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TOWN PLANNING AND DEVELOPMENT ACT 1928

ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME

City of Wanneroo

DISTRICT PLANNING SCHEME No. 2

Ref: 853/2/30/19 Vol 9.

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 that the Hon. Minister for Planning and Infrastructure approved the City of Wanneroo Town Planning Scheme No. 2 on 27 June 2001, the Scheme Text of which is published as a Schedule annexed hereto.

J. KELLY, Mayor.

K. WHITE, Chief Executive Officer.

SCHEDULE
TOWN PLANNING AND DEVELOPMENT ACT 1928

CITY OF WANNEROO

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J. KELLY, Mayor.
K. WHITE, Chief Executive Officer.

THE CITY OF WANNEROO DISTRICT PLANNING SCHEME No. 2

The City of Wanneroo Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928 (as amended), hereunder referred to as the Act, hereby makes the following Town Planning Scheme for the purposes laid down in the Act.

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PART 1—PRELIMINARY

1.1 CITATION

1.1.1 The City of Wanneroo District Planning Scheme No. 2 (“the Scheme”) comes into operation on its Gazettal date.

1.1.2 Shire of Wanneroo Town Planning Scheme No. 1 – (Gazettal date 13 September, 1972) is hereby revoked.

1.1.3 The Scheme shall be cited as the City of Wanneroo District Planning Scheme No 2.

1.2 RESPONSIBLE AUTHORITY

The authority responsible for implementing and enforcement of the Scheme is the Council of the City of Wanneroo hereinafter referred to as the “Council” except that where land is shown in the Scheme Map as “Regional Reserve” the responsible authority shall be deemed to be the Western Australian Planning Commission, and the provisions of the Metropolitan Region Scheme shall apply to such reservations.

1.3 THE SCHEME AREA

The Scheme shall apply to the whole of the District as shown by the inner edge of the broken black line on the Scheme Map.

1.4 CONTENTS OF SCHEME

The Scheme comprises:

- (a) this Scheme Text
- (b) the Scheme Map
- (c) Residential Density Code Maps.

1.5 ARRANGEMENT OF THE SCHEME TEXT

PART 1—PRELIMINARY

PART 2—RESERVES

PART 3—ZONES

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

PART 5—SPECIAL CONTROLS

PART 6—DEVELOPMENT AND USE OF LAND

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TABLES

SCHEDULES

1.6 SCHEME AIMS AND OBJECTIVES

The aims and objectives of the Scheme are:

Regional planning framework: (a) To facilitate a sustainable approach to development in accordance with the statutory provisions of the Metropolitan Region Scheme and the planning principles embodied in state and regional policies relevant to the City.

Local planning framework: (b) To encourage and facilitate development of the City in accordance with the City of Wanneroo Strategic Plan 1999/2002 and subsequent updates.

(c) To provide an accountable planning framework appropriate to the needs of a rapidly developing City and its diverse lifestyle opportunities.

(d) To facilitate the co-ordination and early provision of social and community facilities and other physical infrastructure in line with the needs of new development.

(e) To promote the revitalisation of existing urban areas in order to meet the changing needs of the community.

Land Use & Development: (f) To encourage development which will:

- provide high standards of amenity, safety and welfare,
- strive to ensure that new developments are energy-efficient,
- ensure permanent and easy access by the public to the ocean shore and recreation reserves,
- promote the development of business which increases employment opportunities close to living places,
- support a safe, efficient and effective transportation system.

(g) To encourage urban design which is compatible with and appropriate to the natural, built and social environment of the City.

Agriculture: (h) To protect and where appropriate, enhance the prospects of market gardening and other agricultural activity.

Heritage Conservation: (i) To encourage the conservation and continued use of identified places and objects of cultural heritage significance.

Environmental Protection: (j) To provide the Council and landowners with appropriate mechanisms to protect identified places of landscape or environmental value within the City.

(k) To ensure that adequate regard is given to the protection of the natural environment in the determination of land use and development proposals in accordance with sustainable development principles.

Urban Development: (l) To enable the Council to formulate arrangements for the sharing of costs on an equitable basis amongst landowners for the provision of infrastructure for urban, industrial and other development carried out in accordance with the Scheme.

(m) To promote planning, management and strategic control of development in a rational and systematic manner, taking into account the aspirations of residents, environmental capacity, and the costs and benefits of development.

Development Assessment & Approval Process: (n) To provide guidance on the procedures to be followed in the lodgment, assessment and determination of applications for the development and use of land within the City.

(o) To ensure that proper regard is given to the needs of the community in the determination of land use and development proposals.

1.7 RELATIONSHIP WITH THE METROPOLITAN REGION SCHEME

The Scheme is complementary to, and is not a substitute for, the Metropolitan Region Scheme, and the provisions of the Metropolitan Region Scheme, as amended, continue to have effect.

1.8 RELATIONSHIP OF SCHEME TO LOCAL LAWS

Where a provision of the Scheme is inconsistent with any local law, the provisions of the Scheme shall prevail.

1.9 INTERPRETATION

1.9.1 Words and expressions used in the Scheme shall have the respective meanings given to them in Schedule 1 or elsewhere in the Scheme and the Residential Planning Codes.

1.9.2 Where a word or term is defined in the Residential Planning Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the Residential Planning Codes.

1.9.3 Words and expressions used in the Scheme but not defined in Schedule 1, elsewhere in the Scheme or in the Residential Planning Codes shall have their normal and common meanings.

PART 2.—RESERVES

2.1 RESERVES

Certain lands within the Scheme Area are shown on the Scheme Map and classified into either:

- (a) Metropolitan Region Scheme Reserves; or
- (b) Local Reserves.

2.2 METROPOLITAN REGION SCHEME RESERVES

2.2.1 The land shown as "Metropolitan Region Scheme Reserves" on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map in order to comply with the Metropolitan Region Town Planning Scheme Act, 1959, as amended. Those lands are not reserved by this Scheme. The provisions of the Metropolitan Region Scheme continue to apply to such reserves.

2.2.2 Amendment of Metropolitan Region Scheme

Where, after the gazettal date, the Metropolitan Region Scheme is amended to zone a Regional Reserve, the Council shall treat an application for Planning Approval on such land as though the development involves a "D" use, and such of the provisions of Part 3 and Part 6 as are relevant to "D" uses shall apply until the Scheme has been amended to include the land in a zone or Local Reserve (see subclause 3.2.2).

2.3 LOCAL RESERVES

2.3.1 Local Reserves

Local Reserves are delineated and depicted on the Scheme Map according to the legend thereon.

2.3.2 Use and Development of Local Reserves

A person shall not use, commence or carry out development on a local reserve without first having obtained planning approval under part 6 of the Scheme.

2.3.3 Without affecting the generality of the preceding sub clause and without limiting the meaning of the term, "development", for the purpose of sub clause 2.3.2, shall include:

- (a) The demolition of or damage to any building or works;
- (b) The removal of or damage to any tree;
- (c) The excavation, spoil or waste of land so as to destroy, affect or impair its usefulness for the purpose for which it is reserved;
- (d) The construction, extension, or alteration of any building or structure other than a boundary fence.

2.3.4 Applications for Planning Approval on Local Reserves

2.3.4.1 The Council when considering applications for Planning Approval for land within a Local Reserve shall have due regard to the ultimate purpose intended for the Local Reserve and the relevant matters set out in Clause 6.8 ("Matters to be Considered by Council").

2.3.4.2 Provisions in the Scheme relating to applications for Planning Approval and the exercise of any discretion thereon shall, insofar as they are not inconsistent with this clause, apply to Local Reserves.

2.3.4.3 The Council shall treat an application for planning approval for land within a local reserve as though the development involves a 'D' use and such of the provisions of Part 3 and Part 6 as are relevant to 'D' uses shall apply.

2.3.4.4 To the extent that it is reasonable to do so, the Council shall apply or impose development standards and requirements which would be imposed for development of the kind in question on zoned land, and the Council shall for that purpose stipulate the zone most relevant for comparison.

2.3.4.5 Where any land is partly zoned under the Scheme and partly included in a Local Reserve, then the general provisions of the Scheme shall apply to the part which is zoned, and where the circumstances permit, the Council may give one decision in respect of the part of the land which is zoned and a different decision in respect of the part of the land included in the Local Reserve.

2.3.4.6 The Council shall, in the case of land reserved for the purposes of a public authority, consult with that authority before giving its approval.

2.3.5 Right of Disposal

The Council may deal with or dispose of land it has acquired for a Local Reserve upon such terms and conditions as it thinks fit provided that the land is used or preserved for the use for which the land is reserved.

PART 3.—ZONES

3.1 ZONES

3.1.1 The following zones are used for the classification of land within the Scheme Area:

- Residential
- Mixed Use
- Business
- Commercial
- Civic & Cultural
- Private Clubs/Recreation
- Marina
- General Industrial
- Service Industrial
- Centre
- Urban Development
- Industrial Development
- General Rural
- Rural Resource
- Special Rural
- Special Residential
- Special Use
- Rural Community

The zones are delineated and depicted on the Scheme Map and Structure Plan Maps according to the legend thereon.

3.2 ZONING TABLE

3.2.1 The Zoning Table (hereinafter called Table 1) indicates subject to the provisions of the Scheme, the permissibility of use classes within the various zones. The permissibility of any use class is indicated by a symbol determined by cross reference between the list of "Use Classes" listed down the left hand side of Table 1 and the "Zones" listed along the top of Table 1.

3.2.2 The symbols used in Table 1 have the following meanings:

- "P" = A use class that is permitted but which may be subject to any conditions that the Council may wish to impose in granting its approval;
- "D" = A use class that is not permitted, unless the Council grants its approval after following the procedures laid down by subclause 6.6.2;
- "A" = A use class that is not permitted unless the Council has exercised its discretion and has granted planning approval after giving notice in accordance with Clause 6.7;
- "X" = A use class that is not permitted except where provision is made specifically for Council to approve an otherwise prohibited use.

The Special Use Zone, Marina Zone, Urban Development Zone, Industrial Development Zone, Rural Community Zone and Centre Zone are not listed in Table 1 and the permissibility of uses in those zones is to be determined by the provisions specifically applying to them in the Scheme or in any Agreed Structure Plan approved under Part 9.

3.2.3 Where in Table 1 a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

3.2.4 Where a building or land is used, or a proposed building is designed, for more than one use, it shall be regarded for the purposes of the Scheme as being used or designed partially for each of those uses.

3.3 UNLISTED USES

If the use of the land for a particular purpose is not specifically mentioned in Table 1 and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- (b) determine that the proposed use may be consistent with the objectives and purposes of the zone and thereafter follow the "D" procedures of Clause 6.6.2 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

3.4 THE RESIDENTIAL ZONE

3.4.1 The Residential Zone is intended primarily for residential development in an environment where high standards of amenity and safety predominate to ensure the health and welfare of the population.

3.4.2 Residential development is provided for at a range of densities with a variety of housing to meet the needs of different household types. This is done through application of the Residential Planning Codes (R Codes), and the allocation of a residential density code to an area of land.

3.4.3 The objectives of the Residential Zone are to:

- (a) maintain the predominantly single residential character and amenity of established residential areas;
- (b) provide the opportunity for grouped and multiple dwellings in selected locations so that there is a choice in the type of housing available within the City;
- (c) provide the opportunity for aged persons housing in most residential areas in recognition of an increasing percentage of aged residents within the City; and
- (d) provide for compatible urban support services.

3.5 THE MIXED USE ZONE

3.5.1 The Mixed Use Zone is intended to accommodate a mixture of residential development with small scale businesses in a primarily residential scale environment. The predominant uses will be residential, office, consulting, dining and limited retail uses occupying the street frontage of lots.

3.5.2 The zoning will provide an intermediate stage between Residential and Commercial or Business Zone areas.

3.5.3 The objectives of the Mixed Use Zone are to:

- (a) provide a diversity of land use and housing types;
- (b) allow appropriate businesses to locate and develop in close proximity to residential areas;
- (c) allow for services to be provided locally; and
- (d) provide high level of amenity.

3.6 THE BUSINESS ZONE

3.6.1 The Business Zone is intended to accommodate warehouses, showrooms, trade and professional services and small scale complementary and incidental retailing uses, as well as providing for retail and commercial businesses which require large areas such as bulky goods and category/theme-based retail outlets that provide for the needs of the community but which due to their nature are generally not appropriate to or cannot be accommodated in a commercial area.

3.6.2 The objectives of the Business Zone are to:

- (a) provide for retail and commercial businesses which require large areas such as bulky goods and category/theme based retail outlets as well as complementary business services;
- (b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.

3.7 THE COMMERCIAL ZONE

3.7.1 The Commercial Zone is intended to accommodate existing shopping and business centres where the planning of the locality is well advanced.

3.7.2 The objectives of the Commercial Zone are to:

- (a) make provision for existing retail and commercial areas that are not covered currently by an Agreed Structure Plan;
- (b) provide for a wide range of uses within existing commercial areas, including retailing, entertainment, professional offices, business services and residential.

3.7.3 All land contained in the Commercial Zone shall specify a maximum retail net lettable area (NLA) which relates to retail floor area. The maximum NLA shall be included in Schedule 3 of this Scheme and shall bind the development of the land to no more than that area specified.

3.7.4 Notwithstanding the provisions of clause 3.7.3, the floorspace figures contained within Schedule 3 shall be adhered to except where a provision to the contrary is made in an Agreed Structure Plan for the centre locality as adopted by the Council and the Commission.

3.8 THE CIVIC AND CULTURAL ZONE

3.8.1 The objective of the Civic and Cultural Zone is to make specific provision for public facilities such as government offices, halls, theatres and art galleries.

3.8.2 Although many of the uses permitted in the Civic and Cultural Zone may be equally appropriate in the Centre Zone, it is provided as a separate zone to stand in its own right should the need arise.

3.9 THE PRIVATE CLUBS/RECREATION ZONE

The objective of the Private Clubs/Recreation Zone is to accommodate uses such as private golf clubs, private educational, institutional, recreational and tourist accommodation activities.

3.10 THE MARINA ZONE

3.10.1 The Marina Zone is intended to accommodate a wide range of appropriate development adjacent to marinas.

3.10.2 The objectives of the Marina Zone are to:

- (a) accommodate commercial, residential, recreational and associated activities related to marinas;
- (b) guide and manage the planning and development of areas adjacent to marinas to ensure a diverse mix of uses and high standards of amenity.

3.10.3 The following general provisions shall apply:

- (a) Subject to Clause 9.11, no subdivision (including strata or survey strata subdivision) should be or other development shall be commenced or carried out in a Marina Zone until an Agreed Structure Plan has been prepared and adopted under the provisions of Part 9 of the Scheme. No subdivision (including strata or survey strata subdivision) should be commenced or carried out and no other development shall be commenced or carried out otherwise than in conformity with an Agreed Structure Plan.
- (b) The permissibility of uses in the Marina Zone, subject to subclauses 9.8.2 and 9.8.3, shall be determined in accordance with the provisions of the relevant Agreed Structure Plan.

3.11 THE GENERAL INDUSTRIAL ZONE

3.11.1 The General Industrial Zone is intended to provide for industrial development which the Council considers would be obtrusive in or detrimental to the amenity of the Service Industrial Zone.

3.11.2 The objectives of the General Industrial Zone are to:

- (a) accommodate a wide range of industrial activities, including those generally involving production, processing, storage, wholesaling or distribution processes;
- (b) minimise adverse visual and environmental effects of industrial uses on surrounding areas.

3.11.3 Non-industrial development is not favoured in the General Industrial Zone.

3.12 THE SERVICE INDUSTRIAL ZONE

3.12.1 The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the Council may consider would be inappropriate in Commercial, Business and General Industrial Zones and which are capable of being conducted in a manner which will prevent them being obtrusive, or detrimental to the local amenity.

3.12.2 The objectives of the Service Industrial Zone are to:

- (a) accommodate a range of light industries, showrooms and warehouses, entertainment and recreational activities, and complementary business services which, by their nature, would not detrimentally affect the amenity of surrounding areas;
- (b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.

3.13 THE CENTRE ZONE

3.13.1 The Centre Zone is intended to accommodate existing and proposed business centres or other planning precincts where the Council considers that an Agreed Structure Plan is necessary to provide for the co-ordinated planning and development of these centres. The centres may range in size from small neighbourhood centres to large multi-purpose regional centres.

3.13.2 The objectives of the Centre Zone are to:

- (a) provide for a hierarchy of centres from small neighbourhood centres to large regional centres, catering for the diverse needs of the community for goods and services;
- (b) ensure that the City's commercial centres are integrated and complement one another in the range of retail, commercial, entertainment and community services and activities they provide for residents, workers and visitors;
- (c) encourage development within centres to create an attractive urban environment;
- (d) provide the opportunity for the coordinated and comprehensive planning and development of centres through an Agreed Structure Plan process.

3.13.3 Subject to Clause 9.11, no subdivision (including strata or survey strata subdivision) should be or other development shall be commenced or carried out in a Centre Zone until an Agreed Structure Plan has been prepared and adopted under the provisions of Part 9 of the Scheme. No subdivision (including strata or survey strata subdivision) should be commenced or carried out and no other development shall be commenced or carried out otherwise than in conformity with an Agreed Structure Plan.

3.13.4 The permissibility of uses in the Centre Zone subject to subclauses 9.8.2 and 9.8.3 shall be determined in accordance with the provisions of the relevant Agreed Structure Plan.

3.13.5 All Centre Zones shall specify the proposed maximum retail net lettable area (NLA) which relates to retail floor areas. The maximum NLA shall be included in Schedule 3 of this Scheme and shall bind the development of the land to no more than that area specified.

3.13.6 Notwithstanding the provisions of sub-clause 3.13.5, the floorspace figures contained within Schedule 3 shall be adhered to except where a provision to the contrary is made in an Agreed Structure Plan for the centre locality as adopted by the Council and the Commission.

3.14 THE URBAN DEVELOPMENT ZONE

3.14.1 The purpose of the Urban Development Zone is to provide for the orderly planning and development of larger areas of land in an integrated manner within a regional context whilst retaining flexibility to review planning with changing circumstances. In considering applications for development and changes to residential density codings in areas near existing and proposed future railway stations the Council will have due regard to the desirability of higher residential densities, transit related development and good pedestrian and vehicular access to stations in order to promote public transport usage.

3.14.2 The objectives of the Urban Development Zone are to:

- (a) designate land for future urban development;
- (b) provide for the orderly planning of large areas of land for residential and associated purposes through a comprehensive structure planning process;
- (c) enable planning to be flexible and responsive to changing circumstances throughout the developmental stages of the area.

3.14.3 Subject to Clause 9.11, no subdivision (including strata or survey strata subdivision) should be or other development shall be commenced or carried out in an Urban Development Zone until an Agreed Structure Plan has been prepared and adopted under the provisions of Part 9 of the Scheme. No subdivision (including strata or survey strata subdivision) should be commenced or carried out and no other development shall be commenced or carried out otherwise than in conformity with an Agreed Structure Plan.

3.14.4 The permissibility of uses in the Urban Development Zone subject to subclause 9.8.2 and 9.8.3 shall be determined in accordance with the provisions of the relevant Agreed Structure Plan.

3.15 THE INDUSTRIAL DEVELOPMENT ZONE

3.15.1 The purpose of the Industrial Development Zone is to provide for the orderly planning of larger areas of land proposed for industrial use in an integrated manner within a regional context whilst retaining flexibility to review planning with changing circumstances.

3.15.2 The objectives of the Industrial Development Zone are to:

- (a) designate land for future industrial development;
- (b) provide for the orderly and comprehensive planning and development of large areas of industrial land for industrial and employment purposes;
- (c) enable planning to be flexible and responsive to changing circumstances throughout the developmental stages of the area.

3.15.3 Subject to Clause 9.11 no subdivision (including strata or survey strata subdivision) should be or other development shall be commenced or carried out in an Industrial Development Zone until an Agreed Structure Plan has been prepared and adopted under the provisions of Part 9 of the Scheme. No subdivision (including strata or survey strata subdivision) should be commenced or carried out and no other development shall be commenced or carried out otherwise than in conformity with the Agreed Structure Plan.

3.15.4 The permissibility of uses in the Industrial Development Zone subject to subclauses 9.8.2 and 9.8.3 shall be determined in accordance with the provisions of the relevant Agreed Structure Plan.

3.16 THE GENERAL RURAL ZONE

3.16.1 The objectives of the General Rural Zone are to:

- (a) accommodate agricultural, horticultural and equestrian activities;
- (b) maintain and enhance the rural character and amenity of the areas designated for rural use and to protect their ground water and environmental values.

3.16.2 When considering applications for subdivision or for Planning Approval for development which relate to land which is within the General Rural Zone, Council shall have regard to the objectives set out in Clause 3.16.1 for the General Rural Zone, the contents of any Local Rural Strategy adopted by Council and the Commission and any other requirement for proper and orderly planning.

3.16.3 Where residential development is carried out in the General Rural Zone, the following provisions shall apply:

- (a) No person shall construct any building or undertake any development or other works, other than a fire break or an equivalent alternative approved by Council or an accessway, closer than 7.5 metres to a street alignment or 4 metres to any other boundary.
- (b) Notwithstanding that "Grouped Dwelling" is designated as a not permitted use class in the General Rural Zone in Table 1, the Council may approve the development of a maximum of two grouped dwellings on a lot if having regard to all relevant considerations it is reasonable to do so provided the Council is satisfied of all the following facts:
 - (i) The lot is a minimum of 5 hectares in area if situated south of Flynn Drive and 8 hectares in area if situated north of Flynn Drive;
 - (ii) Both dwellings will be erected in a position that complies with all other provisions of the Scheme, subject to any discretionary modifications by the Council;
 - (iii) The second dwelling is necessary or desirable to provide accommodation on the lot for a person or persons who will assist in the lawful management or exploitation of a rural or other resource on the land consistent with the objectives of the Zone;
 - (iv) There is no current proposal for or intention of any person to propose subdivision of the lot including strata or survey strata subdivision.

- (c) If the Council approves or has at any time before the gazettal of the Scheme approved a second dwelling on a lot in the circumstances set out in paragraph (b), that approval shall not be and shall not be taken to be support in any way for the future subdivision or strata subdivision of the lot or provision of separate certificates of title in respect of the two dwellings on the lot.
- (d) It is the intent of the preceding paragraphs (b) and (c) that a second dwelling on a lot in this zone should be allowed to facilitate the carrying on of rural and resource exploitation uses, and the provisions should expressly not be used presently or in the future to support fragmentation of the land, or the alienation of ownership or use of either of the dwellings from the ownership and control of the person carrying on the rural or resource exploitation use.
- (e) Notwithstanding anything set out in the preceding paragraphs, any approval by the Council for two grouped dwellings under the preceding paragraph (b) shall in any case require the owner seeking approval for a second dwelling to grant a Restrictive Covenant in gross in favour of the Council against the lot prepared at that owner's expense by solicitors for the Council precluding the owner or any future owner of the lot from seeking strata-subdivision or subdivision approval in any form for the lot.

3.17 THE RURAL RESOURCE ZONE

3.17.1 The objectives of the Rural Resource Zone are to:

- (a) Protect from incompatible uses or subdivision, intensive agriculture, horticultural and animal husbandry areas with the best prospects for continued or expanded use;
- (b) protect from incompatible uses or subdivision basic raw materials priority areas and basic raw materials key extraction areas.

3.17.2 When considering applications for subdivision or for Planning Approval for development which relate to land which is within the Rural Resource Zone, Council shall have regard to the relevant matters listed in Clause 6.8 of the Scheme and in addition to the following matters:

- (a) The contents of any Local Rural Strategy adopted by Council and the Western Australian Planning Commission.
- (b) Within the Rural Resource Zone the priority uses are intensive agriculture, horticulture and basic raw materials extraction.
- (c) The Council shall not support any use or subdivision or zoning that is, or potentially could be, incompatible with the carrying out of the priority uses referred to in sub clause 3.17.2 (b).
- (d) Unless proved otherwise to the satisfaction of the Council on a case by case basis, rural residential development is considered an incompatible use.
- (e) There is a presumption in favour of applications for agriculture and intensive agriculture in the agricultural resource areas identified in the Local Rural Strategy subject to the acceptable management of any offsite environmental and land use impacts.
- (f) There is a presumption in favour of applications for the extraction of basic raw materials in the basic raw materials resource areas identified in the Local Rural Strategy subject to the management of offsite impacts and an approved land restoration plan to a standard suitable for intended subsequent long term land uses.
- (g) Notwithstanding the presumptions in sub clauses (e) & (f) above the Council will not support any proposals that adversely impact on any designated Bushplan site, conservation category wetlands and their buffers, important heritage site and important site of Aboriginal significance.
- (h) In the Rural Resource Zone, erection of a single house shall be subject to Planning Approval as contemplated under subclause 6.1.1 of this Scheme. Subclause 6.1.3 (b) does not apply in this Zone.
- (i) In applying for Planning Approval for 'sensitive uses' within the Rural Resource Zone or on lots directly abutting the boundary of the Rural Resource Zone, the Council shall require that the applicant includes with the application a written acknowledgment by the applicant, acknowledging the nature and legitimacy of any nearby existing or future priority use, and acceptance of the existence, or potential existence of noise, dust, odour and other impacts which may be associated with such uses. The Council shall not grant Planning Approval to any 'sensitive use' where an acknowledgment in writing as required under this subclause does not accompany the planning application.
- (j) A copy of such written acknowledgments shall be kept in a permanent register by the Council, which shall be made available for public information.
- (k) In addition to the provision of the written acknowledgments required pursuant to (i) above, applicants shall also be required, prior to granting of Planning Approval by the Council, to arrange for the inclusion on the title of the land concerned, a notice to the same effect as that given by the written acknowledgment, to facilitate awareness of the matters concerned by future owners of that land.

