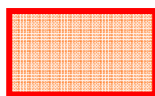
The Local Government will review this Local Planning Policy annually in conjunction with the rest of the Local Planning Policy Framework in accordance with the Planning and Development Act 2005.





**Map 2: Extent of Unrestricted Residential Occupation** [refer to clause 8.3]



 Extent of area within which permission for URO use will be considered.