3.17.3 Where residential development is carried out in the Rural Resource Zone, the following provisions shall apply:

- (a) no person shall construct any building or undertake any development or other works, other than a fire break or an equivalent alternative proposed by Council or an accessway, closer than 7.5 metres to a street alignment or 4 metres to any other boundary;
- (b) Notwithstanding that "Grouped Dwelling" is designated as a not permitted use class in the Rural Resource Zone in Table 1, the Council may approve the development of a maximum of two grouped dwellings on a lot if having regard to all relevant considerations it is reasonable to do so provided the Council is satisfied of all the following facts:
 - (i) The lot is a minimum of 5 hectares in area if situated south of Flynn Drive and 8 hectares in area if situated north of Flynn Drive;

- (ii) Both dwellings will be erected in a position that complies with all other provisions of the Scheme, subject to any discretionary modifications by the Council;
 - (iii) The second dwelling is necessary or desirable to provide accommodation on the lot for a person or persons who will assist in the lawful management or exploitation of a rural or other resource on the land consistent with the objectives of the Zone;
 - (iv) There is no current proposal for or intention of any person to propose subdivision of the lot including strata or survey strata subdivision.
- (c) If the Council approves or has at any time before the gazettal of the scheme approved a second dwelling on a lot in the circumstances set out in paragraph (b), that approval shall not be and shall not be taken to be support in any way for the future subdivision or strata subdivision of the lot or provision of separate certificates of title in respect of the two dwellings on the lot.
- (d) It is the intent of the preceding paragraphs (b) and (c) that a second dwelling on a lot in this zone should be allowed to facilitate the carrying on of rural and resource exploitation uses, and the provisions should expressly not be used presently or in the future to support fragmentation of the land, or the alienation of ownership or use of either of the dwellings from the ownership and control of the person carrying on the rural or resource exploitation use.
- (e) Notwithstanding anything set out in the preceding paragraphs, any approval by the Council for two grouped dwellings under the preceding paragraph (b) shall in any case require a person seeking approval for a second dwelling to grant a Restrictive Covenant in gross in favour of the Council against the lot prepared at that owner's expense by solicitors for the Council precluding the owner or any future owner of the lot from seeking strata subdivision or subdivision approval in any form for the lot.

3.18 THE SPECIAL RURAL ZONE

3.18.1 The Special Rural Zone is intended to accommodate rural-residential retreats on lots generally ranging between one and four hectares in size. In some cases, agricultural uses are also intended to be accommodated. All development in the Special Rural Zone shall be conducted in a manner that preserves local amenity and the natural landscape or rural character of the zone concerned.

3.18.2 The objectives of the Special Rural Zone are to:

- (a) designate areas where rural-residential retreats can be accommodated without detriment to the environment or the rural character;
- (b) meet the demand for a rural lifestyle on small rural lots generally ranging from one to four hectares in size;
- (c) maintain and enhance the rural character and amenity of the locality.

3.18.3 The general provisions set out hereafter shall apply to the Special Rural Zone:

- (a) The Scheme provisions for a specific Special Rural Zone shall include a Development Guide Plan for that specific Zone. The Development Guide Plan for a specific Zone shall include any of the matters in Schedule 7 which Council considers appropriate for that specific Zone. Subdivision and development should be in accordance with the Development Guide Plan.
- (b) The subdivider shall ensure that each prospective purchaser of a subdivided lot acknowledges in writing, at the time of purchase of a lot, the requirements and provisions of the Rights in Water and Irrigation Act and more specifically the fact that:
 - (i) the Water and Rivers Commission imposes constraints on the extraction of ground water from and the use of groundwater on the land.
 - (ii) where the lot is within a proclaimed groundwater area it is unlikely that a licence will be issued for the use of groundwater for amounts more than 1500m³ per annum, ie sufficient for house and domestic garden requirements and for the irrigation of approximately 0.1 hectare of pasture or other crops.
- (c) Only one dwelling (a single house) may be erected on each lot.
- (d) No development shall take place within 25 metres of a street boundary or within 15 metres of a side or rear boundary. Where a lot has a boundary with more than one street the Council shall designate one such street as the frontage and may permit buildings to within 15 metres from the other street boundaries.
- (e) When exercising its powers to relax requirements and standards under the provisions of Clause 4.7 the Council shall, in addition, pay particular regard to the effect on flora and fauna, and the character and amenity of the Special Rural Zone.
- (f) Except where a reticulated water supply is provided, a person shall not construct a dwelling unless a concrete water tank of not less than 90,000 litres or other type of domestic water supply approved by the Council is incorporated in the plans and constructed at the same time as the dwelling. If with the approval of the Council groundwater is used the approval of the Water and Rivers Commission is also required. All lots less than 2 hectares in size shall have a reticulated scheme water supply to the satisfaction of the Water Corporation.
- (g) The approval of the Council and of the Commissioner for Health to the proposed method of disposal of sewage and other domestic wastes (either solid or liquid) is required.
- (h) No dwelling shall be constructed unless it is on at least a 1,000m² portion of the lot, located behind the building setback line, which will result in the dwelling and base of the dwelling effluent disposal chamber being a minimum height (as determined by the Health Department of Western Australia and the Department of Environmental Protection) above the expected maximum water table level as shown on the Development Guide Plan. This will ensure compliance with the requirements for effluent disposal systems set down by the Health Department of Western Australia.

- (i) The land is to be managed in such a manner as to avoid it being laid bare of vegetation. Land shall not be cleared of vegetation except where necessary to permit the construction of buildings or where the vegetation is dead or poses a hazard to safety.
- (j) A person shall not without Planning Approval of the Council remove, cut down, or damage any vegetation on land within a Special Rural Zone including street verges. Where the Council grants approval it may impose a condition requiring the planting of suitable vegetation at the cost of the applicant.
- (k) Council may permit an area of not more than 1,000m², in a central location on each lot, to be cleared for the establishment of a residence, garage, ancillary buildings and a non-commercial garden/product/ pasture area, this cleared area shall be no closer than 15 metres to any side or rear boundary.
- (l) The approval of Council is required for the keeping of horses. In seeking such approval, the applicant is required to include with the application a management plan demonstrating that the proposal is acceptable to Agriculture Western Australia and the Department of Environmental Protection.
- (m) The subdivider shall develop all areas designated as or set aside for the purposes of public open space within the land the subject of the subdivision to the satisfaction of the Council and within the period stipulated by the Council.

3.18.4 Special Provisions relating to individual Special Rural Zones are set out in Schedule 13. In the case of any conflict the Special Provisions shall prevail over the general provisions of the Scheme. The Special Provisions for a specific Special Rural Zone shall specify, amongst other things:

- (a) Proposals for the control of land uses and development which will ensure that the objectives of the zone are secured and the rural environment and amenities are not impaired;
- (b) Any stipulation or requirement the owner of the land must satisfy pursuant to any agreement between the owner and the Council;
- (c) Without limiting the generality of subclause 3.18.3, any other obligation of the owner relevant to the subdivision, development or use of the land.

3.18.5 Notwithstanding any other provision of the Scheme, in the case of any conflict between the special provisions relating to individual Special Rural Zones and Table 1, the special provisions shall prevail.

When a Special Rural Zone Development Guide Plan was adopted and approved under the City's Town Planning Scheme No 1 immediately before the revocation of Scheme No 1, and was referred to in Schedule 4 of Scheme No 1, it shall have the status of a Development Guide Plan under subclause 3.18.3 of this Scheme as if it was prepared and adopted under the provisions of this Scheme.

3.18.6 Where a Development Guide Plan has effect under this Scheme by force of the provisions of subclause 3.18.5, any change in title of the Development Guide Plan, or in other matters whatsoever, shall be made to the extent only that is it necessary to provide it with the form of a Development Guide Plan under this Scheme, and to make its terms consistent in all ways with the provisions of this Scheme, including (but without limiting the generality of the foregoing) any standards or requirements.

3.19 THE SPECIAL RESIDENTIAL ZONE

3.19.1 The Special Residential Zone is intended to accommodate the development of single houses on lots of not less than 2,000m² with an average lot size of not less than 3,000m². This clause and the Special Provisions and Development Guide Plan applying to any Special Residential Zone shall prevail over any density coding shown on the Residential Density Code Map and any conflicting provisions in the Residential Planning Codes.

3.19.2 The objectives of the Special Residential Zone are to:

- (a) accommodate a spacious style of living in a low density setting;
- (b) maintain important environmental and landscape values through site-sensitive design and development.

3.19.3 A Development Guide Plan shall be a prerequisite to the creation of a Special Residential Zone in any locality and the general provisions set out hereunder shall apply:

- (a) Subdivision should be in accordance with the Development Guide Plan.
- (b) A reticulated deep sewerage system will be required if, in the opinion of the relevant authorities, the land is considered not suitable for the long term, efficient on-site disposal of effluent.
- (c) A reticulated water supply from the Water Corporation network shall be provided to each lot.
- (d) Only one dwelling (a single house) shall be permitted on each lot.
- (e) No building shall be constructed closer than 15 metres to a street alignment, within 5 metres of a side boundary, or within 10 metres of the rear boundary of any lot. Where a lot has frontage to more than one street, the Council shall designate one such street as the frontage and may permit the construction of buildings to within 7.5 metre from the other street boundaries.
- (f) Except to the extent necessary for the construction of approved buildings and driveways, no land shall be cleared of vegetation without the prior written approval of the Council.
- (g) A person shall not without Planning Approval of the Council remove, cut down, or damage any mature tree on land within a Special Residential Zone including street verges.
- (h) The Council may, as a condition of any approval granted under general provisions (f) and (g) of this subclause, require the applicant to plant and/or maintain to its satisfaction mature trees and shrubs to promote the natural or other aesthetic setting of the area.

- (i) No cattle, goats, sheep, horses, bees or any other animal stipulated from time to time by the Council to be inappropriate to Special Residential Zones, shall be kept on any lot.

3.19.4 Special Provisions relating to individual Special Residential Zones are set out in Schedule 14. In the case of any conflict the Special Provisions shall prevail over the general provisions of the Scheme.

3.19.5 Notwithstanding any other provision of the Scheme, in the case of any conflict between the Special Provisions relating to individual Special Residential Zones and Table 1, the Special Provisions shall prevail.

3.19.6 When a Special Residential Zone Development Guide Plan was adopted and approved under the City's Town Planning Scheme No 1 immediately before the revocation of Scheme No 1, and was referred to in Schedule 6 of Scheme No 1, it shall have the status of a Development Guide Plan under Clause 3.19 of the Scheme as if it was prepared and adopted under the provisions of the Scheme.

3.19.7 Where a Development Guide Plan has effect under the Scheme by force of the provisions of subclause 3.19.6, any change in title of the Development Guide Plan, or in other matters whatsoever, shall be made to the extent only that it is necessary to provide it with the form of a Development Guide Plan under this Scheme, and to make its terms consistent in all ways with the provisions of this Scheme, including (but without limiting the generality of the foregoing) any standards or requirements.

3.20 ADDITIONAL USES (SCHEDULE 2—SECTION 1)

Notwithstanding anything contained in Table 1, the land specified in Section 1 of Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

3.21 RESTRICTED USES (SCHEDULE 2—SECTION 2)

Notwithstanding anything contained in Table 1, the land specified in Section 2 of Schedule 2 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 2 with respect to that land.

3.22 THE SPECIAL USE ZONE (SCHEDULE 2—SECTION 3)

The Special Use Zone is set out in Section 3 of Schedule 2 and is in addition to the zones in Table 1. No person shall use any land or any structure or buildings on land in a Special Use Zone except for the purpose set out against that land in Schedule 2 and subject to compliance with any conditions set out in Schedule 2 with respect to that land.

3.23 RURAL COMMUNITY ZONE

3.23.1 The purpose of the Rural Community Zone is to provide for the orderly and integrated subdivision and development of larger areas of land proposed for rural residential use, in a manner which maintains the environmental, vegetation and landscape characteristics of the locality.

3.23.2 No subdivision (including strata or survey strata subdivision) should be, or other development shall be, commenced or carried out in a Rural Community Zone until a Structure Plan has been prepared and adopted under the provisions of Part 9 of the Scheme. No subdivision (including strata or survey strata subdivision) should be commenced or carried out, and no development shall be commenced or carried out otherwise than in conformity with an Agreed Structure Plan and the Special Provisions contained in Schedule 15 of the Scheme.

3.23.3 The intent of this Clause is to address the possibility of strata cluster subdivisional development being approved as an alternative to conventional subdivisional development in the Rural Community Zone.

For the purpose of this Clause, the terms "conventional subdivision" and "cluster subdivision" are explained by the following hypothetical examples:

- (a) conventional subdivision may involve a 100 hectare lot being subdivided into fifty lots each of 2 hectares where 2 hectares is the minimum lot size stipulated by the Special Provisions contained in Schedule 15 of the Scheme.
- (b) A cluster subdivision in the same circumstances may involve fifty small lots clustered perhaps on one 10 hectare portion of the 100 hectare original lot, leaving 90 hectares in a single common rural area lot, protected from further subdivision (including strata or survey strata subdivision) and development.

Consistent with the aim of preserving the environmental, vegetation and landscape characteristics of the Rural Community Zone, in specific cases a cluster subdivision lot yield equal to or greater (if specified in Schedule 15) than the maximum lot yield possible by conventional subdivision may be permitted.

3.23.4 The permissibility of uses in the Rural Community Zone shall be determined in accordance with the provisions of the relevant Agreed Structure Plan and any provisions contained in Schedule 15. The provisions of subclauses 9.8.2 and 9.8.3 shall apply save that it is not intended that Agreed Structure Plan provisions will be replaced by an amendment to the Scheme in the case of the Rural Community Zone.

3.23.5 Schedule 15 is incorporated in the Scheme and the provisions of that Schedule shall have full force and effect as provisions of the Scheme.

3.24 NEW DEVELOPMENT AROUND EXISTING RAILWAY STATIONS

In order to promote public transport usage, Council shall encourage appropriate transit-related development to take place around existing railway stations. This relates to both private property, and government-owned land and air rights above that land where achievable.

PART 4.—GENERAL DEVELOPMENT REQUIREMENTS

4.1 EXCLUSIONS

In the General Rural Zone, the Rural Resource Zone, the Special Rural Zone, the Rural Community Zone and the Special Residential Zone, the provisions of Clauses 3.16, 3.17, 3.18, 3.19 and 3.23 as the case may be, shall prevail if there is any conflict or inconsistency with this Part.

4.2 VARIATIONS TO SITE AND DESIGN STANDARDS AND REQUIREMENTS

4.2.1 Except for the requirements set out in Clauses 3.7.3, 3.7.4, 3.13.4 and 3.13.5 of the Scheme and the density requirements of the Residential Planning Codes, if a development is the subject of an application for Planning Approval and does not comply with a design standard or requirement prescribed under the Scheme or the Residential Planning Codes, the Council may, notwithstanding the non compliance, approve the application conditionally or subject to such conditions as the Council thinks fit.

4.2.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to subclause 6.7.1; and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

4.2.3 The power conferred by this clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.

4.3 REQUIREMENTS NOT READILY DETERMINED BY THE SCHEME

Where in the circumstances of a particular case a requirement or standard cannot readily be determined from an examination of the Scheme, such requirement or standard shall be determined by the Council. In making such a determination the Council shall have regard to any study or policy relevant to the area or the development in question and may have regard to any other matter relevant to amenity and orderly and proper planning.

4.4 RESIDENTIAL PLANNING CODES

4.4.1 For the purposes of this Scheme “Residential Planning Codes” means the Residential Planning Codes set out in Appendix 2 to the Commission’s Statement of Planning Policy No. 1, together with any amendments thereto.

4.4.2 A copy of the Residential Planning Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

4.4.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Planning Codes shall conform to the provisions of those Codes.

4.4.4 Subject to subclause 4.4.5, the Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes Maps.

4.4.5 Notwithstanding the provisions of Clause 4.4.4, where land within the Scheme is subject to an Agreed Structure Plan, the Residential Density Codes for the area shall be determined according to the Agreed Structure Plan.

4.4.6 An Agreed Structure Plan may vary the requirements of the Residential Planning Codes.

4.4.7 Notwithstanding that the Residential Density Codes Maps may purport to apply a Residential Planning Code over land which is reserved under this Scheme, the Residential Planning Codes are not applicable to land which is reserved under this Scheme, unless such specific provision is made through the operation of an Agreed Structure Plan.

4.5 SPECIAL APPLICATION OF RESIDENTIAL PLANNING CODES

4.5.1 Where residential development is proposed to be mixed with non-residential development, Council may vary any provision of the Codes with the exception of the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.

Before exercising its powers of discretion Council may require that a proposal be advertised and plans made available for public inspection in accordance with the procedures laid down in Clause 6.7.

4.5.2 The provisions of clauses 3.16, 3.17, 3.18 and 3.19 relating to setbacks shall prevail over any inconsistent provisions of the Codes.

4.5.3 Notwithstanding the density code applicable in a particular instance, development in excess of a single dwelling shall not be permitted in unsewered areas unless:

- (a) The development accords with the Government Sewerage Policy - Perth Metropolitan Region (1995), or
- (b) The Health Department of Western Australia recommends to Council that there are exceptional circumstances to warrant a variation from the Policy.

4.6 HOME BUSINESS

4.6.1 Home Business—Category 1

4.6.1.1 Subject to subclause 4.6.4, a person may conduct a Home Business—Category 1 within a dwelling without the need to first obtain Planning Approval.

4.6.1.2 If in the opinion of the Council the activity is no longer consistent with the limits of a Home Business – Category 1, or is otherwise causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, Council may serve notice on the person requiring the person to cease using the dwelling for the home business.

4.6.2 Home Business—Category 2

4.6.2.1 A person wishing to conduct a Home Business - Category 2 on residential premises is required to first obtain Planning Approval under Part 6 of the Scheme.

4.6.3 Home Business—Category 3

4.6.3.1 A person wishing to conduct a Home Business—Category 3 on residential premises is required to first obtain Planning Approval under Part 6 of the Scheme.

4.6.3.2 The provisions of the Codes and all other clauses in the Scheme relating to developments in a Residential Zone shall apply to a Home Business—Category 3. Council may exercise its discretion and vary a provision of the Codes, except the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the Codes.

4.6.4 Review

4.6.4.1 At any time Council may undertake a review of the status of a business being carried out in a dwelling as a Home Business—Category 1, by requiring the resident to submit a statement setting out the nature and extent of the business being carried out on the premises or, on reasonable notice, permitting inspection of the dwelling by Council.

4.6.4.2 Following completion of a review, Council may designate the business either as a Home Business—Category 1, Category 2 or 3 and require the resident to comply with the requirements of the Scheme in a manner applicable to that designation and if the designation has changed, then notwithstanding that the business may have been lawful up to the time of the review, such business shall be carried out only in conformity with Council provisions of either a Home Business Category 2 or a Home Business – Category 3, whichever is applicable, once issued.

4.7 SETBACKS FOR NON RURAL AND NON RESIDENTIAL DEVELOPMENT

4.7.1 Subject to the provisions of Part 3 or as otherwise provided in this clause, non rural and non residential buildings shall be set back as follows:

- (a) Street boundary – 6 metres;
- (b) Side and rear boundaries – Nil.

4.7.2 Where a lot has a boundary with two or more streets, the Council shall determine which of these streets may be considered secondary street boundaries. Setbacks to secondary street boundaries may be reduced by Council to 3 metres.

4.7.3 Where a non residential development is proposed to be located on a lot having a common boundary with a Residential Zoned lot, the side and rear setbacks shall not be less than:

- (a) 3 metres for buildings of one storey; or
- (b) 6 metres for buildings of two or more storeys.

4.7.4 That portion of a lot within 3 metres of the street alignment shall only be permitted to be used for a means of access and landscaping.

4.7.5 That portion of a lot between 3 metres of the street alignment and the building setback line shall only be permitted to be used for:

- (a) a means of access;
- (b) the loading and unloading of vehicles;
- (c) landscaping;
- (d) a trade display;
- (e) the daily parking of vehicles used by employees and customers of the development.

No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired or for the stacking or storage of materials, products or wastes.

4.7.6 All buildings constructed on a lot adjoining a Right-of-Way shall be setback a minimum of 1.5 metres from the Right-of-Way, or in the case of a carport, garage or parking bay, such additional distance that Council may require to ensure adequate vehicular manoeuvring.

4.7.7 All development on land abutting a road which is proposed to be widened shall be setback from the street alignment of the road as if the road had been widened as proposed.

4.8 BUILDING FACADES FOR NON RURAL AND NON RESIDENTIAL DEVELOPMENT

The façade or facades of all non rural and non residential development shall be constructed in brick, masonry and/or plate glass or other approved material which in the opinion of Council would not adversely impact on the amenity or streetscape of the area. Where metal clad walls are approved by Council they shall have a factory applied paint finish.

4.9 TRAFFIC ENTRANCES

The Council may where it considers it desirable and in the interests of traffic safety, to reduce traffic hazards or otherwise to assist in the planning for vehicular traffic, direct the owner of any lot to limit access and egress or provide such additional access and egress as it requires to any premises.

4.10 VISUAL TRUNCATIONS TO VEHICULAR ACCESSWAYS IN THE VICINITY OF STREETS OR RIGHTS-OF-WAY

No building, wall, fence, landscaping or other development greater than 0.6 metres in height measured from the natural ground level at the boundary shall be constructed or maintained within the sight line area stipulated in the Australian Standard for Off Street Parking AS2890.1 at the intersection of a vehicular accessway and a street or right-of-way.

4.11 PEDESTRIAN AND VEHICLE RECIPROCAL ACCESS REQUIREMENTS

If the Council approves car parking and pedestrian access on neighbouring premises in a manner which relies on the reciprocal movement of vehicles and pedestrians between or across the premises, the owners concerned shall allow the necessary reciprocal access and parking at all times to the satisfaction of Council.

4.12 SERVICE AREAS AND ACCESS

Provision shall be made for service access to the rear of all taverns, hotels, motels, shops, showrooms, restaurants, takeaway food outlets, drive through takeaway food outlets and other commercial uses as required by the Council for the purpose of loading and unloading goods unless considered by the Council to be undesirable in a particular instance.

4.13 STORAGE AND RUBBISH ACCUMULATION

All storage, including the storage of accumulated rubbish, shall be confined to within a building, or a suitably enclosed area screened from its immediate surrounds and any adjacent public street or road by normal viewing by a wall not less than 1.8 metres in height constructed of brick, masonry or other approved material. All storage of accumulated rubbish shall be located in a position accessible to rubbish collection vehicles and where vehicular access and car parking will not be adversely affected.

4.14 CAR PARKING STANDARDS

4.14.1 The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

4.14.2 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed, marked, drained and thereafter maintained to the satisfaction of the Council.

4.15 CAR PARKING—CASH IN LIEU OR STAGING

4.15.1 The Council may permit car parking to be provided in stages subject to the landowner setting aside an area of land sufficient to accommodate the total carparking requirement for the development and entering into a legal agreement to satisfactorily complete all the remaining parking when requested to do so by the Council.

4.15.2 Council may accept a cash payment in lieu of the provision of any required parking area subject to being satisfied that there is adequate provision for car parking or a reasonable expectation that there will be adequate provision for public car parking in the proximity of the proposed development.

4.15.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the Council shall from time to time determine.

4.15.4 Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by Council.

4.16 BICYCLE PARKING AND END OF TRIP FACILITIES

Council may require the provision of bicycle parking and end of trip facilities such as showers, change rooms and lockers in commercial developments and other employment centres in accordance with Austroads' Guide to Engineering Practice Part 14: Bicycles.

4.17 LANDSCAPING REQUIREMENTS FOR NON RURAL AND NON RESIDENTIAL DEVELOPMENT

4.17.1 A minimum of 8% of the area of a development site shall be set aside, developed and maintained as landscaping to a standard satisfactory to the Council. In addition the road verge adjacent to the lot shall be landscaped and maintained to the satisfaction of the Council.

4.17.2 When a proposed development includes a car parking area abutting a street, an area no less than 3 metres wide within the lot along all street alignments shall be set aside, developed and maintained as landscaping to a standard satisfactory to the Council. This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous subclause.

4.17.3 Landscaping shall be carried out and maintained on all those areas of a development site which are not approved for buildings, accessways, storage purposes or car parking. Alternatively, Council may require these areas to be screened from view of streets and other public places.

4.17.4 Landscape areas shall be designed and located to improve the visual appeal of the development from the street and other public spaces and the standard of amenity for those using the development. The use of endemic trees and shrubs are encouraged.

4.17.5 Shade trees shall be planted and maintained in car parking areas designed within the wells at the rate of one tree for every four (4) car parking bays, to the Council's satisfaction.

4.18 SCREENING OF STORAGE AREAS

The owner of land on which there is stored, stacked or allowed to remain any materials which in Council's opinion detract from the amenity of the area shall completely screen the said materials from adjoining properties and from streets in a manner specified by and to the satisfaction of Council, by means of walls, fences, hedges or shrubs.

4.19 SCREEN WALLS FOR NON RESIDENTIAL DEVELOPMENT ABUTTING RESIDENTIAL LOTS

Where a non residential development is proposed to be located on a lot having a common boundary with a lot that is zoned or developed for residential purposes, a screen wall at least 1.8 metres in height and to a standard specified by the Council shall be provided along the common boundary of the two lots to protect the residential amenity.

4.20 MINIMUM LOT DIMENSIONS

Minimum lot sizes and frontages are not specifically set for the purposes of this Part. The extent of any development on any lot shall be dependent upon other development requirements. Notwithstanding the foregoing, the Council may establish policies outlining specific minimum lot dimensions for specific types of development where it considers that it is prudent to do so.

4.21 RESTRICTIVE COVENANTS

4.21.1 Subject to subclause 4.21.2, 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 Planning Codes which apply under the Scheme. Land burdened by such restrictive covenants which may be extinguished or varied are detailed in Schedule 11.

4.21.2 Where subclause 4.21.1 operates to extinguish or vary a restrictive covenant Council will not grant planning approval to the development of the land which would, but for the operation of subclause 4.21.1, 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 6.7.

4.22 ENVIRONMENTAL CONDITIONS

4.22.1 In accordance with Section 7A4 of the Act, environmental conditions imposed by the Minister for the Environment on the Scheme or amendments to the Scheme and contained in Statements under Section 48F Environmental Protection Act, shall be incorporated into the Scheme by provision made in Schedule 12 of the Scheme contemporaneously with the making of the Scheme or amendment.

4.22.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol "EC" to indicate that environmental conditions apply to the land.

4.22.3 The Council shall maintain a register of all the Statements published under Section 48F referred to in subclause 4.22.1 which shall be made available for public inspection at the offices of the Council.

4.23 COMMERCIAL VEHICLE PARKING

4.23.1 Parking of commercial vehicles in the Residential, Mixed Use, Business, Urban Development, Centre, Marina, Commercial and Special Residential Zones shall not be permitted except in accordance with the provisions set out in the following paragraphs of this clause.

4.23.2 A person shall not park, or permit to be parked, more than one commercial vehicle on any lot in the zones referred to in this clause.

4.23.3 A person may only park a commercial vehicle on any lot in the zones referred to in this clause if:

- (a) the lot on which the vehicle is parked contains only a single house (including any associated outbuildings) provided that Council may permit the parking of such vehicle on a lot which contains grouped dwellings if it is of the opinion that this will not adversely affect the amenity of the grouped dwelling development or the surrounding area;
- (b) the vehicle is parked entirely on the subject lot and is located on a hard standing area which is located behind the front of the dwelling, or alternatively the vehicle is parked within a garage;
- (c) the vehicle is used as an essential part of the lawful occupation of an occupant of the dwelling. The foregoing requirement of this item shall not be satisfied in any case unless the owner of the vehicle or an occupier of the dwelling within seven days of the Council making a request, supplies to the Council full information as to the name and occupation of the person said to be using the vehicle. The request for that information is made for the purpose of this item by posting the request to the address of the owner of the vehicle shown on the vehicle registration, or by posting the request to or leaving it at the dwelling addressed in general way to the occupier. The parking of the vehicle on the lot does not authorise the conduct on that lot of the occupation of the vehicle user;
- (d) the vehicle does not exceed 3 metres in height (including the load), 2.5 metres in width, or 8 metres in length;
- (e) the vehicle is not started or manoeuvred on site between the hours of 10.00 pm and 6.00 am the next following day;
- (f) while on the lot, the vehicle's motor is not left running while the vehicle is unattended or in any event for any period in excess of five minutes;
- (g) storage of liquid fuels on the lot complies with the Explosive and Dangerous Goods Act, 1961;
- (h) the vehicle is not used or designed for use for the transportation of livestock or the transportation or disposal of liquid or solid wastes or other use so as to cause nuisance or pollution as defined in the Health Act 1911 and/or the Environmental Protection Act 1986;
- (i) the vehicle is not carrying a refrigeration unit which is operating on a continuous or intermittent basis;

- (j) while on the lot, there is no transfer of goods or passengers from one vehicle to another vehicle, unloading or loading of the vehicle, or storage of goods associated with the use of the vehicle;
- (k) the vehicle is not used or operated as a tow truck or other emergency vehicle, between the hours of 10.00 pm to 6.00 am in a manner that adversely affects the residential amenity of the area.

4.23.4 Where a noise complaint is substantiated in accordance with the relevant Regulations made pursuant to the Environmental Protection Act 1986, the hours of operation shall be restricted to 7.00 am – 9.00 pm Monday to Saturday and 9.30 am – 9.00 pm Sundays and Public Holidays.

Any restrictions imposed on the hours of operation shall not limit further application of the relevant Regulations made pursuant to the Environmental Protection Act 1986.

4.23.5 Only minor servicing, including minor mechanical repairs and adjustments, and/or cleaning that generates easily contained liquid waste is carried out on the lot. Liquid waste shall be as defined in the Health (Liquid Waste) Regulations 1993 and shall be disposed of in accordance with the same.

All cleaning and servicing shall be conducted behind the front of the dwelling.

4.23.6 The Council may in writing approve a variation to any of the requirements of subclause 4.23.3 (b) and (d) provided the Council is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation.

4.23.7 An approval of the Council granted under subclause 4.23.6 is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person, and does not run with the land in respect of which it is granted.

4.23.8 A vehicle shall be considered to be parked on a lot for the purpose of this clause if it remains on that lot for more than one hour in aggregate over any period of 24 hours unless the vehicle is being used bona fide in connection with ongoing construction work legally being carried out on the lot, the burden of proving which shall lie upon the person asserting it.

PART 5.—SPECIAL CONTROLS

5.1 CONTROL OF ADVERTISEMENTS

5.1.1 Objectives

The objectives of the provisions for control of advertisements are:

- (a) to ensure that the visual quality and character of particular localities and transport corridors are not eroded;
- (b) to achieve advertising signs that are not misleading or dangerous to vehicular or pedestrian traffic;
- (c) to minimise the total area and impact of outdoor advertising commensurate with the realistic needs of commerce for such advertising;
- (d) to prohibit outdoor advertising which is considered to be superfluous or unnecessary by virtue of their number, colours, height, prominence, visual impact, size, relevance to the premises on which they are located, number and content;
- (e) to reduce and minimise clutter; and
- (f) to promote a high standard of design and presentation in outdoor advertising.

5.1.2 Power to Control Advertisements

5.1.2.1 For the purpose of this Scheme and subject to subclause 5.1.5, the erection, placement and display of advertisements, and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Planning Approval is required in addition to any licence pursuant to the Council's Signs Local Law.

5.1.2.2 Applications for Council's Planning Approval pursuant to this Part shall be submitted in accordance with the provisions of Clause 6.1 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form specified by the Council from time to time giving details of the advertisement(s) to be erected, placed or displayed on the land.

5.1.3 Existing Advertisements

Advertisements which:

- (a) were lawfully erected, placed or displayed prior to the Gazettal Date of the Scheme; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the Council prior to the approval of this Scheme:

hereinafter in this subclause referred to as "existing advertisements", may, except as otherwise provided, continue to be displayed or be erected and displayed in accordance with the licence or approval as appropriate.

5.1.4 Consideration of Applications

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for Planning Approval to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

5.1.5 Exemptions from the Requirement to Obtain Approval

Subject to the provisions of the Main Roads WA (Control of Signs) Regulations 1983 and notwithstanding the provisions of subclause 5.1.2, the Council's prior Planning Approval is not required in respect of those advertisements listed in Schedule 4 which for the purpose of this clause are referred to as "exempted advertisements". The exemptions listed in Schedule 4 do not apply to land, buildings, objects, structures and places declared pursuant to Clauses 5.2 and 5.3 of the Scheme.

5.1.6 Discontinuance

Notwithstanding the Scheme objectives and subclause 5.1.5, where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Clause, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within a period of time specified in the notice.

5.1.7 Derelict or Poorly Maintained Advertisements

Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of this clause or it ceases to be effective for the purpose for which it was erected or displayed, the Council may by notice in writing, require the advertiser to:

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the Council in the notice; or
- (b) remove the advertisement.

5.1.8 Notices

5.1.8.1 The "advertiser" shall be interpreted as any one person or any group comprised of the landowner, occupier, licensee or other person having an interest in or drawing benefit from the display of the advertisement concerned.

5.1.8.2 Any notice served in exceptional circumstances pursuant to subclause 5.1.6 or 5.1.7 shall be served upon the advertiser and shall specify:

- (a) the advertisement(s) the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.

5.1.8.3 Any person upon whom a notice is served pursuant to this clause may within a period of 60 days from the date of the notice appeal to the Minister or the Town Planning Appeal Tribunal in accordance with Part V of the Act, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.

5.1.9 Scheme to Prevail

Where the provisions of this Clause are found to be at variance with the provisions of the Council's Signs Local Laws, the provisions of the Scheme shall prevail.

5.1.10 Enforcements and Penalties

The offences and penalties specified in Clause 8.10 of the Scheme shall apply to the advertiser in this Clause.

5.2 HERITAGE PROTECTION

5.2.1 Purpose and Intent

The purpose and intent of the heritage provisions are:

- (a) to facilitate the conservation of places of heritage value;
- (b) to ensure as far as possible that development occurs with due regard to heritage values.

5.2.2 Heritage List of Places, Buildings or Objects Worthy of Conservation or Preservation.

5.2.2.1 The Council shall establish and maintain a Heritage List which shall identify those places within the Scheme Area considered to be of cultural heritage significance and worthy of conservation under the provisions of this Scheme, together with a description of each place and the reasons for its entry.

5.2.2.2 In the preparation of the Heritage List the Council shall have regard to the Municipal Inventory prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 and will include on the List such of those entries on the Inventory it considers to be appropriate.

5.2.2.3 In considering a proposal to include a place on the Heritage List, the Council shall:

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description referred to in subclause 5.2.2.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the date specified in the notice;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and thereafter resolve to enter the place on the Heritage List with or without modification or reject the proposal.

5.2.2.4 Where a place is included on the Heritage List, the Council shall give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

5.2.2.5 The Council shall keep copies of the Heritage List with the Scheme documents for public inspection.

5.2.2.6 The Council may remove or modify the entry of a place on the Heritage List by following the procedures set out in subclause 5.2.2.3.

5.2.3 Application for Planning Approval

5.2.3.1 In dealing with any matters which may affect a place included on the Heritage List, including any application for Planning Approval, Council shall have regard to any heritage policy of the Council.

5.2.3.2 The Council, shall in considering any application that may affect a place included on the Heritage List, solicit the views of the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.

5.2.3.3 Notwithstanding any existing assessment on record, Council may require a heritage assessment to be carried out prior to the approval for any application for Planning Approval in respect to land and/or structures on or within a place included on the Heritage List.

5.2.3.4 For the purposes of Clause 6.1 of the Scheme, the term 'development' shall have the meaning as set out in the Town Planning and Development Act (as amended) but shall also include, in relation to any place listed in the Heritage List any act or thing that is likely to significantly change the external character of the building, object, structure or place.

5.2.4 Formalities of Application

5.2.4.1 In addition to the application formalities prescribed in subclause 5.2.3 and any formalities or requirements associated with applications for Planning Approval contained in any of the provisions of the Scheme, the Council may require an applicant for Planning Approval, where the proposed development may affect a place of cultural heritage significance, to provide one or more of the following to assist the Council in its determination of the application:

- (a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed. Such plan shall be drawn to the same scale as the site plan;
- (c) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
- (d) any other information which the Council indicates that it considers relevant.

5.2.5 Variations to Scheme Provisions

5.2.5.1 Where desirable to facilitate the conservation of a heritage place or to enhance heritage values, the Council may vary any provision of the Scheme provided that, where in the Council's opinion the variation of a provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall:

- (a) consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to Clause 6.7; and
- (b) take into consideration any expressed views prior to making its decision to grant the variation.

5.2.5.2 In granting variations under subclause 5.2.5.1 the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the variation. The agreement may specify the owner's obligations and contain memorials noted on relevant Certificates of Title.

5.3 LANDSCAPE/ENVIRONMENT PROTECTION

5.3.1 Schedule 5

5.3.1.1 Schedule 5 contains details of those places and objects within the City which the Council has classified as having significance for the purpose of protection of the landscape or environment.

5.3.1.2 If the Council at any time considers that a place or object has significance from the point of view of protection of the environment or landscape, the Council may classify the place or object accordingly and should add details thereof to Schedule 5 by amendment to the Scheme.

5.3.1.3 If the Council at any time considers that any Schedule 5 place or object should no longer be subject to the provisions of this clause the Council may initiate an amendment to the Scheme for the deletion of the place or object from Schedule 5.

5.3.2 Written Consent of the Council

5.3.2.1 Notwithstanding any other provisions of the Scheme to the contrary the approval of the Council is required for the following development on or in relation to any place of landscape or environmental value listed in Schedule 5:

- (a) the clearing, excavation or filling of any land;
- (b) the felling, removal, killing or causing of irreparable damage to any tree;
- (c) the erection of any fence;
- (d) the commencement or carrying out of any renovation, modification, refitting, decoration or demolition of any building; or
- (e) the alteration or removal of any building or object or part thereof.

5.3.2.2 Without affecting the generality of the preceding paragraph and notwithstanding the provisions of subclause 6.1.3 no development shall be commenced or carried out on land listed in Schedule 5, without Planning Approval.

5.3.3 Agreements

The Council may:

5.3.3.1 enter into agreements with the owners or occupiers of land on which any Schedule 5 place or object is situated for the purpose of ensuring its preservation or conservation;

5.3.3.2 enter into agreements with any State or Commonwealth government authority or other body in Western Australia, for the preservation or conservation of any place or object listed in Schedule 5.

5.4 PURCHASE OR RESUMPTION

The Council may purchase, or, subject to the Act, take compulsorily all or part of any parcel of land on which any Schedule 5 place or object is situated, as in the opinion of the Council is necessary for its preservation, or which the Council considers necessary for the conservation of the natural beauties of an area, for the preservation of any particular tree or trees and without limiting the generality of the foregoing for the preservation of any place or object of cultural heritage significance or other scientific interest.

PART 6.—DEVELOPMENT AND USE OF LAND

6.1 APPLICATION FOR PLANNING APPROVAL

6.1.1 The Council's Planning Approval is required for any development on or partly on any land zoned or reserved under the Scheme other than development referred to in subclause 6.1.3, and with those exceptions no person shall commence or carry out any development unless the Council's approval has first been obtained.

6.1.2 Any application for Planning Approval shall be made by way of the form prescribed under the Metropolitan Region Scheme for such purpose or by way of Form 1 of the Scheme or other form as determined by Council from time to time. The application shall be submitted to the Council in duplicate together with such plans and other information and details as the Council reasonably requires.

6.1.3 The Council's prior Planning Approval on land zoned by the Scheme is not required if the development consists of:

- (a) the erection of a boundary fence;
- (b) the erection on a lot of a single house which will be the only building on that lot and where a dwelling is a permitted ("P") use in the zone in which that lot is situated except where in the opinion of Council the single house will affect a place included on the Heritage List pursuant to subclause 5.2.2 of the Scheme. For the purposes of this subparagraph the term "single house" does not include the erection of a mast or antenna, the erection of which requires prior Planning Approval;

Notwithstanding that a single house may not otherwise require the prior approval of the Council pursuant to the Scheme, any person who wishes to carry out development of a single house involving the exercise of discretion by the Council or who wishes to construct a single house in an area or manner where the provisions of a Structure Plan prepared and adopted under Part 9 of the Scheme or a Policy prepared and adopted under Clause 8.11 of the Scheme, shall at the time of lodging an application for a Building Licence or earlier, apply in writing to Council, seeking Council's approval.

The Council may approve the application with or without conditions or may refuse to approve the application. The Council shall, before granting its approval involving the exercise of its discretion under the R Codes, satisfy itself that:

- (i) the variation requested is one which the Council has the power to approve; and
- (ii) approval of that variation would not compromise the objectives of the R Codes.

Where the application for Council's approval consists solely of an application relating to a single house for the Council to exercise its discretion under the R Codes or where required by the provisions of a Structure Plan prepared and adopted under Part 9 of the Scheme or a policy prepared and adopted under Clause 8.11 of the Scheme, the application may be in the form of that required for a Building Licence application.

- (c) the use of any buildings or land within the curtilage of a dwelling for any purpose incidental to the enjoyment by the occupants of the dwelling as such unless otherwise required under the terms of the Scheme;
- (d) the carrying out of any building or works which affect only the interior of a building and which do not materially affect the external appearance of the building unless the building is:
 - (i) located in a place that has been registered in the Register of Places under the Heritage of Western Australia Act 1990;
 - (ii) the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990;
 - (iii) included on the Heritage List under subclause 5.2.2 of the Scheme;
- (e) the carrying out of works urgently necessary to ensure public safety, for the safety or security of plant or equipment or for the maintenance of essential services;
- (f) the conducting of a Home Business – Category 1;
- (g) the demolition of any building or structure except where the building or structure is:
 - (i) located in a place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990;

- (ii) the subject of an order under Part 6 of the Heritage of Western Australia Act 1990;
- (iii) included on the Heritage List under subclause 5.2.2 of the Scheme;
- (iv) located in an area that will in the opinion of Council affect a place included on the Heritage List pursuant to subclause 5.2.2 of the Scheme;
- (h) any works that are temporary and in existence for less than 48 hours or such longer time as the Council agrees;
- (i) any of the exempted classes of advertisements listed in Schedule 4 of the Scheme, except in respect of a place included on the Heritage List or which in the opinion of Council will affect such a place;
- (j) any development works required to be carried out as a condition of subdivision, strata or survey strata subdivision approval granted by the Commission.

6.1.4 Notwithstanding that any development by reason of the preceding subclause does not require the approval of the Council, an application must nevertheless be submitted to the Council for referral to the Commission for determination where required by the Metropolitan Region Scheme or the Metropolitan Region Town Planning Scheme Act 1959 if the land the subject of the application is wholly or partly:

- (a) affected by a gazetted notice of a resolution by the Commission under Clause 32 of the Metropolitan Region Scheme;
- (b) within an area duly declared by the Commission to be a Planning Control Area; or
- (c) not the subject of a gazetted notice of delegation of authority of the Commission to the Council to determine applications for approval to commence and carry out development under the Metropolitan Region Scheme.

6.2 APPLICATION FOR APPROVAL OF USE

6.2.1 Without affecting the generality of any other provision of the Scheme, for the purpose of the Scheme the commencement, carrying out or change of a use on land shall be a development notwithstanding that it does not involve the carrying out of any building or other works.

6.2.2 If an application for Planning Approval involves the carrying out of building or other work on land, the approval by the Council of the application, shall unless the Council stipulates otherwise in its approval, be an approval also of the commencement and carrying out of any use of the land:

- (a) which is specifically proposed and referred to in the application; or
- (b) which is normally associated with and follows as the most usual consequence of the carrying out or completion of the building or other work.

6.3 PROCEDURES FOR DEALING WITH APPLICATIONS RECEIVED

6.3.1 An application for Planning Approval in respect of land which is wholly within a regional reserve shall be referred by the Council to the Commission for determination in accordance with the Metropolitan Region Scheme. No separate determination of the application shall be made by the Council.

6.3.2 An application for Planning Approval in respect of land which is:

- (a) wholly zoned or reserved by the Scheme; or
- (b) partly within a regional reserve and partly zoned or reserved by the Scheme; or
- (c) affected by a gazetted notice of resolution made by the Commission under Clause 32 of the Metropolitan Region Scheme, or
- (d) within or partly within a Planning Control Area duly declared by the Commission

shall be dealt with by the Council in accordance with the requirements of the Notice of Delegation published in the Government Gazette from time to time by the Commission acting pursuant to the provisions of Section 20 of the Western Australian Planning Commission Act 1985. Where that Notice of Delegation requires the application to be determined by the Commission, the procedure is as follows:

- (a) one copy of the application and supporting papers submitted by the applicant shall, within seven days of receipt of the application, be forwarded by the Council to the Commission for determination by the Commission pursuant to the provisions of the Scheme and the Metropolitan Region Scheme or the Metropolitan Region Town Planning Scheme Act 1959;
- (b) the Council shall retain the other copy of the application and supporting papers and determine the application in accordance with the provisions of the Scheme;
- (c) the Council may, within 30 days of receipt of that application (or such further period as the Commission may allow) forward to the Commission its recommendation as to the manner in which the application should be determined.

6.3.3 If the Council receives an application for Planning Approval on land which is partly within a regional reserve and partly zoned or reserved by the Scheme then:

- (a) the Council shall retain one copy of the application and refer the other copy to the Commission for determination of the application pursuant to the Metropolitan Region Scheme;
- (b) if it is reasonable in the circumstances for the Council to make determination as to the part of the proposed development which is on the land zoned or reserved by the Scheme, the Council shall determine that part of the application in accordance with the provision of the Scheme but where appropriate the Council may express any approval it gives to be subject to the approval of the Commission;
- (c) if it is not reasonable in the circumstances for the Council to make a determination at once as to the part of the development which is on the land zoned or reserved by the Scheme the Council may delay its determination of the application as to that part until the determination of the Commission is made known to it.

6.3.4 Subject to the provisions of the Metropolitan Region Scheme, if in respect of any proposal for development the Council is required to deal with an application under the Scheme and also an application under the Metropolitan Region Scheme by virtue of an authority delegated to it under the provisions of the Metropolitan Region Town Planning Scheme Act 1959, unless it stipulates a contrary intention, the decision conveyed to the applicant or proponent shall be its decision both under the Metropolitan Region Scheme and under the Scheme.

6.4 REFERRAL TO OTHER AUTHORITIES

The Council may if it so desires, before determining any application consult with any other statutory, public or planning authority and with any other party it deems fit.

6.5 DEEMED REFUSAL

6.5.1 Notwithstanding the provisions of subclause 6.9.1 (d):

- (a) Subject to subclause 6.5.1 (b), an application for planning approval shall be deemed to have been refused where a decision in respect of that application is not conveyed to the applicant by the Council within 60 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.
- (b) An application for planning approval which is subject of public notice under Clause 6.7 or referred to other authorities under Clause 6.4 shall be deemed refused where a decision in respect of that application is not conveyed to the applicant by the Council within 90 days of the receipt of it by the Council, or within such further time as agreed in writing between the applicant and the Council.

6.5.2 Notwithstanding that the application for planning approval may be deemed to have been refused, the Council may issue a decision in respect of the application at any time after the expiry of the periods specified in those subclauses 6.5.1 (a) and 6.5.1 (b) respectively, and that decision shall be valid and effective as from the date of determination.

6.5.3 An application for planning approval shall, for the purpose of calculating time limits, be deemed not to have been received by the Council until such time as all of the plans, information and details as may be reasonably required by the Council have been received by the Council.

6.6 DEALING WITH "P", "D", "A" AND "X" USES

6.6.1 "P" Uses – If an application under the Scheme for Planning Approval involves a "P" use, the Council shall not refuse the application by reason of the unsuitability of that use, but notwithstanding that, the Council may in its discretion impose conditions upon the Planning Approval and if the application proposes or necessarily involves any building or other work, the Council upon considering that building or other work may exercise its discretion as to the approval or refusal and the conditions to be attached to the proposed development.

6.6.2 "D" Uses – The Council in exercising its discretion as to the approval or refusal of an application for Planning Approval, shall have regard to the provisions of Clause 6.8.

If in any particular case Council considers that it would be appropriate to consult with the public generally or with the owners or occupiers of properties adjoining or in the vicinity of a site the subject of an application for Planning Approval involving a "D" use, the Council may direct that the provisions of Clause 6.7 shall apply to that application.

6.6.3 "A" Uses – The use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice in accordance with Clause 6.7.

6.6.4 "X" Uses – The Council shall refuse to approve any application for Planning Approval which involves an "X" use, except as otherwise specifically provided by the Scheme.

6.7 PUBLIC NOTICE

6.7.1 Notification of "D" Uses

Before considering an application for planning approval involving a "D" use, the Council may do any one or more of the following:

- (a) cause to be advertised one or more times in a newspaper circulating in the district notice of the Council's intention to consider the application for the proposed use. Any such advertisement shall state that the application and associated documents are available for inspection at the office of the Council and that written comments on the application may be lodged with the Council before a specified date, being not less than three weeks after the first publication of the notice;
- (b) sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for the specified period from the date of publication of the notice referred to in subclause 6.7.1 (a);
- (c) use any other methods or media to ensure widespread notice of the proposal; and/or
- (d) give notice to ratepayers and/or occupiers likely to be affected by the granting of the approval; such notice shall be in writing supplying at least the information referred to in item (a) of this subclause, and allowing a like time after receipt of the notice for objections to be lodged with the Council.

6.7.2 Notification of "A" Uses

When considering an application for planning approval involving an "A" use, the Council shall not grant approval to that application unless notice has been given in accordance with subclause 6.7.1.

6.7.3 Consideration of Submissions on "D" and "A" Uses

If Council has advertised an application for planning approval pursuant to subclause 6.7.1 or 6.7.2, Council shall not make a decision to approve the application until after the latest date for submissions stated in any notice given or published pursuant to subclause 6.7.1 or 6.7.2 and until after Council has considered submissions lodged in accordance with the notice.

6.8 MATTERS TO BE CONSIDERED BY COUNCIL

The Council in considering an application for planning approval shall have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development subject of the application:

- (a) the aims and provisions of this Scheme and any other relevant town planning scheme(s) operating within the Scheme Area;
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any approved Environmental Protection Policy under the Environmental Protection Act 1986;
- (e) any relevant policy or strategy of the Commission or any relevant planning policy adopted by the Government of the State of Western Australia;
- (f) any agreed structure plan prepared under the provisions of Part 9 of the Scheme or the desirability of having in place an agreed structure plan in the absence of such a plan;
- (g) any local planning policy of the Council adopted under the provisions of Clause 8.11 of the Scheme;
- (h) the conservation of any place that has been registered in the Register of Places under the Heritage of WA Act 1990, or which is subject of an order under Part VI of the Heritage of WA Act, or which is included in the Heritage List under subclause 5.2.2 of the Scheme, and the effect of the proposal on the character or appearance of a Heritage Area;
- (i) the compatibility of a use or development within its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application including any relevant submission received by the applicant;
- (z) any relevant comments or submissions received from any authority or other party consulted under Clause 6.4; and
- (aa) any other consideration the Council considers relevant.

6.9 POWER TO DETERMINE APPLICATIONS FOR PLANNING APPROVAL

6.9.1 The Council having regard to the appropriateness of any proposed application for planning approval, may:

- (a) refuse to grant its approval;
- (b) grant approval without conditions;
- (c) grant approval subject to such conditions and requirements as it deems fit; or
- (d) defer consideration or determination of the application to a later time if in the Council's view additional information for, or more detailed investigation of the proposal is required.

6.9.2 Without limiting the generality of the foregoing, the Council may, where it deems appropriate, grant a Planning Approval which:

- (a) shall cease to be valid if it is not commenced, substantially commenced, or completed as the case may be within the period of time specified in the Approval; or

- (b) permits the use and/or other development of land to occur for a limited period of time specified in the approval, after the expiration of which period the use and/or other development shall cease and unless otherwise stipulated by the Council the site shall be restored to the condition existing at the time when the Approval was given, unless a further Approval has been sought and obtained.

6.9.3 The Council shall convey its decision to an applicant by way of the form prescribed under the Metropolitan Region Scheme for such purpose, or in any format that may be determined by the Council from time to time.

6.9.4 If the Council in exercising any discretion is required by the Scheme or by any other written law to have due regard to any matter or thing, it shall be deemed to have had due regard to such matter or thing unless the contrary is expressly stated in the Minutes of the relevant Council Meeting or the document communicating the determination for decision to the applicant, or is otherwise proved. In any event, due regard to the matter or thing by the responsible Committee or officer of the Council under delegated authority shall be sufficient compliance.

6.10 COMPLIANCE WITH CONDITIONS

6.10.1 If the Council, or the Minister or the Town Planning Appeal Tribunal on appeal from a decision of the Council, or any other decision making authority grants its approval of any development subject to conditions, no person shall use any land or building affected by the conditions or suffer or permit them to be used, or otherwise commence or carry out or suffer or permit the commencement or carrying out of any development on land otherwise than in accordance with the conditions.

6.10.2 The Council may, on application in writing from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.

6.10.3 No use shall commence until such time as all conditions of approval have been satisfied and the development from which the use is to be conducted has been completed in accordance with approved plans, unless otherwise agreed in writing by the Council.

6.11 APPROVALS ON APPEAL

In any case where a Planning Approval is given by the Minister or the Town Planning Appeal Tribunal, or where a condition is imposed by the Minister or the Tribunal, then that approval and/or any such conditions shall be deemed for the purpose of enforcement to have been imposed by the Council under the Scheme and may be enforced by the Council as such.

6.12 APPROVAL OF EXISTING DEVELOPMENTS

6.12.1 The Council may give planning approval to a development already commenced or carried out regardless of when it was commenced or carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out of the development, but provided that the development complies with the provisions of the Scheme as to all matters other than the provisions requiring Council's approval prior to the commencement of development.

6.12.2 An application to the Council for planning approval under subclause 6.12.1 shall be made on such form as the Council provides from time to time.

6.12.3 A development which was not permissible under the Scheme at the time it was commenced or carried out may be approved if at the time of approval under this subclause it is permissible.

6.12.4 The approval by the Council of an existing development shall not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement of the development without approval.

PART 7.—NON-CONFORMING USES

7.1 NON-CONFORMING USES

Except as otherwise provided in this Scheme, no provision of the Scheme shall be deemed to prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme; or
- (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current, provided that any conditions stipulated in the approval or approvals shall be complied with and these conditions shall be enforced by Council as if they had been imposed under the Scheme; or
- (c) subject to subclause 5.1.6, the continued display of advertisements which were lawfully erected, placed or displayed prior to the approval of this Scheme.

7.2 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

7.2.1 A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use or change the use of land from a non-conforming use to another non-conforming use without first having applied for and obtained planning approval under the Scheme.

7.2.2 An application for planning approval under this Clause shall be advertised in accordance with subclause 6.7.1.

7.2.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the Council shall not grant its planning approval unless the proposed use is:

- (a) substantially less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) in the opinion of the Council is closer to the intended purpose of the zone.

7.3 DISCONTINUANCE OF NON-CONFORMING USE

When a non-conforming use of any land or buildings has been discontinued for a period of six consecutive months or the building is destroyed or damaged to the extent of at least 75% of its value, such land or buildings shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.

7.4 TERMINATION OF A NON-CONFORMING USE

The Council may effect the discontinuance of a non-conforming use by the purchase of the land and buildings, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that land, and may enter into an agreement with the owner for that purpose.

PART 8.—FINANCE AND ADMINISTRATION

8.1 ADDITIONAL POWERS OF THE SCHEME

8.1.1 The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers:

- (a) The Council may enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme.
- (b) The Council may acquire any land or buildings within the Scheme Area pursuant to the provisions of the Scheme or the Act. The Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

8.1.2 The procedure for carrying out any compulsory acquisition under this Scheme shall be the procedure in the Land Administration Act 1997 subject to the modification referred to in Section 13 of the Town Planning and Development Act 1928 (as amended).

8.1.3 Without affecting the generality of the preceding subclause, the Council may, with the prior consent of the Minister, acquire premises by purchase or resumption for public works to facilitate the development of adjacent land in accordance with an Agreed Structure Plan to assist a landowner who is endeavouring to develop land to comply with an Agreed Structure Plan, provided that the landowner:

- (a) proves to the Council's satisfaction that during a period of not less than six months, bone fide negotiations to acquire the premises have not been successful; and
- (b) enters into an agreement with the Council to meet all the costs of purchase or resumption including the Council's legal costs, and to develop the premises for the purposes specified within the specified time limit.

8.1.4 Disposal of Land

The Council may deal with or dispose of any land which it has acquired pursuant to the preceding subclauses, in accordance with the Act and in conformity with the provisions of the Scheme, upon such terms and conditions as it thinks fit, and for such purpose may make such agreements with other owners and parties as it thinks fit.

8.2 AMENITY

8.2.1 No building shall be so constructed, finished or left unfinished that its external appearance would significantly detract from the amenity of the locality or tend to depreciate the value of adjoining property. All land and buildings shall be so used and maintained as to preserve the local amenity.

8.2.2 No land, building or appliance shall be used in such a manner as to permit the escape therefrom of smoke, dust, fumes, odour, noise, glare, vibration or waste products in such quantity or extent or in such a manner as will create or be a nuisance to any inhabitant, or to traffic or persons using any land or roads in the vicinity.

8.2.3 If the Council forms the opinion that there has been a breach of the requirements of the preceding subclauses it may, by notice in writing, require the owner to make good the breach in the manner and within the time stated in the notice. The notice may be served on the owner personally or by posting it to the last address of the owner known to the Council, and if served by post, shall be deemed to have been served three (3) clear days after the date of posting.

8.2.4 Any person upon whom a notice is served pursuant to this clause may, within 28 days of the date of service of the notice on that person, appeal pursuant to Part V of the Act against the requirements of the notice and, where any such appeal is lodged the effect of the notice shall be suspended until a decision to uphold, quash or vary the notice has been made on the appeal or the appeal has been withdrawn, whereupon the time stated in the notice shall again begin to run.

8.2.5 Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.

8.3 UNKEMPT LAND

8.3.1 On any land within the Scheme Area any undergrowth, refuse, rubbish or disused material which in the opinion of the Council is likely to affect adversely the value of adjoining property or the health, comfort or convenience of the inhabitants thereof, the Council may cause a notice to be served on the owner or occupier of such land requiring that the land is cleared of trees, scrub, undergrowth, refuse or rubbish, or such refuse, rubbish or disused material is removed from such land within a specified period.

8.3.2 Every owner or occupier of land upon whom a notice is served shall comply with such notice within the time period therein specified.

8.3.3 Where the owner or occupier does not clear the land or remove the refuse, rubbish or disused material as required by the notice given by the Council, the Council may without payment or any compensation in respect thereof, clear or remove it and dispose of it at the expense of and recover in a court of competent jurisdiction the amount of the expense from the owner or occupier to whom the notice is given.

8.3.4 Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.

8.4 APPEALS

Should an applicant, a proponent or an owner of land the subject of an application be aggrieved by a decision given or deemed to have been given by the Council in the exercise of a discretionary power under the Scheme or by a determination of the Commission under Part 9 the applicant, proponent or owner may appeal pursuant to Part V of the Act and the rules and regulations made pursuant to the Act.

8.5 COMPENSATION

8.5.1 A claim for compensation for injurious affection can be made pursuant to Section 11 of the Act when the Scheme:

- (a) permits development on land for no purpose other than a public purpose;
- (b) prohibits wholly or partially the continuance of any non-conforming use according to the terms of the Act.

8.5.2 The time limit for the making of claims for compensation for injurious affection pursuant to Section 11(1) of the Act resultant from the making of, or the making of an amendment to, the Scheme, is six (6) months from the date of publication of the Scheme or Scheme Amendment in the Government Gazette.

8.5.3 In addition to the compensation provisions of the Act and sub-clause 8.5.1 of this Scheme, where, in respect of any application for planning approval to commence or carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may claim compensation from the Council for injurious affection.

8.5.4 The time limit for the making of claims for compensation pursuant to subclause 8.5.3 is not later than 6 months after the date of the decision of the Council or appellate body.

8.6 DELEGATION OF DEVELOPMENT CONTROL POWERS, AND POWERS AND DUTIES IN RELATION TO OTHER PLANNING FUNCTIONS

8.6.1 The Council may, either generally or in a particular case or particular class of case or cases, by resolution passed by an absolute majority of Council, delegate to all or any of the persons or committees referred to in Schedule 6 any power conferred or duly imposed on the Council under this Scheme.

8.6.2 All delegations made under the City's Town Planning Scheme No 1 shall continue to have effect until the Council first passes a resolution after the gazettal date of the Scheme to delegate any power conferred or duly imposed on the Council under the Scheme.

8.6.3 Any delegation made under sub-clause 8.6.1 shall have effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.

8.6.4 A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.

8.6.5 A resolution to revoke or amend a delegation under this Clause may be passed by a simple majority.

8.6.6 A committee, member or officer exercising the power delegated pursuant to the provisions of this Clause shall comply with the provisions of the Scheme governing the exercise of the power of the Council, insofar as such provisions are reasonably applicable.

8.6.7 A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.

8.7 ENTRY TO PREMISES

Any officer or agent of the Council may enter at all reasonable times any premises within the Scheme Area for the purposes of ascertaining whether the provisions of the Scheme are being complied with, and at the time of entry may do all things reasonably necessary to record evidence of any non-compliance.

8.8 GENERAL OBLIGATIONS

Subject to the provisions of the Act and all regulations made thereunder and to Part 7 of the Scheme, no person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person commence or carry out or permit the commencement or carrying out of any development which:

- (a) does not conform with the Scheme; or
- (b) being or involving a use or other development which requires the approval of the Council or the Commission or both, does not have such approval or approvals is not permitted; or
- (c) does not comply with the terms of any approval or any condition attached thereto.

8.9 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

8.9.1 Twenty eight (28) days' written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Town Planning Act for the removal of certain buildings.

8.9.2 Council may recover expenses under section 10(2) of the Act in a court of competent jurisdiction.

8.10 OFFENCES

8.10.1 No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area:

- (a) otherwise than in accordance with the provisions of the Scheme;
- (b) unless all approvals required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with;
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with.

8.10.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.

8.11 LOCAL PLANNING POLICIES

8.11.1 The Council may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme Area so as to apply:

- (a) generally or for a particular class or classes of matters; and
 - (b) throughout the Scheme Area or in one or more parts of the Scheme Area;
- and may amend or add to or rescind a Policy so prepared.

8.11.2 Relationship of Local Planning Policies to Scheme

8.11.2.1 Any Local Planning Policy prepared under this Part shall be consistent with the Scheme and if any inconsistency arises the Scheme shall prevail.

8.11.2.2 A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of any Policy and the objectives which the Policy is designed to achieve before making its decision.

8.11.3 Procedures for Making and Amending a Local Planning Policy

8.11.3.1 Local Planning Policy shall become operative only after the following procedures have been completed:

- (a) The Council having prepared and adopted a draft Policy shall advertise the draft Policy by way of a notice published once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area and by such other methods as the Council may consider appropriate to ensure notice of the draft Policy, giving details of where the draft Policy may be inspected, the subject and nature of the draft Policy, and in what form and during what period (being not less than 21 days from the date of the first notice) submissions may be made;
- (b) the Council shall carry out such other consultations as it thinks fit;
- (c) the Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy;
- (d) following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area; and
- (e) where, in the opinion of the Council, the provisions of any Policy affect the interests of the Commission, a copy of the Policy shall be forwarded to the Commission.

8.11.3.2 Copies of any Policy shall be kept and made available for public inspection at the offices of the Council.

8.11.3.3 Any amendment or addition to a Policy shall follow the procedures set out in (a) - (e) above.

8.11.4 Rescission of a Local Planning Policy

A Local Planning Policy may be rescinded by:

- (a) the final adoption of a new Policy pursuant to subclause 8.11.3 specifically worded to supersede an existing Policy; or
- (b) publication of a formal notice of rescission by the Council once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.

8.11.5 Any Planning Policy adopted and approved under the City's Town Planning Scheme No.1 immediately before the revocation of Scheme No.1 shall have the status of a Local Planning Policy as if it was prepared and adopted under the provisions of this Scheme.

8.11.6 When a draft Planning Policy was prepared under the provisions of Town Planning Scheme No.1 but had not completed the procedures required to give it the status of an adopted and approved Planning Policy under that Scheme by the time the Scheme was revoked, then the procedures may be completed under this Scheme. In that case all procedures required for the preparation and adoption of the Planning Policy shall be deemed to have been carried out under this Scheme and when the procedures are completed the Planning Policy shall have effect for all purposes as a Local Planning Policy under this Scheme.

PART 9.—STRUCTURE PLANS

9.1 COUNCIL MAY REQUIRE STRUCTURE PLAN

9.1.1 The Council may require the preparation and presentation to it of a Structure Plan as a prerequisite to:

- (a) the Council's support for a proposal to rezone or reclassify land in the District;
- (b) the Council's support for an application to subdivide or amalgamate lots; or
- (c) the Council's consideration of an application for Planning Approval.

9.1.2 To facilitate the efficient preparation of Structure Plans the Council may deal simultaneously with a number of Structure Plans in relation to the same area.

9.2 DETERMINATION OF STRUCTURE PLAN AREA

The Council shall determine the area to be covered by a Structure Plan required under the provisions of Clause 9.1 upon the application of any of the following criteria it considers appropriate:

- (a) the pattern of roads, bus routes and dual-use paths both existing and proposed, in the surrounding area;
- (b) the pattern and type of existing subdivision in the surrounding area;
- (c) existing and proposed land uses on the subject land and in the surrounding area;
- (d) the land form, topography, vegetation, groundwater, wetlands and other natural features of the subject land and the surrounding area;
- (e) the availability of necessary services;
- (f) relevant expressed desires and attitudes of landowners and inhabitants of the surrounding area;
- (g) any other matter the Council considers relevant in the circumstances of the case.

9.3 MATTERS TO BE INCLUDED

A Structure Plan shall have regard to or include those matters listed in Schedule 7 that are appropriate. Without limiting the generality of Schedule 7 the Council may require any other matter to be included in a Structure Plan.

9.4 SUBMISSION OF STRUCTURE PLAN TO COUNCIL

9.4.1 A Structure Plan shall be prepared by the proponent and, to the extent that it is practicable, should be prepared after discussion and consultation with the Council, the Commission, other relevant government agencies and the community. A Structure Plan shall be submitted to the Council in quadruplicate or such other quantity specified by the Council. The Council in the exercise of its discretion may do any of the following:

- (a) determine that the Structure Plan is satisfactory, send a copy to the Commission, and advertise it under the provisions of Clause 9.5. Advertising of Structure Plans subject to minor modifications may be waived at the discretion of the Council;
- (b) determine that the Structure Plan should not be advertised until specified matters have been included in it or have otherwise been attended to by the proponent; or
- (c) determine that the Structure Plan should not be agreed to for stated reasons.

9.4.2 If within sixty (60) days of receiving a Structure Plan for agreement which accords with Clause 9.3 the Council has not made one of the determinations referred to in the preceding paragraphs (subclause 9.4.1), the proponent may deem that the Council has determined that the Structure Plan should not be agreed to.

9.5 PUBLIC NOTICE

9.5.1 Before a Structure Plan is considered under the provisions of Clause 9.6, the Council shall ensure that adequate publicity is given. Such publicity shall be undertaken by the proponent in accordance with the provisions of Clause 6.7 as may be directed by the Council.

9.5.2 Any notice given under this clause shall be in such terms as will explain the scope and purpose of the Structure Plan and where and when it may be inspected, and shall invite submissions from all affected landowners, relevant government agencies and the community.

9.6 CONSIDERATION OF STRUCTURE PLAN

9.6.1 The Council shall consider all submissions received and within sixty (60) days of the date or the latest date specified in the notice given under Clause 9.5 shall do one or other of the following:

- (a) refuse to adopt the Structure Plan;
- (b) resolve that the Structure Plan is satisfactory with or without modifications which the Council may require the proponent to make and submit three copies to the Commission for adoption and certification in the form illustrated in Schedule 8;

The Council shall forward to the Commission:

- (i) a schedule of submissions in respect of the structure plan and Council's decisions or comments in relation to the submissions;
- (ii) Council recommendation to the Commission to adopt, modify or refuse to adopt the Structure Plan; and
- (iii) Any other information the Council considers may be relevant to the Commission in consideration of the Structure Plan.

9.6.2 Where the Council in its opinion is not able to make a decision within the terms of either paragraph (a) or paragraph (b) of the preceding subclause within the sixty (60) day period by reason of the need to obtain more facts or information, the sixty (60) day period referred to in the preceding subclause may be extended for a maximum of a further sixty (60) days, and the sixty (60) day period for a deemed refusal under subclause 9.6.4 shall not begin to run until the second sixty (60) day period has expired or the Council has declared itself to be satisfied that it has sufficient information to make a determination, whichever occurs first.

This extension of time is only available with the written consent of the proponent.

9.6.3 Consideration of the Structure Plan by the Western Australian Planning Commission

- (a) The Commission may adopt the Structure Plan with or without requiring any modifications or it may refuse to adopt the Structure Plan and should convey its decision to the Council within sixty (60) days of the date on which it receives the Structure Plan for adoption under paragraph 9.6.1(b).
- (b) If the Commission adopts the Structure Plan it should certify three (3) copies of the Structure Plan in the manner illustrated in Schedule 8 and return the three certified copies to the Council within fourteen (14) days of the date of the Commission's resolution. The Council shall certify the three copies and return one copy to the Commission.
- (c) If the Commission requires modifications to the Structure Plan the proponent shall make the modifications in consultation with the Council and resubmit the Structure Plan for consideration under Clause 9.4.
- (d) If the Commission refuses to adopt the Structure Plan and an appeal by the proponent is upheld, the proponent shall make any modifications that may be necessary for the Structure Plan to comply with the appeal determination and the Commission shall adopt and certify the Structure Plan pursuant to paragraphs (a) and (b) of this subclause.
- (e) If either the time limits in (a) and (b) is inadequate to allow the Commission to perform its functions in the case of any Structure Plan referred to it, the times shall be extended by such period as the Commission reasonably requires in order to perform its function under this subclause.

9.6.4 If within the sixty (60) day period referred to in subclause 9.6.1 or the extended period referred to in subclause 9.6.2, the Council has not made a decision within the terms of either paragraph (a) or paragraph (b) of subclause 9.6.1, then at the option of the proponent approval of the Structure Plan may be deemed refused for the purpose of giving a right of appeal.

9.6.5 As soon as practicable after receiving the Structure Plan documents referred to in paragraph 9.6.3(b) the Council shall adopt, sign and seal the Structure Plan in the form illustrated in Schedule 8.

9.6.6 The Council shall provide a copy of the Agreed Structure Plan to the proponent and to any other appropriate person or statutory authority which the Council considers should receive a copy.

9.6.7 The Scheme Map shall be appropriately flagged, marked or annotated on the Council's copy to draw attention to the existence of the Agreed Structure Plan.

9.7 AMENDMENT OR REVOCATION OF AGREED STRUCTURE PLAN

Any Agreed Structure Plan may, subject to the approval of the Commission, be amended or revoked by the Council. Public Notice of the amendment or revocation shall be given in accordance with Clause 9.5 but, in the case of an amendment the public notification may be waived when the amendment is considered by the Council to be of a minor nature such as not to materially alter the intent of the Agreed Structure Plan or cause any significant detriment to land within or abutting the Structure Plan area. Such of the provisions of Clause 9.6 as the Council considers appropriate in the circumstances of any case may be applied to the amendment of an Agreed Structure Plan.

9.8 OPERATION OF AGREED STRUCTURE PLAN

9.8.1 An Agreed Structure Plan shall come into operation on the date it is adopted by the Commission pursuant to subclause 9.6.3.

9.8.2 Where an Agreed Structure Plan imposes a classification on the land included in it by reference to reserves, zones (including Special Use Zones) or Residential Density Codes, until it is replaced by an amendment to the Scheme imposing such classifications:

- (a) the provisions of the Agreed Structure Plan shall apply to the land within it as if its provisions were incorporated in this Scheme and it shall be binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and
- (b) provisions in the Scheme applicable to land in those classifications under the Scheme shall apply with the necessary changes or alterations to the Agreed Structure Plan area.

9.8.3 Without limiting the generality of the preceding subclause, under an Agreed Structure Plan:

- (a) in the areas designated as zones, the permissibility of uses shall be the same as set out in Table 1 as if those areas were zones under the Scheme, having the same designation;
- (b) the standards and requirements applicable to zones and R Codings under the Scheme shall apply to the same extent to the areas having corresponding designations under the Agreed Structure Plan; however an Agreed Structure Plan may make provision for any standard or requirement applicable to zones or R Codings to be varied, and the standard or requirement varied in that way shall apply within the area of the Agreed Structure Plan, or any stipulated part of that area, as if it was a variation incorporated in this Scheme;
- (c) the development control procedures including (without limitation) the procedures for approval of uses and developments under the Scheme shall apply as if the land was correspondingly zoned or reserved under the Scheme;

- (d) provisions duplicating or substantially to the same effect as any provisions of the Scheme shall have the same force and effect in regard to the land in the Structure Plan as if they were provisions of the Scheme;
- (e) where land is classified as a Local Authority Reservation, the rights, provisions and procedures, and the obligation of the Council in regard to compensation shall apply as if the land was correspondingly reserved under the Scheme;
- (f) any other provision, standard or requirement in the Structure Plan shall be given the same force and effect as if it was a provision standard or requirement of this Scheme, but in the event of there being any inconsistency or conflict between any provision, requirement or standard of the Scheme and any provision requirement or standard of an Agreed Structure Plan, the provision requirement or standard of the Scheme shall prevail;
- (g) an Agreed Structure Plan may distinguish between provisions, requirements or standards which are intended to have effect as if included in the Scheme, and provisions, requirements or standards not so intended, and it is only the provisions so intended which have that effect. Any other provisions are for guidance or information only, or such other purpose as stipulated in the Agreed Structure Plan documents.

9.9 COMPLIANCE WITH AGREED STRUCTURE PLAN

Where land is subject to any obligation or liability under an Agreed Structure Plan, the land shall not be subdivided or in any other way developed unless arrangements satisfactory to the Council have first been made for the discharge of that obligation or liability.

9.10 COPYRIGHT AND OWNERSHIP

A proponent shall transfer to the Council in writing at no cost to the Council, all copyright ownership of Structure Plans together with all supporting documentation submitted to the Council, and Agreed Structure Plans adopted by the Council, (whether in graphic, textual or digital form).

9.11 DEVELOPMENT PRIOR TO ADOPTION OF STRUCTURE PLAN

9.11.1 It is the intent of subclauses 3.10.3(a), 3.13.3, 3.14.3 and 3.15.3 that no subdivision should or development shall occur on land in the Marina, Centre, Urban Development or Industrial Development Zones until a Structure Plan in respect of this land has been prepared and adopted.

9.11.2 If contrary to that intent, Council is required to consider an application in respect of a development, use or subdivision proposal before a Structure Plan has been prepared and adopted, then the Council shall, in addition to any other matters required by this Scheme to be considered, have regard to the following considerations:

- (a) as an overriding consideration, the intent referred to in the preceding subclause;
- (b) the desirability from a planning point of view of having an Agreed Structure Plan in place before development or subdivision occurs; and
- (c) the interests of orderly and proper planning, and concern for the amenity of the relevant locality in the short, intermediate and long term.

9.12 RECONSIDERATION AND APPEAL

9.12.1 If a proponent is dissatisfied by a requirement, or any decision or determination of the Council under this Part, the proponent may within 14 days of the imposition of the requirement or the making of the decision or determination request a reconsideration. Such request shall be in writing, delivered to the Council within the fourteen (14) day period.

9.12.2 The Council having been requested to reconsider under the preceding subclause shall endeavour to deal with the matter at the earliest possible opportunity after the request. A decision or determination made, or a requirement imposed, after reconsideration, shall be the decision, determination or requirement of the Council for all intents and purposes, if it is made or imposed within 35 days of the request, but otherwise the original decision, determination or requirement of the Council shall be the operative one for all purposes.

9.12.3 If the Council or the Commission makes a determination or decision or imposes a requirement in respect of a Structure Plan in the exercise of a power contained in this Part and the proponent and/or any landowner/s within the area of the Structure Plan is dissatisfied with such determination or decision, the proponent and/or landowners may appeal to the Minister or the Town Planning Appeal Tribunal against the decision, determination or requirement in accordance with Part V of the Act.

9.12.4 The rights of appeal conferred by the preceding subclause are additional to the rights arising under Section 8a of the Act.

9.12.5 Where a request for reconsideration is made in accordance with subclause 9.12.1, the time for appealing shall run from the date of the later decision, determination or requirement if made or imposed within 35 days of the request for reconsideration, or from the expiration of the 35 day period if a decision, determination or requirement is not made or imposed within that time.

9.12.6 If, after an appeal has been determined, any requirement of the Council or the appeal body arising from the appeal remains to be complied with, that requirement shall be complied with before the process of preparation and adoption of the Structure Plan is continued.

9.12.7 The provisions of subclause 9.12.3 apply to all structure plans considered by Council with the exception of structure plans for East Wanneroo Cells 1 - 8 where subject to clause 10.1 appeal rights will only apply to the proponent of a structure plan.

9.13 STRUCTURE PLANS UNDER TOWN PLANNING SCHEME NO.1

9.13.1 When a Structure Plan was adopted and approved under a previous town planning scheme and had the status of an Agreed Structure Plan under the City's Town Planning Scheme No.1 immediately before the revocation of Scheme No.1, it shall have the status of an Agreed Structure Plan under this Scheme as if it was prepared and adopted under the provisions of this Scheme.

9.13.2 Where a draft Structure Plan was prepared under the provisions of Town Planning Scheme No.1 but had not completed the procedures required to give it the status of an Agreed Structure Plan under that Scheme by the time the Scheme was revoked, then the procedures may be completed under this Scheme. In that case all procedures required for the preparation and adoption of the Structure Plan shall be deemed to have been carried out under this Scheme and when the procedures are completed the Structure Plan shall have effect for all purposes as an Agreed Structure Plan under this Scheme.

9.13.3 Where a Structure Plan has effect under this Scheme by force of the provisions of subclause 9.13.1, or where the procedures for making an Agreed Structure Plan are to be completed under this Scheme in accordance with subclause 9.13.2, any change in title of the Structure Plan or in other matters whatsoever shall be made to the extent only that it is necessary to provide it with the form of an Agreed Structure Plan under this Scheme, and to make its terms consistent in all ways with the provisions of this Scheme, including (but without limiting the generality of the foregoing) any standards or requirements.

PART 10.—EAST WANNEROO PLANNING AND DEVELOPER CONTRIBUTIONS ARRANGEMENTS—CELLS 1 TO 8

10.1 LOCAL STRUCTURE PLANS

Council has prepared Local Structure Plans for Cells 1 – 8 inclusive in East Wanneroo in accordance with the provisions of Part 9 of the Scheme for the purpose of facilitating subdivision and development of the land comprised in such Cells. Irrespective of the provisions of Part 9, after an Agreed Structure Plan has been adopted for a Cell in East Wanneroo, it shall not be modified without the approval of the Council and Western Australian Planning Commission.

10.2 FINANCIAL RECORDS

10.2.1 The Council shall for the purpose of properly managing the implementation of a Local Structure Plan for each Cell, establish Cell Accounts for each Cell into which contributions from owners of land within that Cell which are made in accordance with this Part will be credited and from which all payments for Infrastructure Costs associated with the implementation of the Local Structure Plan for that Cell and any acquisition by Council under subclause 10.10.13 will be paid.

10.2.2 The Cell Accounts shall be maintained in accordance with the provisions of the Local Government (Financial Management) Regulations 1996 and shall be audited on an annual basis.

Council shall make available for inspection to any owner of land within a Cell on request, a detailed statement of accounts for that Cell.

10.3 CELL AREA DEVELOPMENT

Within each Cell, Cell Works will be undertaken for the benefit of land contained within the Cell as generally set out in Schedule 9.

With a view to implementing Cell Works for each Cell in the most economical and prompt manner possible, the Council shall determine the order and manner in which the Cell Works are to be carried out and may appoint contractors to carry out such works where it considers it appropriate to do so.

10.4 CALCULATION OF GROSS AREA OF A CELL

10.4.1 The Gross Area of a Cell is calculated by deducting from the total area of the Cell (represented by the sum area of all the land in the Cell).

- (a) the total of the land areas in a Cell for regional public purposes as shown on the Agreed Structure Plan including:
 - Crown Reserves;
 - High school sites;
 - The roads set out in Schedule 9 and drainage and underpasses associated with such roads;
 - Land reserved "Other Major Highways" under the Metropolitan Region Scheme; and
- (b) Any other developments which in the opinion of the Council have a limited subdivision or development potential.

10.4.2 Additionally, for the purpose of estimating lot yields for apportioning the cost of acquiring land for public open space in accordance with Clause 10.6, the Gross Area of a Cell will be further reduced by the proposed land area of any private school sites within the Cell as shown on the Agreed Structure Plan.

10.5 CALCULATION OF PUBLIC OPEN SPACE CONTRIBUTIONS

10.5.1 (a) All owners of land in Cells 1 to 6, are required to contribute towards the provision of 10% of the Gross Area of a Cell for public open space the cost of which shall form part of the Cell Costs.

With the exception of the Landsdale District Centre site, the area of all local/neighbourhood/district shopping centre sites will be included in the Gross Area of a Cell, and the area of school sites and land required for local drainage shall be deducted from the Gross Area of a Cell to form the basis for determining the total area of public open space to be provided in a Cell; and

(b) All owners of land in Cells 7 and 8 shall be required to contribute towards the provision of public open space as part of the Cell Costs, where such public open space is identified by way of environmental impact assessment, buffer or any other requirements on an Agreed Structure Plan.

10.5.2 Public open space shall include:

- (a) all community purpose sites; and

(b) those reserves previously given up for public open space on historic subdivisions being:

- Reserve 27294
 - Reserve 27071
 - Reserve 34683
 - Reserve 24794
 - Reserve 24881
 - Reserve 27340
 - Reserve 25489
- (‘the Reserves’)

10.5.3 If a land holding in a Cell previously contributed land for one of the Reserves referred to in subclause 10.5.2 (b) as part of an historic subdivision, the present owner or owners of such land holding shall be paid a sum for the value of the Reserve. The sum due to an owner is the proportion of the total value of the Reserve that the owner’s landholding bears to the total land area in the historic subdivision and shall be calculated in accordance with the following formula:

$$S = G \div H \times 100$$

Where:

S = the value of the proportion of the historic contribution that an owner’s land in a Cell made to a Reserve for which the owner or owners are entitled to be paid the market value (“the Credit”).

H = the total land area of the historic subdivision which contributed to the Reserve.

G = the area of the owner’s land in a Cell.

The area of a Reserve that is to be valued is, for the purpose of calculating public open space in this clause, to be limited to 10% of the area of the historic subdivision that created it whether or not the actual area of the Reserve exceeds that proportion.

10.5.4 If a land holding of an owner or owners now overlapping two or more Cells was previously part of land which was subdivided and contributed land for one of the Reserves referred to in subclause 10.5.2 (b), even if the Reserve is not in the same Cell as the current land holding, or is not in any Cell, then the entitlement of the present owner or owners to be paid for the value of the Credit for that Reserve may be spread as a Cell Cost across the different Cell Accounts for the Cells in which such land holding is situated.

10.5.5 In the case in subclauses 10.5.3 and 10.5.4, the present owner or owners of the land which historically contributed the Reserve will still be required to contribute to the public open space component of the calculation of the Infrastructure Costs described in Clause 10.6 for each Cell without regard to the public open space contribution previously made on the historic subdivision.

10.5.6 The credit payable to an owner or owners shall only be paid at the time such owner(s) subdivide or develop the landholding generally in accordance with the Agreed Structure Plan for the Cell. Such payment may, at the discretion of the City, be credited against the cell Infrastructure Costs payable by the owner for the subdivision or development.

10.6 CALCULATION AND APPORTIONMENT OF CELL WORKS AND COSTS – INFRA-STRUCTURE COSTS

10.6.1 Cell Costs shall be estimated by the Council and recovered from owners of land in each Cell in the manner provided for in this Part.

Cells 1 to 6—Infrastructure Cost Per Lot:

10.6.2 Council will, for the purposes of apportioning Cell Costs to Owners in Cells 1 to 6, make an estimate of the lot yield for each Cell called the ‘Estimated Lot Yield’. This will be calculated by determining the number of hectares in the Gross Area of a Cell and multiplying that area by 9;

10.6.3 The contribution to be made by each owner of land within a Cell to the implementation of the Cell Works for that Cell (to the extent that the land relates to Cells 1 to 6) shall be an Infrastructure Cost, based on an Infrastructure Cost Per Lot which is to be calculated by the Council in the following manner:

(a) The Infrastructure Cost Per Lot is determined by first deriving the Net Cell Cost:

(i) $A - B = C$

Where:

A = gross cost of Cell Works being the total of fixed actual and estimated future costs which will be based on costs estimated no more than 6 months in advance. Such estimates shall be based on an average for each Cell cost and recognise all factors affecting the development of the relevant Cell and associated constraints the Council will encounter in the provision of the Cell Works. This shall include (but not be limited to) variable market conditions and the nexus between the time frame of development and provision of Cell Works

B = payments made to date by owners of land who subdivide or develop land within a Cell calculated on the basis of whichever is the lesser of:

- (1) the lots produced at the rate of 9 lots per hectare for the Gross Area equivalent of the land holding of an owner; or
- (2) the actual number of lots produced by the land holding of an owner;

C = Net Cell Costs;

and then dividing the Net Cell Cost by the subdivision potential of the balance of the Gross Area of a Cell remaining unsubdivided.

(ii) $C \div D = E$

Where:

D = the number of lots to be produced to achieve 9 lots per hectare for the Gross Area equivalent of the unsubdivided balance area of a Cell;

E = the Infrastructure Cost Per Lot.

- (b) The Infrastructure Cost payable by each owner of land in Cells 1 to 6 is calculated by multiplying the number of lots produced and/or potential lots to be produced (as contemplated by subclause 10.6.4) by the Infrastructure Cost Per Lot.
- (c) Where the land holding of an owner is required to provide an area of public open space as part of the Cell Works, the owner shall be paid separately for the value of such public open space, but the owners shall in any case be required to contribute towards the provision of Cell Works for the Cell by way of the payment of the Infrastructure Cost per Lot multiplied by the Estimated Lot Yield referred to in subclause 10.6.2, calculated for the area of public open space to be acquired. However, if the value of the open space as calculated in accordance with subclauses 10.14.4 and 10.14.5, has been based on a lot yield that is higher than that referred to in subclause 10.6.2, the owner shall be required to contribute to the provision of Cell Works at the lot yield that forms the basis of the valuation.

(d) Infrastructure Costs shall not be payable for land that is used for government school sites.

10.6.4 Cells 1 to 6 – Determination of Number of Lots to Which the Infrastructure Cost Per Lot Applies
In determining the number of lots on which the Infrastructure Cost payable by each owner of land within a Cell is to be calculated in accordance with subclause 10.6.3(b):

- (a) Except where Council is satisfied that the maximum subdivision potential of land for a given area or lot will not be achieved, where land is identified by Council as having potential or the capability of being developed for grouped housing development or for any other non-public purpose land uses, the Infrastructure Cost per lot will be charged on the basis that the lot has residential subdivision potential at Residential R20 at the time that lot is created. This shall be calculated by Council by dividing the total area of the lot by 450m² to derive a lot potential for the lot;
- (b) where Council is satisfied that land having the potential for grouped housing development is to be wholly developed at a density of less than R20, contributions will be payable only on the number of dwelling units that are to be produced. If any additional dwelling units are subsequently produced, up to the R20 potential, the additional units will attract further contributions to Infrastructure Costs that are applicable at that time;
- (c) where Council is satisfied that an area of land is intended to be developed as a church or a private school and Council considers it appropriate in the circumstances, the Infrastructure Cost per lot may be charged on the basis of the Estimated Lot Yield referred to in subclause 10.6.2 or any other agreed basis;
- (d) where a subdivision is proposed for land on which a dwelling exists and a smaller lot is created to contain the dwelling, the lot containing the dwelling (“the existing house lot”) will be subject to an Infrastructure Cost Per Lot contribution based on the Residential R20 density described in subclause 10.6.4(a). If, however, the owner of such land can demonstrate that the size of the existing house lot is required to accommodate the dwelling, landscaping and other outbuildings associated with that dwelling and that the actual development potential of that lot may not exist without substantial cost and redevelopment, then Council may, at its discretion, reduce the Infrastructure Cost Per Lot contribution payable for the existing house lot provided any future subdivision or development of the existing house lot will incur further contributions as outlined in subclause 10.6.4(a) and (c);
- (e) where a subdivision of the kind contemplated in subclause 10.6.4(d) is proposed the Council may impose on the balance of the lot excluding the existing house lot (“the remaining land”) an Infrastructure Cost Per Lot contribution based on the R20 development potential of that lot as prescribed in Paragraph (a) of this Council may reduce or defer such payment if:
- (i) the owner of such a lot can demonstrate that the subdivision was primarily carried out to create the existing house lot and to effect the sale of the remaining land; and
 - (ii) the size of the remaining land is such that it will be developed in stages or will be further subdivided.

10.6.5 Cells 7 & 8 Calculation of Infrastructure Cost Per Square Metre

The infrastructure contribution to be paid by owners of land in Cells 7 and 8 which are zoned for General and Light Industry and Mixed Business purposes shall be calculated on the basis of the number of square metres of each Cell which are capable of being developed (“the Infrastructure Cost Per Square Metre”).

The Infrastructure Cost to be paid by each owner of land in Cells 7 and 8 is calculated as follows:

$$X \cdot Y = Z$$

Where

X = gross cost of Cell Works being the total of fixed actual and Estimated Future Costs the calculation of which will be based on costs anticipated no more than six (6) months in advance. Such estimates shall be based on an average for each Cell cost and recognise all factors affecting the development of the relevant Cell and associated constraints the Council will encounter in the provision of the Cell Works. This shall include (but not be limited to) variable market conditions and the nexus between the time frame of development and provision of Cell Works.

Y = the area of a Cell which the Council estimates by deducting all land for existing and future roads, proposed drainage sites and other land for public purposes as depicted on the Agreed Structure Plan for the Cell from the total area of a Cell.

Z = the Infrastructure Cost Per Square Metre.

10.6.6 Cell 7 & 8 Variables Affecting the Calculation of Infrastructure Costs

(a) In the case of subdivision and strata subdivision, the Infrastructure Cost contribution of an owner of land within Cell 7 or 8 will be calculated by multiplying the Infrastructure Cost per Square Metre by the total area of each lot proposed to be created with the exception of land or lots created for public purposes; and

(b) in the case of development, the contribution of an owner of land within Cell 7 or 8 will be calculated by multiplying the Infrastructure Cost Per Square Metre by the total area of the land that the Council considers to be the subject of the Application to Commence Development or an application for a Building Licence including the area of all structures, car parking, storage, landscaping, necessary setbacks and the like.

10.7 RE-ASSIGNMENT OF USES OF LAND

Where land originally proposed on an Agreed Structure Plan in any Cell for any use, is subsequently proposed to be subdivided and/or developed for a purpose and for which no Cell Costs or only partial Cell Costs have previously been paid, such land will be liable for the full payment of the Cell Costs. The level of contribution required will reflect the rate of Infrastructure Cost Per Lot or Per Square Metre (or part thereof as applicable) current at the time the further subdivision or development occurs.

10.8 RECOUPMENT OF INFRASTRUCTURE COSTS

Subject to the agreement of the Western Australian Planning Commission, Council may retrospectively obtain payment of Infrastructure Costs from any owner or former owner of land within a Cell where the appropriate Infrastructure Contribution payment as required by subclauses 10.10.6 (a)–(c) was inadvertently not required or made.

10.9 APPLICATION OF FUNDS IN CELL ACCOUNTS AND PRIORITISATION OF CELL WORKS

10.9.1 Borrowing of Funds (Including borrowings from other Cell Accounts to carry out Cell Works)

Council may borrow funds contained in another Cell Account or borrow from any other permitted source to undertake or to complete Cell Works in a Cell or where it can be demonstrated that such borrowing will generally be of benefit to owners of land in a particular Cell.

10.9.2 Accounting for Borrowings in Cell Accounts

Where funds are borrowed pursuant to subclause 10.9.1, the Council shall at all times keep proper accounts of any such transactions and shall charge interest at the rate applicable to the scheme accounts from time to time.

10.9.3 Changes in Priority of Cell Works

Council, with the objective of minimising any borrowing and in managing the land acquisition and road construction programme for each Cell, may use funds in a Cell Account to undertake any Cell Works for that Cell as Council sees fit. The components used to calculate the Infrastructure Cost contributions shall not determine or limit Council's decision as to whether any Cell Work should be carried out in priority to another.

10.10 ESTIMATES OF INFRASTRUCTURE COSTS

10.10.1 The Council may, upon receiving any written request from an owner of land in a Cell make an estimate of Infrastructure Costs and issue an estimate to the enquirer which states the rate of contribution of Infrastructure Costs for the subject Cell. All estimates issued by Council in writing, are valid for a period not exceeding six (6) months from the date of issue. The estimate will be based on the calculation described in Clause 10.6 and will be an estimate of the Infrastructure Costs that will apply in six (6) months from the date of issue.

10.10.2 Where an owner of land in a Cell seeks to make a payment for Infrastructure Costs based on the estimate provided under subclause 10.10.1 and the Infrastructure Costs being charged by Council at the time are less than the amount of the estimate, then the owner may pay the lesser amount.

10.10.3 Where an owner has been provided with an estimate of the Infrastructure Cost for any land of the owner within a Cell and the owner subsequently pays a sum equal to that estimate within the time allowed for under subclause 10.10.1, then the owner is not liable to pay further Infrastructure Costs in relation to that land unless the estimation provided by the Council was calculated in error, then subclauses 10.10.6 (a) to (c) and Clause 10.8 would apply.

10.10.4 The provisions of subclause 10.10.3 shall not apply to those owners or former owners of land in a Cell who, prior to the final approval by the Minister for Planning and publication of Amendment No. 816 in the Government Gazette and adoption of an Agreed Local Structure Plan for the Cell have made a payment to Cell Works on the basis of Infrastructure Cost Contribution that is less than the contribution rate required after Amendment 816 and the Agreed Local Structure Plan for the relevant Cell come into effect. In such circumstances, Council may seek a further payment from those owners who have made such payments, which represents the difference between such payment and the amount of the owner's contribution calculated as if the payment was made at the time Amendment No. 816 and the Agreed Local Structure Plan for that Cell have come into effect.

Owners shall make the further payment stipulated by Council on demand in accordance with subclause 10.10.6(d).

10.10.5 Should an owner be entitled to a payment from the Council where the Preliminary Payment exceeds the amount that would otherwise be payable in subclause 10.10.4 then Council shall make such payment within 6 months of Amendment No. 816 and the Agreed Structure Plan for the relevant Cell coming into effect or if arbitration under Clause 10.11 is requested by an owner in that Cell, then 6 months from the conclusion of the arbitration, or any other time period agreed between the owner and the Council.

10.10.6 The contribution of an owner to Cell Costs by way of payment of Infrastructure Costs shall be paid:

- (a) prior to Council providing written advice to the Commission confirming that conditions relating to the subdivision or amalgamation have been completed to enable the Commission to endorse its approval to the relevant plan or diagram of survey pursuant of Regulation 10 of the Western Australian Planning Commission Regulations 1962 or as otherwise required of the relevant local government and/or Western Australian Planning Commission under the Strata Titles Act 1985 and its Regulations; or
- (b) prior to the issue of a Building Licence for any development (including a use) on the land of an owner in a Cell; or
- (c) at the time of granting of development approval by the Council or the Commission for the commencement of any development on land of the Owner in a Cell involving the creation or production of any new lot or residential unit; or
- (d) whether or not an owner has reached the stage of subdividing or amalgamating or carrying out any use or development on land within a Cell subject to the approval of the Commission, such owner shall be liable to pay to the Council the Infrastructure Costs or such part thereof as the Council from time to time requires as from the date of posting to him by or on behalf of the Council by prepaid post addressed to the owner's last address known to the Council of a notice informing such owner of the amount of the appropriate proportion or part then required and calling on the owner to make payment. Within six (6) months of the posting to an owner of such a notice the owner shall pay the sum sought together with any interest accrued to the date of payment.

Council shall advertise or cause to be advertised in a newspaper circulated in the District any requirement for Infrastructure Contributions to be paid under subclause 10.10.6(d) to all affected landowners.

10.10.7 If the date upon which the liability of an owner or former owner to pay Infrastructure Costs cannot be ascertained with certainty by reference to the time of the commencement of a development including a use involving the creation or production of a new or additional dwelling, then the date upon which the Infrastructure Costs shall be treated as being due and payable shall be the date of posting by the Council to the owner of a demand for payment of the contribution by prepaid letter addressed to the owner at the last address known to the Council of the owner.

10.10.8 The Council may agree (but is not required) to allow an owner to defer part of any Infrastructure Costs payable by such owner prior to or upon such costs becoming due and payable until a date acceptable to the Council and subject to payment of interest. Any interest payable pursuant to subclause 10.10.9 shall only be calculated on the balance of the Infrastructure Costs outstanding.

10.10.9 Interest shall be paid on all overdue Infrastructure Costs at the rate payable from time to time on judgement debts pursuant to Section 142 of the Supreme Court Act, 1935 from the date the contribution became due until the date of payment, although on application by an owner, the Council may agree to suspend or waive such interest or any part thereof if satisfied that it would be fair and equitable to make such allowance.

10.10.10 Any overdue Infrastructure Costs relating to land in a Cell shall be a liquidated debt due to the Council by the owner of such land and may be recovered by the Council in a court of competent civil jurisdiction.

10.10.11 Additionally, any overdue Infrastructure Costs relating to land in a Cell shall be a charge on that land and the Council may lodge a caveat against the title of the land in respect thereof. The Council may at the cost of the owner of such land and subject to such other conditions as Council considers appropriate, withdraw a caveat to permit dealings and thereafter re-lodge the caveat to prevent further dealing until such costs are paid. Upon the payment of all Cell Costs contributions in respect of any land, and if requested to do so the Council shall withdraw any such caveat which it has lodged on the title to that land at the request of and at the expense of the Owner.

10.10.12 The Council may, but is not required, to accept land within the Cell to the value of any amount due to Council in respect of Infrastructure Costs in lieu of payment of that amount. The land can either be provided to Council on an *en globo* basis or as serviced and developed land. Any such land shall only be valued on a fair market value basis by a licensed valuer who is a member of the Australian Institute of Valuers and Land Economists (Inc) (WA Division) ("AIVLE") acceptable to the parties or if no such agreement can be reached as nominated by the President for the time being of AIVLE.

The Council shall hold any land so acquired for future sale and expenditure of the proceeds on Cell Works, or for transfer to an owner in exchange for land required to be contributed for other Cell Works, on a fair market value basis.

10.10.13 Where Council is required to acquire land for Cell Works and the owner of the land requests that Council acquire the balance of the lot, Council may, subject to availability of funds within the Cell Account for that Cell, acquire such land. If deemed appropriate by the Council, funds may be drawn from another approved source.

10.10.14 Where Council acquires land pursuant to subclause 10.10.13, it may at its absolute discretion, either offer this land for sale on a fair market value basis to an adjoining owner or other interested party or alternatively subdivide or develop this land in accordance with the prescribed zoning and the Agreed Structure Plan for the Cell.

10.10.15 Where Council sells any land pursuant to subclause 10.10.14 the proceeds of sale shall be credited to the Cell Account from which the acquisition, subdivision or development costs were drawn and they shall not form part of the Council's Municipal Fund unless the acquisition, subdivision or development costs were drawn from that Fund.

10.11 REVISION OF CELL COSTS, ESTIMATED LOT YIELDS, AND AREAS CAPABLE OF BEING DEVELOPED

Upon final approval by the Minister for Planning and publication of Amendment No. 816 in the Government Gazette and after the certification of an Agreed Structure Plan by Council under subclause 9.6.5, the Council shall notify the estimate of Cell Costs made by the Council to all of the landowners within a Cell by way of an advertisement in a newspaper on at least two occasions. A period of 42 days shall be allowed from the date of such notification for an owner in writing to object to the estimate within a Cell. Any objection received by the Council during this period shall be assessed by the Council within 60 days of the close of this advertising period and if not agreed by the Council shall be referred to the arbitration of a single arbitrator in the manner provided by the Commercial Arbitration Act, 1985. The arbitrator shall be bound by the provisions of Part 10 and Schedule 9 of the Scheme and the assumptions included in the Agreed Structure Plan for that Cell.

An owner who lodges an objection under this clause shall submit with the objection supporting evidence from a suitably qualified person in the specific field of the cost estimate being objected to. If the parties are unable to agree upon the arbitrator, subclause 10.11.7 shall apply.

10.11.1 The Council shall from time to time review Cell Costs provided such reviews are conducted at least on an annual basis and in any event prior to the commencement of each new financial year.

10.11.2 Council shall, at the time it reviews Cell Costs, review:

- (a) the Estimated Lot Yield referred to in subclause 10.6.2 in respect of Cells 1 to 6;
- (b) the Infrastructure Cost per Lot in respect of Cells 1 – 6;
- (c) the remaining area of Cells 7 and 8 which is capable of being developed;

having regard for the actual lots produced in each Cell since the last review, the remaining Cell Works, any amendments to the Agreed Structure Plan and any other factors the Council considers relevant.

10.11.3 When calculating or reviewing Cell Costs, Council will have regard to the value of the land required to be acquired for Cell Works and include an amount of 10% over and above the assessed fair market value of such land, to ensure that Council has or will receive sufficient funds in the Cell Accounts to acquire land for Cell Works relating to the 8 Cells in East Wanneroo to meet its obligations for appropriate payment to such owners, and ensure the Cell Works can be completed in a manner that minimises the need for external borrowing.

10.11.4 The Council, in reviewing the various elements pursuant to subclauses 10.11.1 and 10.11.2, may revise or amend any of those elements and any Infrastructure Costs payable by an owner of land in a Cell.

10.11.5 Following revision or amendment of the elements mentioned in subclauses 10.11.1 to 10.11.3 inclusive, the Council shall notify by way of public advertising all owners of land in a Cell that are affected by the outcome of the review advising of the availability of details concerning the review and revisions and inviting comment.

10.11.6 Following the issue of the invitation pursuant to subclause 10.11.5 a period of 42 days shall be allowed from the date such advertising commenced for an owner affected by the review to object to the revision of Cell Costs and any other finding of the review. Any objection received by the Council during this period shall be assessed by the Council and if not agreed by the Council, shall be referred by the Council to the arbitration of a single arbitrator in the manner provided by the Commercial Arbitration Act, 1985.

10.11.7 If the parties are unable to agree upon the arbitrator, the arbitrator may be nominated by the President for the time being of the Law Society of Western Australia (or its successor) on the application of any party. The costs of each party involved in the arbitration process will be borne by that party, however, in the case where the arbitrator believes an objection to be frivolous or where a party has unnecessarily frustrated the process of arbitration, the Arbitrator may at his discretion, award costs against the erring party.

10.11.8 The Council shall after each annual review and as part of the updating of the business plans prepared for Cells, prepare a summary financial statement for each Cell stating all income, expenditure and works undertaken for the preceding financial year. This statement will be forwarded to the Commission together with a schedule of any revisions that have been made pursuant to this clause. The Commission may provide the Council with any comment or objection it may have pursuant to subclause 10.11.6.

10.12 PRE-FUNDING OF CELL WORKS

10.12.1 An owner of land with a Cell may, with the prior approval of the Council, undertake any or all of the Cell Works referred to in Schedule 9.

10.12.2 Where an owner wishes to undertake Cell Works pursuant to subclause 10.12.1, the owner shall, before commencing to carry out such works, first lodge a formal claim for the cost of those Cell Works with the Council which reserves the right to review and accept or reject the claim, and to permit or prevent the owner from carrying out the works until such time as the owner's claim has been agreed. Council will respond to an owner's claim within 42 days.

10.12.3 If Council agrees that an owner can pre-fund Cell Works the owner shall at all times maintain proper and itemised records of all relevant expenditure, including receipts and invoices and provide copies of the same to the Council on request. Where the cost of carrying out such works exceeds the amount of the claim originally agreed to by Council, Council may accept or reject the additional cost or any part thereof.

Any dispute regarding the entitlement of the owner to additional reimbursement from the Cell Account shall be referred to the arbitration of a single arbitrator in the manner provided by the Commercial Arbitration Act 1985 and if the parties are unable to agree upon the arbitrator he may be nominated by the President for the time being of the Law Society of Western Australia (or its successor) on the application of any party.

10.12.4 Where the Council accepts a claim for an entitlement to re-imburement for the carrying out of Cell Works, Council shall record the extent of the claim and if necessary adjust the extent of Cell Costs accordingly.

10.12.5 Where an owner seeks a credit for a contribution to Cell Works (whether by the provision of land or the construction of any works) against his Infrastructure Cost liability and Council has previously agreed to the carrying out of such works by that owner on that basis, then the credit to be given to the owner will be calculated on the basis of the greater of the value of the Cell Works as ascribed by the Council in the calculation of the Cell Costs or the cost incurred by that owner.

10.12.6 (a) Notwithstanding subclause 10.12.5, where an owner has pre-funded works and the credit allowed by Council exceeds the obligation for payment towards Infrastructure Costs by the owner under this Part, the owner shall be refunded the excess after Council has received sufficient contributions from other owners in that Cell towards meeting all the anticipated Cell Costs.

(b) Where an Owner is to be paid for land contributed to Cell Works such payment will be calculated on a pro-rata basis at the fair market value of the land prevailing at the time Council refunds the cost of the acquisition.

10.13 FINANCE

10.13.1 The Council may (but is not obliged to do so) raise loans or provide funds from other sources for the purpose of providing the finance necessary for the implementation of the designated Cell Works and any interest or charges incurred in doing so will be deemed to be a Cell Cost.

10.13.2 Where a Cell remains with no further land remaining from which a contribution to Cell Works can be levied by the Council under the provisions of this Part, Council may (but is not obliged to do so) complete any outstanding Cell Works.

10.13.3 In the event that upon the subdivision, development or strata subdivision of all the land in the Cell, the Infrastructure Contributions received by the Council exceeds the amount necessary to complete the Cell Works in a Cell and meet all of the Cell Costs, the amount of such excess will be distributed amongst the owners who made Infrastructure Cost payments to the Cell Account in accordance with subclause 10.6.3.

The amount of any excess that an owner may be entitled to receive shall be in the same proportion to the total excess money that the number of lots produced by the owner bears to the total number of lots produced in a Cell. The amount payable to an owner under this clause shall be reduced by the amount of any shortfall in the payments made by that owner to their assessed Infrastructure Costs.

If an owner or other person or persons, corporation or other legal entity entitled to an interest in a Cell cannot be located by the Council after the giving of public notice by way of an advertisement in a newspaper on at least two occasions and writing to their last known address as shown in the Council records and no request for a claim is received by the Council within a period of six months from a decision being made by the Council to distribute excess funds, that owner's proportion of the surplus funds may be expended, subject to the approval of the Minister of Planning, either towards further improvements and facilities within the Cell or transferred to the Cell Account of an abutting Cell where insufficient funds will be received to complete Cell Works that are common to both Cells and thereafter such an owner shall have no claim in respect to such money.

10.14 ACQUISITION OF LAND FOR CELL WORKS, PAYMENT, VALUATION AND COMPULSORY ACQUISITION

10.14.1 Without limiting the generality of Clause 8.1 if an owner fails or refuses to transfer any part of the land of the owner which is required as part of the Cell Works following the giving of any notice by the Council requiring such land, the Council may forthwith or after giving such formal notices as to the Council shall seem appropriate in the circumstances, compulsorily acquire the relevant portion of that owner's land within the Cell.

10.14.2 Where land has been compulsorily acquired and a lawful claim for compensation has been served on the Council, the Council shall claim compensation for betterment under section 11(2) of the Act and the value attributed to the betterment of the land the subject of the claim shall be set off against any compensation otherwise payable to the claimant under the Land Acquisition and Public Works Act 1902 or any re-enactment of its provisions related to compulsory acquisition and compensation.

10.14.3 (a) The Council may at any time ascertain the value of any land in a Cell for the purpose of estimating Cell Costs;

(b) Subject to subclause 10.14.6, if it is necessary, for the carrying out of Cell Works, to ascertain the value of any land, such value shall be determined by a licensed valuer appointed from time to time by the Council herein referred to as "the Council Valuer". If an owner of land that is the subject of such a valuation rejects the value ascribed to such land by the Council Valuer, the owner may give notice of such rejection to the Council within 28 days after having been informed of the value. If the Council does not agree to change the value to a figure acceptable to the owner, the value shall be determined by arbitration in accordance with Section 11(4) of the Act.

10.14.4 When the Council acquires land for any of the Cell Works the land value shall be the capital amount that an unencumbered estate in fee simple of the land en globo might reasonably be expected to realise upon sale and reflecting that:

- (a) if the land is zoned or to be zoned for residential or industrial or any higher purpose, then the land shall be valued on a fair market value basis accordingly;

- (b) if the land is zoned Rural and is not proposed by the Scheme to be rezoned for any higher purpose then the land shall be valued on a fair market value basis according to its existing zoning; and
- (c) The value placed upon the land of any owner of land within a Cell may be revised from time to time by the Council Valuer provided that if it is necessary as a result of such revision, the Valuer may reconsider the values placed on other land and make such re-evaluations as he considers just and equitable.

10.14.5 Subject to the provisions of the preceding subclause, the Council Valuer shall apply the following provisions when valuing land in Cells 1 to 8;

- (a) The method of valuation shall be in accordance with normal fair market valuation principles;
- (b) Unless the provisions of the Scheme indicate a contrary intention, the date of valuation shall be the date upon which the Council gives notice to the owner in writing that it requires the land, or the date upon which the Council and the owner agree that the land should be made available, and if neither of those provisions applies, the relevant time shall be the date upon which the land is made available for the relevant Cell Works.

10.14.6 Where land is acquired for a Cell Work it shall be valued without regard to the Cell Work and the purpose for which the land is acquired shall not be taken into consideration.

10.14.7 Where the Council has acquired land for Cell Works it may lease such land and/or any associated buildings until the land is required for the purpose for which it was acquired or for any other period the Council determines to be appropriate. Any land that is acquired for Cell Works shall only be leased or rented for uses that do not affect or detrimentally impact on the surrounding residents or land uses and the future use and enjoyment of the land for the purpose the land was acquired for. All rent and other money received by it under the lease shall be credited to the Cell Account for the Cell from which the land was acquired.

PART 11.—DISTRICT DISTRIBUTOR ROAD INFRASTRUCTURE CONTRIBUTIONS ARRANGEMENTS CELLS 1 TO 4 CLARKSON/BUTLER PLANNING DISTRICT

11.1 Area of Cells

The provisions of Part 11 shall apply to the land contained within the black line as shown on Map 1 in Schedule 10 (hereinafter referred to as the Clarkson/Butler Planning District). The Clarkson/Butler Planning District is broken into four (4) Cells delineated by the broken black line on Map 1 in Schedule 10.

11.2 Definitions

The following definitions apply to this Part:

- “Cell” or “Cells” mean those parts of the Scheme area located in the Clarkson/Butler locality of the City’s District, as set out in Map 1 in Schedule 10.
- “Cell Works” are those works required for the construction of District Distributor Roads and Pedestrian Crossings described in Schedule 10 or as agreed to by the Council and the Western Australian Planning Commission.
- “Contributing Landholding” - refers to the total area of the landholding of a Landholder in a Cell contributing to Cell Works as described in the table in Schedule 10.
- “District Distributor Roads” are those roads generally comprising portions of Marmion Avenue, Connolly Drive, Neerabup Drive, Hester Avenue and Lukin Drive generally shown on Map 1 in Schedule 10.
- “Infrastructure Contributions” for the purposes of Part 11 means the contribution of a landowner towards Cell Works comprising District Distributor Road works or cash payments and Pedestrian Crossings works or cash payments together with the Landowner’s proportion of Incidental Cell Works Costs calculated in accordance with this Part.
- “Landowner” or “Landowners” refers to the registered proprietor’s of the contributing landholdings within Cells 1 to 4 as described in the table in Schedule 10, or their successors in title.
- “Pedestrian Crossings” means the grade separated or if agreed to by the local government and the Commission, at grade, traffic controlled pedestrian crossings constructed on parts of the District Distributor Roads as described in Schedule 10.

11.3 Objective

The objective of the Part 11 provisions is to provide a simple framework for Landowners of Contributing Landholdings to meet their pro-rata ‘area’ based Infrastructure Contributions within each Cell through the construction of their Cell Works in accordance with a timing and staging strategy which they may determine to the satisfaction of the Council.

11.4 Landowner Contributions

Landowners shall make Infrastructure Contributions as outlined in this Part.

11.4.1 District Distributor Road Contributions

11.4.1.1 Subject to the satisfaction of the Council, Landowners within each Cell may determine the order and manner in which construction of District Distributor Roads is carried out within a particular Cell.

11.4.1.2 Notwithstanding subclause 11.4.1.1, the Council may determine the order and manner in which that construction is to be carried out and may, if necessary, appoint contractors to carry out such works where it considers it appropriate to do so.

11.4.1.3 Unless otherwise determined by the Council, wherever possible, the District Distributor Roads will be constructed by Landowners adjacent to their Contributing Landholding.

11.4.2 Calculation and Apportionment of Infrastructure Contributions District Distributor Road Component.

11.4.2.1 Calculation of Gross Area of a Cell

The gross area of a Cell is the total area of the Contributing Landholdings in a Cell.

11.4.2.2 Formula for Infrastructure Contributions

The Infrastructure Contribution to be made within each Cell toward providing District Distributor Roads shall be in accordance with the following formula:

(A divided by B) multiplied by C equals D or $(A/B) \times C = D$

Where:

A = Area of Contributing Landholding

B = Gross area of the Cell

C = The total length of District Distributor Roads within a Cell

D = Total length of Landowner's District Distributor Road Infrastructure Contribution

11.4.3 Timing of Infrastructure Contributions for District Distributor Roads Landowners will meet their Infrastructure Contributions for District Distributor Roads through construction of these roads.

11.4.3.1 Unless otherwise agreed by the Council in writing, Infrastructure Contributions for District Distributor Roads shall be constructed prior to Council providing written advice to the Commission confirming that conditions relating to the subdivision or amalgamation have been completed to enable the Commission to endorse its approval to the relevant plan or diagram of survey pursuant of Regulation 10 of the Western Australian Planning Commission Regulations 1962 or as otherwise required of the relevant local government or the Commission under the Strata Titles Act 1985 and its Regulations in the case of strata subdivision (hereinafter referred to as clearance).

11.4.3.2 Council may from time to time accept a part contribution from Landowners as a payment towards their Infrastructure contribution. The amount of the part contribution is to be determined by the Council and will be based on the proportion that the total area of the Landowner's land the subject of the relevant clearance bears to the whole of the Landowner's Contributing Landholding in a Cell, applied to the relevant Infrastructure Contribution for District Distributor Roads to be constructed by that landowner.

11.4.3.3 Notwithstanding subclause 11.4.3.2, Landowners must construct 50% or more of the total District Distributor Roads representing part of their Infrastructure Contribution prior to 50% of their Contributing Landholding having received clearance by the Council as described in 11.4.3.1.

11.4.3.4 Subject to subclause 11.4.3.3, the Council may accept additional part contributions as described in subclause 11.4.3.2 prior to 90% of the Contributing Landholding having received clearance by the Council as described in subclause 11.4.3.1 at which point the Landholder must construct its total District Distributor Roads component of the Infrastructure Contribution.

11.4.3.5 Unless otherwise agreed to by the Council, should a Landowner not construct District Distributor Road's as detailed in subclause 11.4.3, the Council may use any payments previously received from that Landowner for the construction of District Distributor Roads within the relevant Cell.

11.4.3.6 Upon the satisfactory construction of District Distributor Road by a Landowner, Council shall return to the Landowner any payments previously received from that landowner as part contribution for that portion of District Distributor Road.

11.4.4 Pedestrian Crossing(s) Contributions

11.4.4.1 Subject to the satisfaction of the Council, Landowners within each Cell may determine the order and manner in which construction of Pedestrian Crossings is carried out within a particular Cell.

11.4.4.2 Notwithstanding subclause 11.4.4.1, the Council may determine the order and manner in which that construction is to be carried out and may, if necessary, appoint contractors to carry out such works where it considers it appropriate to do so.

11.4.4.3 Unless otherwise determined by the Council, wherever possible Pedestrian Crossings will be constructed by Landowners adjacent to their Contributing Landholdings.

11.4.5 Calculation and Appointment of Pedestrian Crossings Contributions.

11.4.5.1 Calculation of Gross Area of a Cell

The Gross Area of a Cell is the total area of the Contributing Landholdings in a Cell.

11.4.5.2 Formula for Contributions

The Infrastructure contribution to be made by each landowner within a Cell to Pedestrian Crossings shall be in accordance with the following formula:

(A divided by B) multiplied by E equals F or $(A/B) \times E = F$

Where:

A = Area of Contributing Landholding

B = Gross area of the Cell

E = The total number of Pedestrian Crossings within a Cell

F = Total Landowner Pedestrian Crossing Infrastructure Contribution.

11.4.6 Timing of Pedestrian Crossings Contributions

11.4.6.1 Pedestrian Crossings Infrastructure Contributions shall be made on the same basis as District Distributor Road Contributions as outlined in subclauses 11.4.3.1—11.4.3.2.

11.4.6.2 Notwithstanding subclause 11.4.4.2, Pedestrian Crossings must be constructed at the time that the District Distributor Road within which the Pedestrian Crossing is situated is constructed and that construction will be undertaken by the landowner(s) constructing that portion of the District Distributor Road.

11.4.6.3 Where a Pedestrian Crossing has been constructed pursuant to subclause 11.4.6.2, Infrastructure Contributions for that Pedestrian Crossing shall be determined by the Council as a proportion that each contributing landholding bears to the total area of the Cell. Unless otherwise agreed to by the Council, Contributing Landowners will compensate the constructing landholder based on the above proportional contribution within 6 months of the completion of construction to the satisfaction of Council.

11.4.6.4 Council may, at its discretion, accept a cash payment from a landowner to extinguish all or part of that Landholders Infrastructure Contribution for Pedestrian Crossings within a Cell.

11.4.6.5 Council may, at its discretion, use cash payments already received as Infrastructure contributions within a Cell for the purposes of constructing Pedestrian Crossings within that Cell.

11.5 General Provisions

11.5.1 Consultative Committee

Council may form a Consultative Committee for each or all Cells comprising of Landowners, representatives of Council and the Western Australian Planning Commission and any other persons considered appropriate by Council to make recommendations to Council in respect to timing and arrangements for Cell Works.

11.5.2 Retrospective Payment of Infrastructure Contributions

Subject to the agreement of the Western Australian Planning Commission Council may retrospectively obtain payment from any landowner where the appropriate Infrastructure Contribution payment as required by Clause 11.4.3.1 or 11.4.6.1 was inadvertently not required or made.

11.5.3 Payment of Excess Over Estimate

Landowners in a Cell who, prior to the publication of final approval of Amendment No. 821 to Town Planning Scheme No. 1 in the Government Gazette have either constructed Cell Works or made a cash payment towards such works based on preliminary estimates will be required, after Amendment No. 821 came into effect and when Infrastructure Contributions have been determined, to provide further Cell Works or payments which represent the difference between the preliminary contribution and the amount of the landowner's contribution calculated at the time Amendment No. 821 came into effect.

In such circumstances Landowners shall make the further contribution stipulated by Council within 6 months of the date of the request or in accordance with other arrangements agreed to by Council.

11.5.4 Compensation for Over provision

Unless otherwise determined by the Council, should a Landowner be entitled to credit where the value of any constructed Cell Works or payment of those works exceeds the total Landowners contribution at the time Amendment No. 821 came into effect, then the difference shall be calculated by the Council and that Landowner reimbursed either by cash payment paid proportionately by the remaining Landowners within the Cell or via some other arrangements agreed to by the Council.

11.5.5 Recoverability of Infrastructure Contributions

Any overdue Landowner Infrastructure Contributions relating to land in a Cell shall be a liquidated debt due to the Council by the landowner of such land and may be recovered by the Council in a court of competent civil jurisdiction.

11.5.6 Additionally, any Infrastructure Contributions relating to land in a Cell which are due but not met shall be a charge on that land and the Council may lodge a caveat against the title of the land in respect thereof. The Council may at the cost of the Landowner and subject to such other conditions as Council considers appropriate, withdraw a caveat to permit dealings and thereafter relodge the caveat to prevent further dealing until such costs are paid. Upon the completion of the Landowner Contributions in respect of such land and upon receiving a request in writing the Council shall withdraw any such caveat which it has lodged on the title at the expense of the landowner.

11.5.7 Arbitration

11.5.7.1 Pursuant to subclauses 11.4.6.4, 11.5.3 and 11.5.4, in the event where a landowner and the Council are unable to agree to the amount of a cash payment required under these parts then the matter is to be referred to the arbitration of a single arbitrator in the manner provided by the Commercial Arbitration Act, 1985.

11.5.7.2 If the parties are unable to agree upon the arbitrator, the arbitrator may be nominated by the President for the time being of the Royal Australian Institute of Civil Engineers (or its successor) on the application of any party. The costs of each party involved in the arbitration process will be borne by that party, however, in the case where the arbitrator believes an objection to be frivolous or where a party has unnecessarily frustrated the process of arbitration, the arbitrator may, at his discretion, award the costs against the erring party.

11.5.8 Financial Records

11.5.8.1 In the case where cash payments are received for Infrastructure Contributions within a Cell, the Council shall for the purpose of properly managing the implementation of Cell Works for each Cell, establish Cell Accounts for the Cell into which cash payments from Landowners of land within that Cell which are made in accordance with this Part will be credited and from which required payments for Cell Works will be paid.

11.5.8.2 The Cell Accounts shall be maintained in accordance with the provisions of the Local Government (Financial Management) Regulations 1996 and shall be audited on an annual basis. Council shall make available for inspection to any landowner on request, a detailed statement of accounts for that Cell.

11.5.8.3 The Council may (but is not obliged to do so) raise loans or provide funds from other sources for the purpose of providing the finance necessary for the implementation of the designated Cell Works and any interest or charges incurred in doing so will be deemed to be a cost which will form part of the Cell Works.

TABLE 1 (CLAUSE 3.2)—THE ZONING TABLE

Use Classes	Zones												
	Residential	Mixed Use	Business	Commercial	Civic & Cultural	Private Clubs/Recreation	General Industrial	Service Industrial	General Rural	Rural Resource	Special Rural	Special Residential	
Abattoir	X	X	X	X	X	X	D	X	X	X	X	X	
Aged or Dependent Persons' Dwelling	D	D	D	D	X	X	X	X	X	X	X	X	
Amusement Facility/Parlour	X	X	D	D	D	D	X	D	X	X	X	X	
Ancillary Accommodation	D	A	A	A	X	X	X	X	X	X	X	X	
Animal Husbandry	X	X	X	X	X	X	X	X	D	D	X	X	
Aquaculture	X	X	X	X	X	X	X	X	D	D	X	X	
Art Gallery	X	D	P	P	P	P	X	X	A	A	A	X	
Auction Room	X	A	D	D	X	X	P	P	X	X	X	X	
Bakery	X	D	D	D	X	X	D	D	X	X	X	X	
Bank	X	P	P	P	X	X	X	X	X	X	X	X	
Beauty Parlour	X	P	P	P	X	D	X	X	X	X	X	X	
Bed & Breakfast	D	P	D	P	X	D	X	X	D	D	D	D	
Camping Ground	X	X	X	X	X	P	X	X	A	A	A	X	
Car Park	X	D	P	P	P	P	P	P	X	X	X	X	
Car Wash	X	X	D	D	X	X	P	P	X	X	X	X	
Caravan Park	D	X	X	X	X	P	X	X	X	X	X	X	
Caretaker's Dwelling	D	D	D	D	D	D	D	D	A	A	X	X	
Cattery	X	X	X	X	X	X	X	X	D	D	D	D	
Child Care Centre	D	D	D	D	D	D	X	X	X	X	X	D	
Cinema	X	X	D	D	D	D	X	X	X	X	X	X	
Cinema Complex	X	X	X	A	X	X	X	X	X	X	X	X	
Civic Building	D	D	D	D	P	D	X	X	A	A	X	X	
Club (Non-Residential)	X	X	D	P	D	P	X	D	X	X	X	X	
Communication Antenna—Commercial	X	D	D	D	X	X	D	D	D	D	D	X	
Communication Antenna—Domestic	D	D	D	D	D	D	D	D	D	D	D	D	
Concrete Batching Plant	X	X	X	X	X	X	D	X	X	X	X	X	
Consulting Rooms	D	P	P	P	D	X	X	X	X	X	X	D	
Convenience Store	X	D	P	P	X	D	D	D	X	X	X	X	
Corner Store	A	P	P	P	X	X	X	X	X	X	X	X	
Costume Hire	X	D	P	P	X	X	X	D	X	X	X	X	
Department Store	X	X	X	D	X	X	X	X	X	X	X	X	
Display Home Centre	D	D	D	D	X	X	X	X	X	X	X	X	
Drive In Theatre	X	X	X	X	D	D	X	X	X	X	X	X	
Drive—Through Food Outlet	X	X	D	D	X	X	X	X	X	X	X	X	
Dry Cleaning Premises	X	X	D	P	X	X	P	P	X	X	X	X	
Education Establishment	X	D	D	D	D	D	X	D	X	X	X	X	
Equestrian Activity	X	X	X	X	X	D	X	X	D	D	D	X	
Factory Unit	X	X	X	X	X	X	D	D	X	X	X	X	
Fuel Depot	X	X	X	X	X	X	P	D	X	X	X	X	
Funeral Parlour	X	X	D	D	X	X	X	D	X	X	X	X	
Golf Course	X	X	X	X	X	D	X	X	X	X	X	X	
Grouped Dwelling	D	D	D	D	X	X	X	X	X	X	X	X	
Hairdresser	X	P	P	P	X	D	X	X	X	X	X	X	
Hall	X	D	D	D	P	D	X	X	X	X	X	X	
Hardware Store	X	X	D	P	X	X	X	D	X	X	X	X	
Hire Service	X	X	X	X	X	X	D	D	X	X	X	X	
Holiday Village/Resort	X	X	X	X	X	D	X	X	X	X	X	X	
Home Business—Cat 1	P	P	P	P	X	X	X	X	P	P	P	P	
Home Business—Cat 2	D	P	P	P	X	X	X	X	P	P	P	P	
Home Business—Cat 3	D	P	P	P	X	X	X	X	D	D	D	D	
Hospital	X	X	D	D	D	X	X	X	X	X	X	X	
Hotel	X	X	D	D	X	D	X	X	X	X	X	X	
Industry—Extractive	X	X	X	X	X	X	D	X	D	D	X	X	
Industry—General	X	X	X	X	X	X	P	A	X	X	X	X	
Industry—Hazardous	X	X	X	X	X	X	D	X	X	X	X	X	
Industry—Light	X	X	X	X	X	X	P	P	X	X	X	X	
Industry—Rural	X	X	X	X	X	X	D	D	P	P	A	X	
Intensive Agriculture	X	X	X	X	X	X	X	X	P	P	X	X	

TABLE 1 (CLAUSE 3.2)—THE ZONING TABLE—continued

Use Classes	Zones											
	Residential	Mixed Use	Business	Commercial	Civic & Cultural	Private Clubs/Recreation	General Industrial	Service Industrial	General Rural	Rural Resource	Special Rural	Special Residential
Kennels	X	X	X	X	X	X	X	X	D	D	X	X
Kindergarten	D	D	D	D	D	D	X	X	X	X	X	X
Landscape Supplies	X	X	X	X	X	X	P	D	X	X	X	X
Laundromat	X	X	P	P	X	X	X	P	X	X	X	X
Laundry	X	X	D	D	X	X	P	P	X	X	X	X
Liquor Store	X	X	D	P	X	X	X	X	X	X	X	X
Lunch Bar	X	P	P	P	X	X	D	D	X	X	X	X
Market (Retail)	X	X	X	D	X	X	X	X	X	X	X	X
Medical Centre	X	P	P	P	D	X	X	X	X	X	X	X
Milk Depot	X	X	X	X	X	X	P	D	X	X	X	X
Motel	X	X	D	D	X	D	X	X	X	X	X	X
Motor Vehicle Repairs	X	X	X	X	X	X	P	D	X	X	X	X
Multiple Dwelling	D	D	D	D	X	D	X	X	X	X	X	X
Night Club	X	X	D	D	X	D	X	D	X	X	X	X
Nursing Home	D	D	D	D	D	X	X	X	X	X	X	X
Office	X	P	P	P	X	D	X	X	X	X	X	X
Open Air Display	X	X	X	X	X	X	D	D	X	X	X	X
Park	D	D	D	D	D	D	D	D	D	D	D	D
Park Home Park	D	X	X	X	X	D	X	X	X	X	X	X
Pharmacy	X	X	X	P	X	X	X	X	X	X	X	X
Piggery	X	X	X	X	X	X	X	D	D	X	X	X
Place of Assembly	X	D	D	D	P	D	X	D	X	X	X	X
Place of Worship	A	D	D	D	P	D	X	D	X	X	X	X
Plant Nursery	X	X	A	A	X	X	X	D	D	D	X	X
Private Recreation	X	D	D	D	D	P	X	X	A	X	X	X
Public Exhibition Facility	X	D	D	D	P	P	X	X	X	X	X	X
Reception Centre	X	D	D	P	D	D	X	X	X	X	X	X
Recreation Centre	X	D	D	D	D	D	X	D	X	X	X	X
Residential Building	D	D	D	D	X	D	X	X	X	X	X	X
Restaurant	X	D	P	P	D	D	X	X	A	A	X	X
Restricted Premises	X	X	X	D	X	X	X	X	X	X	X	X
Retirement Village	D	D	D	D	X	D	X	X	X	X	X	X
Road House	X	X	D	D	X	X	D	D	X	X	X	X
Roadside Stall	X	X	X	X	X	X	X	X	D	D	A	X
Rural Use	X	X	X	X	X	X	X	X	P	P	D	X
Salvage Yard	X	X	X	X	X	X	P	D	X	X	X	X
Service Station	X	X	D	D	X	X	D	D	X	X	X	X
Shop	X	X	X	P	X	X	X	X	X	X	X	X
Showroom	X	X	P	P	X	X	X	P	X	X	X	X
Single House	P	D	D	D	X	X	X	X	D	D	D	P
Smash Repair Station	X	X	X	X	X	X	D	X	X	X	X	X
Special Place of Assembly	X	X	X	X	D	D	X	X	X	X	X	X
Sports Ground	X	X	X	X	D	D	X	X	X	X	X	X
Stables	X	X	X	X	X	D	X	X	P	D	D	X
Stall – General	X	D	D	D	D	D	X	D	X	X	X	X
Storage Yard	X	X	X	X	X	X	P	D	X	X	X	X
Supermarket	X	X	X	P	X	X	X	X	X	X	X	X
Take-Away Food Outlet	X	X	D	D	X	X	X	X	X	X	X	X
Tavern	X	X	D	D	X	D	X	X	X	X	X	X
Telecommunications Infrastructure	X	X	D	D	D	D	D	D	D	D	A	X
Theatre	X	X	P	P	D	D	X	X	X	X	X	X
Trade Display	X	X	X	X	X	X	D	D	X	X	X	X
Transport Depot	X	X	X	X	X	X	P	P	X	X	X	X
Vehicle Sales/Hire Premises	X	X	D	D	X	X	P	P	X	X	X	X
Vehicle Wrecking	X	X	X	X	X	X	D	X	X	X	X	X
Veterinary Consulting Rooms	X	X	P	P	X	X	X	P	D	X	X	X
Veterinary Hospital	X	X	D	D	X	X	X	P	A	A	X	X
Video Hire	X	X	D	P	X	X	X	D	X	X	X	X
Warehouse	X	X	D	X	X	X	P	P	X	X	X	X
Winery	X	X	X	X	X	X	X	X	D	D	X	X
Woodyard	X	X	X	X	X	X	P	D	X	X	X	X

For Zones which have not been listed in this table refer to :

- 3.10 The Marina Zone
- 3.13 The Centre Zone
- 3.14 The Urban Development Zone
- 3.15 The Industrial Development Zone
- 3.22 The Special Use Zone.

TABLE 2 (Clause 4.14)—CAR PARKING STANDARDS

USE CLASS	NUMBER OF ON-SITE CAR PARKING SPACES
Residential	
Ancillary Accommodation	As per Residential Planning Codes
Camping Ground	1 per 40 camp sites but not less than 2
Caravan Park	1 per caravan site plus 1 visitor bay per 10 caravans for permanent sites and 1 visitor bay per 20 caravan sites for short stay sites with an overall minimum of two visitor bays plus 1 per non resident staff member
Bed & Breakfast	2 plus 1 per 2 guests
Caretaker's Dwelling	2
Display Home Centre	5 per display home
Grouped Dwelling	As per Residential Planning Codes
Multiple Dwelling	As per Residential Planning Codes
Nursing Home	1 per 5 residents plus 1 staff member
Park Home Park	1 per park home plus 1 visitor bay per 10 park homes (minimum 2) plus 1 per non resident staff member plus event parking
Residential Building	1 per 2 people accommodated
Retirement Village	1 per dwelling plus 1 visitor bay per 10 dwellings (minimum 2) plus 1 per non resident staff member plus event parking
Single House	As per Residential Planning Codes
Commercial	
Amusement Facility/Parlour	See Shopping Centre
Auction Room	1 per 4 people accommodated
Bakery	See Shopping Centre
Bank	1 per 30 m ² NLA
Beauty Parlour	See Shopping Centre
Car Wash	Nil if incidental to other development on same site otherwise 1
Cattery	1 per staff member but not less than 5
Child Care Centre	Per local planning policy but not less than 5
Consulting Rooms	5
Convenience Store	7 per 100m ² NLA. Up to 50% of bays may be located in refuelling positions
Corner Store	2 per dwelling plus 4 per 100m ² GFA
Costume Hire	1 per 30m ² NLA
Department Store	See Shopping Centre
Drive—Through Food Outlet	1 per 4 guests in indoor and outdoor seated areas plus 7 per 100m ² NLA for non seated areas. Up to 50% of non seated area parking may be located in drive through queue
Dry Cleaning Premises	See Shopping Centre
Funeral Parlour	1 per 4 people accommodated
Hairdresser	See Shopping Centre
Hardware Store	1 per 30 m ² NLA
Hire Service	1 per 50m ² GFA
Hotel	1 per bedroom plus 1 per 3 m ² drinking area plus 1 per 5m ² of seating area
Kennels	1 per staff member but not less than 5
Landscape Supplies	1 per staff member but not less than 5
Laundromat	See Shopping Centre
Laundry	1 per 50 m ² GFA
Liquor Store	See Shopping Centre
Lunch Bar	7 per 100m ²
Market (Retail)	See Shopping Centre
Medical Centre	5 per practitioner plus 7 per 100m ² of pharmacy
Motel	1 per unit plus 1 per 5m ² dining area
Motor Vehicle Repairs	5 per service bay
Office	1 per 30 m ² NLA
Open Air Display	1 per staff member but not less than 5
Pharmacy	See Shopping Centre
Reception Centre	1 per 4 people accommodated or 1 per 5m ² seating area
Restaurant	1 per 4 people accommodated or 1 per 5m ² seating area
Restricted Premises	See Shopping Centre
Road House	3 bays per service bay plus 1 per 5m ² of seating area plus 7 per 100m ² NLA of non seated area. Up to 50% of non service and non seated bays may be located in refuelling positions
Service Station	5 bays per service bay plus 7 per 100m ² non service bay NLA. Up to 50% of non service bays may be located in refuelling positions

USE CLASS	NUMBER OF ON-SITE CAR PARKING SPACES
Commercial—continued	
Shopping Centres under 10 000m ²	7 per 100m ² NLA
Shopping Centres from 10 000m ² to 30 000m ² NLA	700 for the first 10 000m ² NLA plus 6.25 per 100m ² NLA thereafter
Shopping Centres from 30 000m ² to 50 000m ² NLA	1950 for the first 30 000m ² NLA plus 5.25 per 100m ² NLA thereafter
Shopping Centres greater than 50 000m ²	3000 for the first 50 000m ² NLA plus 4.8 per 1000m ² thereafter
Showroom	1 per 30 m ² GFA
Supermarket	See Shopping Centre
Take-Away Food Outlet	1 per 4 guests in indoor and outdoor seated areas plus 7 per 100m ² NLA for non seated areas.
Tavern	1 per 3m ² of bar area plus 1 per 5m ² of dining area
Vehicle Sales/Hire Premises	1 per 200m ² vehicle display area plus 1 per 30m ² NLA
Veterinary Consulting Rooms	5 per practitioner
Veterinary Hospital	5 per practitioner
Video Hire	See Shopping Centres
Public Buildings	
Art Gallery	1 per 50m ² NLA
Civic Building	1 per 30 m ² NLA
Club (Non-Residential)	1 per 4 people accommodated
Hall	1 per 4 people accommodated
Hospital	1 per 3 patients plus 1 per staff member
Place of Assembly	1 per 4 people accommodated
Place of Worship	1 per 4 people accommodated
Private Recreation	1 per 4 people accommodated
Public Exhibition Facility	1 per 50m ² NLA
Education Establishments	
Kindergarten	See Child Care Centre
Primary School	2 per classroom but not less than 10
Secondary School	2 per classroom but not less than 10
Tertiary College	1 per 3 students accommodated
Recreation	
Golf Course	4 per hole
Recreation Centre	1 per 4 people accommodated
Special Place of Assembly	1 per 10 people accommodated
Entertainment	
Cinema	1 per 4 people accommodated
Cinema Complex	1 per 4 people accommodated
Night Club	1 per 3 people accommodated
Theatre	1 per 4 people accommodated
Industrial	
Abattoir	1 per 50m ² GFA
Concrete Batching Plant	1 per staff member but not less than 5
Factory Unit	1 per 50m ² GFA
Fuel Depot	1 per staff member but not less than 5
Industry—General	1 per 50m ² GFA
Industry—Hazardous	1 per staff member but not less than 5
Industry—Light	1 per 50m ² GFA
Industry—Rural	1 per 50m ² GFA
Milk Depot	1 per staff member but not less than 5
Salvage Yard	1 per 50m ² GFA
Smash Repair Station	1 per 50m ² GFA
Storage Yard	1 per 50m ² GFA
Transport Depot	1 per staff member but not less than 5
Vehicle Wrecking	1 per 50m ² GFA
Woodyard	1 per staff member but not less than 5
Warehouse	1 per 50m ² GFA
Rural	
Animal Husbandry	1 per staff member but not less than 5
Aquaculture	1 per staff member but not less than 5
Equestrian Activity	1 per 4 people accommodated but not less than 5
Piggery	1 per staff member but not less than 5
Plant Nursery	1 per 500m ² display area plus 1 per 10m ² GFA
Winery	1 per staff member plus 7 per 100m ² NLA of sales area

SCHEDULE 1 (CLAUSE 1.9)—INTERPRETATIONS**GENERAL DEFINITIONS**

absolute majorit : shall have the same meaning as given to the term in and for the purposes of the Local Government Act 1995.

Act: means the Town Planning and Development Act, 1928 (as amended).

advertisement: includes any sign or advertising device, and the term "advertising sign" has a corresponding meaning.

advertising: means the publication, display or presentation of any advertisement.

advertising device: means any object or structure on which any word, number, figure, image, drawing, representation or message whatsoever is written, placed, affixed, attached, painted, projected or otherwise displayed, or on which provision is made for the same, for the purpose of advertising any business, function, operation, development, event, undertaking, person or any product or thing whatsoever, and includes any airborne device anchored to any land or building or any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising any business, function, operation, development, event, undertaking, person or any product or thing whatsoever.

Agreed Structure Plan: means a structure plan adopted under the provisions of Part 9 of the Scheme.

amenity: means all those factors which combine to form the character of the area to residents and passers by and shall include the present and likely future amenity.

amusement machine: means any machine, game, device or games table, whether mechanical, electronic or computer powered, or a combination of these, operated by one or more players for amusement and recreation.

applicant: means a person who is applying or has applied to the Council for Planning Approval.

battle-axe lot: means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot.

bay: see "car parking bay"

building: means any structure or appurtenance thereto whether fixed or moveable, temporary or permanent, and without limiting the generality of the foregoing includes a shed, stall, fence, wall, barrier, hoarding, outbuilding, tent, caravan or swimming pool.

Building Code of Australia: means the Building Code of Australia (as amended).

building envelope: means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings (not including boundary fences) and effluent disposal facilities on the lot must be contained.

car parking bay: means that area of a lot which is required for the parking of a stationary motor vehicle to the minimum dimensions specified by the Scheme, constructed and paved to the specifications set down by the Council and includes where the context permits an area considered appropriate by the Council for access and manoeuvring on the site to allow a vehicle to gain access to a parking bay but does not include crossovers, service areas and landscaping. The terms bay and parking bay have the same meaning.

carry on: means in connection with the use or other development of land the same as "carry out".

carry out: means in connection with the use or other development of land the same as "carry on".

Cell or Cells for the purpose of Part 10 of this Scheme means those parts of the Scheme area located in East Wanneroo identified by reference to the Draft Local Structure Plan submitted to Council on 10 September 1997 or as subsequently amended by an Agreed Structure Plan or Plans.

Cell Account or Cell Accounts for the purpose of Part 10 of this Scheme are the accounts into which the Cell Costs contributions of owners of land in such Cells are to be placed.

Cell Costs for the purpose of Part 10 of this Scheme are the costs of undertaking and completing the Cell Works.

Cell Works for the purpose of Part 10 of this Scheme are those general and specific works described in Schedule 9.

City: means the City of Wanneroo.

Codes: means the Residential Planning Codes, in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1. The terms R Codes and Residential Codes have the same meaning.

commercial vehicle: means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any wheeled attachment to any of them or any wheeled article designed to be an attachment to any of them, and any bus or omnibus or any earthmoving machine whether self-propelled or not. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. If a truck, prime mover or other vehicle is attached to a trailer, semi-trailer or any other attachment, each trailer, semi-trailer or other attachment is to be regarded as a separate commercial vehicle. A loaded combination, such as a bobcat, forklift or other vehicle or attachment loaded on a truck, trailer or other attachment is to be regarded as one commercial vehicle.

Commission: means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985 (as amended).

community purpose: means the use of premises designed or adapted primarily for the provision of education, social, cultural and recreational facilities and services by organisations involved in activities for community benefit.

conservation: means, in relation to any place on the Heritage List (Clause 5.2.2), the management of that place in a manner that will:

- (a) enable the cultural heritage significance of that place to be retained; and
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting.

Contributing Land: means all land capable of being subdivided or developed by an Owner contained with a Cell referred to in Part 10 of the Scheme.

convenience goods: means goods sold or offered for sale by retail, and being goods ordinarily consumed on a regular basis by people residing in or resorting to the locality and includes food and other articles of household use, pharmaceutical products, newspapers and magazines.

Council: Council means the Council of the City of Wanneroo.

cultural heritage significance: has the same meaning given to the term in the Heritage of Western Australia Act 1990.

curtilage: in relation to a dwelling means the yard of the dwelling; or an area in the immediate vicinity of the dwelling, situated on the same lot as, and used for purposes ancillary to, the dwelling. The curtilage shall not include the area located between the frontage and the dwelling. The term shall have a like meaning in relation to land around buildings other than dwellings.

density code: means the code based on the number of dwellings permitted per hectare as provided in the Codes. The density code applicable to any land is shown on the Residential Density Code Map.

development: shall have the same meaning given to it in and for the purposes of the Act but shall also include in relation to any building, object, structure or places listed on the Heritage List any act or thing that:

- (a) is likely to change the character of the place or the external appearance of any building; or
- (b) would constitute an irreversible alteration to the fabric of any building.

development site: means land the subject of an application for a Planning Approval.

District: means the municipal district of the City of Wanneroo.

equipment hire: means the use of land and/or buildings for the hire of domestic trailers and lawnmowers and other equipment of a like kind and may include the display of some items of that equipment, but does not include the hire of domestic or commercial motor vehicles, caravans or boats. Equipment hire is only to be considered for approval where it is to be conducted:

- (a) on a minor scale to be determined by the Council on each case but involving no more than 10 items of equipment;
- (b) in conjunction with and ancillary to a compatible predominant use such as 'service station' or 'convenience store'; and
- (c) in a manner which does not adversely affect the function of the predominant use or detract from amenity.

façade: means the exposed face of a building facing any road or open space or the frontal outward appearance of the building.

floor area: shall have the same meaning given to it in and for the purposes of the Building Code of Australia 1996.

frontage: when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning given to the term in the Residential Planning Codes; or
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts two or more roads, the one to which the building or proposed building faces.

Gazettal Date: means the date on which the Scheme came into force; being the date on which notice of the Minister's approval of the Scheme is published in the Government Gazette.

gross floor area (GFA): has the same meaning as "floor area" in the Building Codes of Australia.

gross leasable area (GLA): means, in relation to a building, the area of all floors capable of being occupied by a tenant for exclusive use, which area is measured from the centre line of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas.

height: when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning given to it in and for the purpose of the Residential Planning Codes; and
- (b) purposes other than residential purposes, means the measurement taken from the natural ground level immediately in front of the centre of the face of the building to a level of the top of the eaves, parapet or flat roof, whichever is the highest.

heritage list: means a list of those places which, in the opinion of the Council, are of such cultural heritage significance to the local government that conservation and protection under the provisions of this scheme is warranted.

incidental use: means a use of premises which is ancillary and subordinate to the predominant use.

Infrastructure Cost or Costs: for the purpose of Part 10 of the Scheme means the contribution of an owner of land in a Cell towards the Cell Costs.

land: shall have the same meaning given to the term in and for the purposes of the Act.

lot: shall have the same meaning as is given to it in and for the purposes of the Act and "allotment" has the same meaning, but shall not include a Strata or survey Strata lot.

Local Reserve: means land, other than a regional reserve, which is reserved for a specific purpose.

low density: in relation to residential development means a density less than R25 under the Codes.

marina frontage: means the boundary line between the marina and adjacent lots as defined on an Agreed Structure Plan.

marina wall: means a retaining wall constructed in a marina to retail a stabilised level land surface at or near the marina frontage.

medium density: in the case of residential development means a density between and including R25 and R60 under the Codes.

Metropolitan Region Scheme: means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 published in the Government Gazette of August 9, 1963, and as amended from time to time.

Metropolitan Region Scheme Reserve: means land reserved under the Metropolitan Region Scheme.

Minister: means the Minister for Planning or the Minister in the Western Australian Government responsible for town planning.

net lettable area: means the area of all floors within the internal finished surfaces of permanent walls but excludes floor areas of:

- (a) stairs not in a fire rated enclosure, escalators, toilets, cleaners' cupboards, plant rooms and other service areas, except where such floor areas are for the exclusive use of the occupiers of the floor or building;
- (b) stairs in a fire rated enclosure, lift shafts and motor rooms, and lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of shared facilities or services for occupiers of the floor or building.

non-conforming use: means a use of land which although lawful immediately prior to the coming into operation of the Scheme is not in conformity with a provision of the Scheme dealing with the zoning or classification of land and the permissibility of uses on land so zoned or classified. The term shall apply in the same way to a use becoming unlawful as a result of an amendment of the Scheme. A use is not lawful for the purpose of this definition if any planning approval of the Council or other planning authority was not obtained.

owner: in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equality:

- (a) is entitled to the land for any estate in fee simple in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or
- (c) is a lessee or licensee from the Crown; or
- (d) is entitled to receive or is in receipt of, or if the lands were let to a tenant, would be entitled to receive the rents and profits thereof whether as a beneficial owner, trustee, mortgagee in possession, or otherwise.

parking bay: see car parking bay.

part: means one of the Parts of the Scheme.

place: means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes:

- (a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;
- (b) any works or buildings situated there, their contents relevant to the purpose of this Scheme, and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation.

premises: means any land, building or part thereof.

proponent: means a person or body who is applying or has applied to the Council for Planning Approval or an amendment to the Scheme, or who is applying or has applied to the Commission for approval to subdivide or amalgamate land. The term includes the Council proposing development or otherwise opting to initiate the preparation of a Structure Plan or a person or body who is submitting or has submitted a Structure Plan under Part 9 of the Scheme.

public authority: shall have the same meaning given to it in and for the purposes of the Act.

public purposes: includes Government and Local Authority Purposes.

relevant date: means the Gazettal Date or the date any relevant amendment to the Scheme is published in the Government Gazette.

reserve: means any land reserved for a public purpose.

retail net lettable area: means the net lettable area used for any of the purposes listed in Planning Landuse Category 5—Shop/Retail (excluding hotels, taverns and nightclubs) of the WA Standard Landuse Classification (WASLUC).

road verge: see street verge

rural-residential: means a land use where land is utilised primarily for residential purposes in a rural landscape but often also for some form of limited agricultural or rural use.

rural resource: means a rural land use or basic raw material which has been deemed, in policies adopted by the Western Australian Planning Commission, to have State or regional strategic significance.

Schedule: means a schedule to the Scheme.

Scheme: means the City of Wanneroo District Planning Scheme No. 2.

Scheme Area: means the whole of the District of the City of Wanneroo as shown by the inner edge of the broken black line on the Scheme Map.

sensitive use: means any use in which people involved in that use may have reason to object to noise, dust, odour and other impacts which may arise from rural resource operations and includes, but is not limited to, residential, hospitals, schools, shops and all public establishments where food and drink is consumed.

set back: means the horizontal distance between a wall at any point and an adjacent lot boundary measured at right angles (90°) to the wall.

street alignment: means the boundary between the land comprising a road reserve and the land that abuts thereon.

street verge: means the land between the street alignment of any lot and the road pavement.

structure plan: means a document consisting of maps and text making provision for the subdivision and/or development of a specific area, and which provides a policy framework for such future subdivision and development.

substantial development: means in relation to a building the completion of the floor slab as defined in the Building Code of Australia 1988 (as amended).

vehicle: includes motorcycles, boats, caravans, trailers.

wholesale: means the sale of any goods to any person or persons other than the ultimate consumer of those goods.

zone: means a portion of the Scheme Area shown on the map by distinctive colouring, hatching, or edging for the purpose of indicating the restrictions imposed by the Scheme on the erection and use of buildings or the use of land, but does not include reserved land.

LANDUSE DEFINITIONS

abattoir: means any land or buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

aged or dependent persons' dwelling: means a dwelling designed and used solely for the accommodation of aged or dependent persons.

amusement facility: means any land or buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use.

amusement parlour: means any land or building, open to the public, where the predominant use is amusement by means of amusement machines and where there are more than two amusement machines operating within the premises.

animal husbandry: means any land or buildings used for the breeding, keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat, or fur production), and other livestock in feedlots.

aquaculture: shall have the same meaning as given to the term in and for the purposes of the Fish Resources Management Act 1994.

art gallery: means any land or buildings used to display artworks which may be offered for sale.

auction room: means a room or rooms within a building in which goods are exposed or offered for sale by auction.

bakery: means any land or buildings used to make and/or display and sell bread and pastry products, and includes "hot bread" shops.

bank: means any land or building used for banking purposes.

beauty parlour: means any land or buildings used for beauty therapy purposes.

bed & breakfast: means any dwelling in which the resident of the dwelling provides accommodation on an overnight or short-term basis, usually to the travelling public, and may include the provision of breakfast.

boat launching facility: means any land or building used to launch or retrieve boats into and from the water and may include a boat ramp or slip way.

camping ground: means any land used for the lodging of persons in tents or other temporary shelters for holiday purposes together with ancillary facilities.

caravan park: means the use of land for parking caravans and/or the erection, placement and the use of cabins, holiday cottages, tents and other temporary shelters, together with ancillary facilities, for the purpose of providing accommodation for holiday purposes to members of the public and may include permanent accommodation.

caretaker's dwelling: means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.

car park: means premises used primarily for the parking of private vehicles or taxis whether open to the public or not but does not include any part of a public road which is used for the through movement of traffic or premises on or in which vehicles are displayed for sale or premises set aside to meet a specific parking requirement under the Scheme. The term includes the land required on site for access and manoeuvring to enable vehicles to gain access to car parking bays.

car wash: means any land or buildings used for mechanical vehicle washing. Such uses may or may not be associated with a service station and may include such other uses considered by Council to be ancillary to the predominant use of the land.

caretakers flat/house: means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office, rural activity or recreation area carried on or existing on the same site.

cattery: means the use of an approved outbuilding constructed in accordance with the Health Act Model By-Laws Series 'A' Part One—General Sanitary Provisions (1927) for the purpose of keeping more than three (3) cats over the age of three (3) months.

child care centre: means premises used for the daily or occasional care of children in accordance with the Community Services (Child Care) Regulations 1988.

cinema: means any land or building containing a single screen where the public may view a motion picture.

cinema complex: means any land or building where the public may view a motion picture, and may include more than one cinema screen, and may include other minor and subsidiary amusements.

civic building: means premises designed used or intended to be used by any Federal, State or municipal government department, authority or body for the purpose of an office, hall or library, or a centre for cultural, recreational or social purposes, or for any other community service.

club (non-residential): means premises used for the purpose of club premises by an incorporated club or incorporated association or other body of persons united by a common interest (whether those premises be licensed under the provisions of the Liquor Act 1970 as amended or re-enacted or not) and which premises are not otherwise classified under the provisions of the Scheme.

communications antenna—domestic: means any mast, antenna, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communications where such device is consistent with the predominant style and size of other such devices in the locality, and provided that neither its vertical nor horizontal dimensions exceed two metres.

communications antenna—commercial: means any mast, antenna, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communication where its vertical or horizontal dimensions exceed two metres but does not include telecommunications infrastructure.

concrete batching plant: means land and buildings used for the storage and mixing of the constituent elements of concrete and includes the parking, maintenance, mechanical repair and refuelling of concrete mixing vehicles used to deliver concrete batched at the premises.

consulting rooms: means a building used by not more than one health consultant for the investigation or treatment of human injuries or ailments and for general patient care.

convenience store: means any land and or buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and petroleum products and motor vehicle accessories and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300m² gross leasable area.

corner store: means any land and building comprising a dwelling house attached to which is a shop not exceeding 100sq.m gross floor area offering only convenience goods for sale, operated as an additional use by a permanent resident of the dwelling.

department store: means a shop which consists of a substantial number of different departments carrying a significant range of goods in each department.

display home centre: means one or more dwellings which are intended to be open for public inspection.

drive in theatre: means any land or buildings used to make provision for an audience to view the entertainment while seated in motor vehicles.

drive-through food outlet: means a take-away food outlet which includes the sale and serving of food direct to persons driving or seated in motor vehicles. The term may or may not include the preparation of food for sale and consumption within the building; or portion thereof.

dry cleaning premises: means any land or buildings used for the cleaning of garments and other fabrics by chemical processes.

education establishment: means a school, college, university, technical institute, academy or other educational centre, training centre or a lecture hall, but does not include premises intended or used to accommodate or deal with offenders or persons undergoing punishment.

equestrian activity: means any land or buildings used for the showing, competition or training of horses and includes a riding school.

extractive industry see industry—extractive

factory unit: means a building or structure, or a group of buildings or structures on one lot, in which are carried on two or more separate industries or storage areas not owned or managed by the same person, or in which provision is made for the carrying on of two or more separate industries or storage areas not owned or managed by the same person.

fuel depot: means any land or building used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final user's vehicle of such fuel from the premises.

funeral parlour: means any land or buildings used to prepare and store bodies for burial or cremation and may include facilities to conduct memorial services.

general industry: refer industry—general.

hairdresser : means premises used for the cutting, styling and tending to customers hair and may include the sale of hair care products.

hazardous industry: refer industry—hazardous

health studio: see "recreation centre".

hire service: means land and buildings used for the hire of goods and equipment and may include the display of some items of goods and equipment.

holiday village/resort: means composite holiday recreation development, incorporating a variety of holiday accommodation types, including caravan park, holiday cottages and motel units with directly associated facilities and services, and may include licensed premises under the Liquor Act 1970-1976 (as amended).

home business—category 1: means an occupation carried on within a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not entail any substantial and/or inappropriate modification of the dwelling;
- (d) does not entail employment of any other person;
- (e) does not occupy an area greater than 20m² or where more than one resident is involved not cause the area used for home business within the dwelling to occupy an area greater than 30m²;
- (f) does not display any advertising signage;
- (g) does not attract customers or regular and frequent deliveries of goods or equipment to the site;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in any increase in the amount of vehicular traffic in the vicinity;
- (i) does not entail the presence, parking and garaging of a vehicle of more than 1.5 tonnes tare weight;
- (j) does not involve the servicing or repair for gain of motor vehicles;
- (k) notwithstanding the above, a Home Business Category 1 may entail the operation of a Family Day Care Centre as defined in the Community Services (Child Care) Regulations 1998.

home business—category 2: means an occupation carried on in a dwelling or on land around a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails the employment of no more than 1 person not a member of the occupier's household;
- (e) does not occupy an area greater than 30m²;
- (f) does not have more than one advertisement sign and the sign displayed does not exceed 0.2 square metres in area;
- (g) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (h) does not involve the servicing or repair for gain of motor vehicles; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

home business—category 3: means a business, service, trade or similar activity carried on in a dwelling or on land around a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails employment of a maximum of 2 persons not members of the occupier's household. Council may approve a greater number of employees, not exceeding 4 persons, subject to community consultation;

- (e) occupies an area not exceeding 50 square metres. Council may approve; subject to community consultation; an area of up to 100 square metres, or one third of the floor area of the dwelling whichever is the lesser;
- (f) displays a sign describing the nature of the approved home occupation. The sign must not exceed 0.2 square metres, and a maximum 2 metres high;
- (g) will not result in traffic difficulties as a result of the inadequacy of on-site and off-site parking;
- (h) will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not involve the servicing or repair for gain of motor vehicles; and
- (j) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

hospital: means any land or buildings where people are admitted and lodged for medical treatment or care.

hotel: means any land or buildings used for the overnight accommodation of patrons and may include facilities for consumption of beverages or a restaurant, or a betting agency operated in accordance with the Totalisator Agency Betting Board Act 1960, or facilities for entertainment, but does not include a bed and breakfast facility, and which may be the subject of a hotel licence granted under the provisions of the Liquor Licensing Act 1988.

industry: means the carrying out of any process for and incidental to:

- (a) making, altering, repairing, ornamenting, painting, finishing, cleaning, packing, canning, adapting, breaking up or demolishing of any article or part of any article;
- (b) winning, processing or treatment of minerals;
- (c) generation of electricity or the production of gas;
- (d) the manufacture of edible goods;
 - and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include:
 - (i) the carrying out of agriculture;
 - (ii) on-site work on buildings or land; and
 - (iii) in the case of edible goods the preparation of food for retail sale from the premises.
- (e) depots for bulk storage and distribution purposes.

industry—extractive: means the extraction of sand, gravel, clay, peat, soil, rock, stone, minerals or any similar substance from land, and includes the manufacture of products from those materials when the manufacture and storage is carried out on the land from which any of those materials is extracted or on land adjacent thereto.

industry—general: means an industry other than an extractive, rural, light, hazardous or service industry and which by virtue of its scale, intensity or nature, is regarded by Council as development which would be too obtrusive or detrimental to amenity and therefore inappropriate in zones other than the General Industrial Zone.

industry—hazardous: means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries.

industry—light: means an industry:

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

industry—rural: means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop used for the servicing of plant or equipment used for rural purposes in the locality.

institutional building: means a building used or designed for use wholly or principally for the purpose of:

- (a) a hospital or sanitarium for the treatment of infectious or contagious diseases;
- (b) a penal or reformatory institution;
- (c) a hospital for the treatment of the mentally handicapped;
- (d) any other similar use.

intensive agriculture: means any land or buildings used for trade or commercial purposes for the following:

- (a) the production of grapes, vegetables, flowers, exotic and native plants, fruit and nuts (including market gardens); or

- (b) the establishment and operation of plant and fruit nurseries; or
- (c) the development of land for irrigated fodder product and irrigated pasture (including turf farms).

kennels: means any land or buildings used for the boarding and breeding of domestic animals for remuneration where such premises are registered or required to be registered by the Council, and may include the sale of domestic animals.

landscape supplies: means any land or buildings used for the storage and sale of items such as woodchips, logs, rocks, sand, stone, paving slabs and other such materials intended for landscaping purposes.

laundromat: premises open to the public in which washing machines and clothes dryers are available for use and may include dry cleaning services.

laundry: premises used for the washing, drying and ironing of clothes, linen and other fabrics.

liquor store: means any land or buildings the subject of a liquor store licence granted under the provisions of the Liquor Licensing Act 1988.

lunch bar: means premises used as a take-away food outlet but within the hours of 6.00 am to 4.00 pm only.

marina: means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings appurtenant thereto and all offices and storerooms used in connection therewith.

marina filling station: means any land or buildings used for the storage and supply of liquid fuels and lubricants for marine craft, but in which no industry is carried on; but does not include a service station.

market garden: see "intensive agriculture".

markets (retail): means retail premises at which goods are sold from temporary stalls in individual bays leased to or otherwise occupied by independent stallholders.

mast or antenna : means any mast, aerial, satellite dish and other associated equipment used for the transmission or reception of radio or television signals or for other electronic communications. A television antenna on a dwelling roof being consistent with the predominant style and size of television antenna on other dwellings in the locality is not included, provided its vertical and horizontal dimensions do not exceed two metres. (See "communications antenna".)

medical centre: means premises accommodating two or more consulting rooms and may include ancillary uses such as a pathologist, radiologist and pharmacy.

milk depot: means a depot to which milk is delivered for distribution to consumers, but in which milk is not processed or pasteurised.

motel: means premises used to accommodate patrons in a manner similar to an hotel but at which special provision is made for the accommodation of patrons with motor vehicles and which does not operate with an Hotel or Limited Hotel Licence, or a Cabaret Licence or a Tavern Licence or a Special Facility Licence.

motor vehicle repair: means any land or buildings used for or in connection with electrical and mechanical repairs and overhauls to motor vehicles. The term includes repairs to tyres but does not include recapping or retreading of tyres, panel beating, spray painting or chassis reshaping.

night club: means any land or buildings used to provide entertainment and dancing and may include the provision of food and drink for consumption on the premises, but does not include the sale of packaged liquor or gaming and to which a licence under the provisions of the Liquor Licensing Act 1988 may have been granted.

nursing home: means premises in which persons who do not require constant medical attention are received as patients and lodged for the purposes of medical supervision and nursing care.

office: means any premises used for the administration of clerical, technical, professional or other like business activities but does not include administration facilities which are required in association with a predominant use on site, and does not include consulting rooms or medical centres.

open air display: means the use of a site external to a building for the display and / or sale of goods or equipment.

park home: means a moveable dwelling, not being a vehicle as defined under the Road Traffic Act 1974, but constructed and maintained on its own chassis and wheels and capable of mobility at all times, although stabilised by jacks and provided with skirtings and being so designed and constructed as to permit independent occupancy for dwelling purposes.

park home park: means the use of land for the parking of park homes for the purpose of providing permanent accommodation, together with ancillary facilities.

pharmacy: premises used for the preparation and dispensing of drugs and other medicinal products and where this occurs other predominantly toiletry products may be displayed and offered for sale by retail.

piggery: shall have the same meaning given to the term in and for the purposes of the Health Act 1911.

place of assembly: means premises where the public assemble or go for any cultural, religious, recreational, sporting or other activity save that where the scale of development proposed is greater than can be reasonably accommodated in any area, the use shall be dealt with as a "Special Place of Assembly".

place of worship: includes buildings used primarily for the religious activities of a church, but does not include an institution for primary, secondary or higher education, or a residential training institution.

plant nursery: means land and/or buildings used for the propagation, nurturing and growing of plants, and where that is the predominant use may include as an incidental use the retail sale of seeds, bulbs, seedlings, shrubs, trees and other nursery stock and additionally plant containers, fertilisers, soil conditioners, weedicides, pesticides sold in bags or other containers, garden implements, sprinklers and home reticulation equipment.

private recreation: means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not usually open to the public without charge.

public exhibition facility: means any premises used for the public display of materials, of an artistic, cultural or historical nature, or for educational purposes and includes a museum or art gallery and may include sales of such materials.

public utility: means any work or undertaking constructed or maintained by a public authority or municipality as may be required to provide water, sewerage, electricity, gas, drainage, communications, passenger transport or other similar services.

reception centre: means premises used for functions on formal or ceremonial occasions, but not for unhosted use for general entertainment purposes, and may include catering facilities.

recreation centre: means any premises used for physical exercise or sports including swimming, ice skating, ten pin bowling, cricket, tennis, squash, soccer, billiards and similar activities.

residential building: has the same meaning given to it in the Residential Planning Codes.

resort: means any land or buildings used for the overnight or holiday accommodation of patrons in self-contained units or apartments and may include incidental on-site recreational facilities such as golf, swimming, bike riding, tennis, bowls, fishing, and may also include restaurants, shops and entertainment facilities, with all or most facilities usually being limited for the convenience of residents.

restaurant: means any premises where the predominant use is the preparation of food for sale and consumption within the building or portion thereof. The expression may include the sale of food for consumption off the premises, where Council is of the opinion that it is incidental to the business. The term may include an outdoor eating area which shall be treated as being within the building of the Restaurant. The expression excludes Drive Through Food Outlets.

restricted premises: means any premises used or designed to be used primarily for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of:

- (a) publications that are classified as restricted publications pursuant to the Indecent Publications and Articles Act 1902 (as amended); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily on or in connection with any form of sexual behaviour or activities.

retirement village: means any land or buildings used to accommodate aged persons and retirees together with ancillary facilities.

roadhouse: means any land or buildings used for the predominant purpose of a service station but incidentally including a restaurant and/or convenience store.

roadside stall: means a place, stand, vehicle or other thing which offers for sale to the general public, produce or any commodity which is grown or manufactured on the land or site, upon which the stall is located.

rural industry—see industry—rural

rural use: means agriculture, horticulture and may include aquaculture, and includes the raising of livestock and the retail sale of the produce of the property where satisfactory access and parking can be provided, and provided that any processing of the produce prior to sale can take place on site.

salvage yard: means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

service station: means premises used for the retail sale of petroleum products and motor vehicle accessories and goods of an incidental/convenience retail nature, and for carrying out greasing, tyre repairs or minor mechanical repairs to motor vehicles, but does not include a transport depot, panel beating, spray painting, major repairs or wrecking.

shop: means premises where goods are kept exposed or offered for sale by retail. This interpretation excludes restricted premises, but may include a bakery.

showroom: means premises wherein goods are displayed and may be offered for sale or hire excluding the sale of foodstuffs, liquor or beverages, items of clothing or apparel (except as hereinafter stipulated in this definition) or personal adornment, magazines, books, newspapers or paper products, and medicinal or pharmaceutical products unless assembled or manufactured on the premises. The term includes the sale of secondhand clothing or apparel by welfare and charitable agencies with the approval of Council.

smash repair station: means land and buildings used for, or in connection with, smash repairs including panel beating, spray painting, chassis reshaping, application and sanding down of motor vehicle body filler.

special place of assembly: means premises used for a sports stadium, racecourse, showground, fun fair, multi-purpose sporting recreational complex, or other amusements. These uses require special siting to provide for large numbers of spectators, car parking, landscaping and protection of amenity.

stables: means any land, building or structure used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities.

stall—general: means a place, stand, vehicle or other thing where goods are exposed or offered for sale by retail, and being distinguished from a shop in that it is not permanently housed in a place that is structurally part of a building and of which the stallholder has exclusive possession.

storage yard: means any land or buildings used for the storage of goods, equipment, plant or materials related to a particular trade.

take-away food outlet : means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but excludes Drive Through Food Outlet.

tavern: means any land or buildings wherein the primary use is the consumption of beverages and may include a restaurant or facilities for entertainment and to which a licence may have been granted under the provisions of the Liquor Licensing Act 1988.

telecommunications infrastructure: means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, in or in connection with a telecommunications network.

theatre: means any land or building where the public may view a theatrical production.

trade display: means the use of any land or building for the moderate and controlled display of trade goods and equipment for advertisement as approved by the Council.

transport depot: means any land or building designed and used, or which is adapted for use for one or more of the following purposes:

- (a) for the parking or garaging of more than one commercial vehicle;
- (b) for the transfer of goods or passengers from one vehicle to another vehicle;

and may include the maintenance, mechanical repair or refuelling of the vehicles referred to in (a) or (b) above but does not include any of the functions defined under Smash Repair Station.

vehicle sales/hire premises: means any land or buildings used for the display, sale or hire of new or second-hand vehicles, motorcycles, boats or caravans, or any one of more of them, together with ancillary uses such as the servicing of such goods or the sale of spare parts.

vehicle wrecking: means any land or buildings used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.

veterinary consulting rooms: means a building in which one or more veterinary surgeons or veterinarians treat the minor ailments of domestic animals and household pets as patients. No animal undergoing treatment may remain on the premises overnight.

veterinary hospital: means the use of any land or buildings for the treatment of minor or major ailments of animals, and includes the accommodation of animals for periods longer than overnight.

warehouse: means premises used for storage of goods and may include the carrying out of commercial transactions involving the sale of such goods by wholesale.

winery: means any land or buildings used for the production and/or sale to the public of viticulture produce.

SCHEDULE 2—SECTION 1 (CLAUSE 3.20)—ADDITIONAL USES

No.	Street/ Locality	Particulars of Land	Additional Use and Conditions (Where Applicable)
1-1	771 Wanneroo Road Wanneroo	Lot 30	Medical Centre & Professional Offices
1-2	1964 Wanneroo Road Neerabup	Lot 36	Sale of birds, bird seed and associated bird accessories
1-3	1976 Wanneroo Road Neerabup	Lot 50	(i) sale of wildflower & wildflower seeds, nuts and cones; (ii) sale of gift-packed quarantined native plants; (iii) sale of arts and crafts made from wildflowers and native plants; (iv) sale of souvenirs featuring wildflowers and native plants; (v) sale of light refreshments
1-4	2038 Wanneroo Road Neerabup	Lot 42	Hardware Store/Automotive Repairs/Service Station
1-5	2310 Wanneroo Road Nowergup	Loc 1955	Tavern
1-6	2624 Wanneroo Road Nowergup	Lot 1	Service Station and Convenience Store
1-7	Queensway Road Landsdale	Lot 57	Plant Nursery
1-8	Yanchep Beach Rd Yanchep	Lot 200	Service Station and Video Hire
1-9	Badgerup Road, Gnangara	Pt Lot 7	Rural Store not exceeding 100m ²

No.	Street/ Locality	Particulars of Land	Additional Use and Conditions (Where Applicable)
1-10	Belgrade Road, Wanneroo	Lot 65	Corner Store excluding the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises
1-11	Morialta Avenue Quinns Rocks	Lot 215	Corner Store excluding the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises
1-12	Parkin Way, Marangaroo	Lot 58	Corner Store excluding the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises
1-13	Polglase Fairway Clarkson	Lot 1795 & Lot 1796	Corner Store excluding the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises
1-14	Villanova Street Wanneroo	Lot 5	Restaurant and Take-Away
1-15	Mangano Place Wanneroo	Lot 8	Restaurant and Function Centre
1-16	Bernard Road Carabooda	Pt Lot 7	Service Station
1-17	Prindiville Drive Wangara	Lot 5	Markets
1-18	Menchetti Road Neerabup	Lot 32	Rural Store not exceeding 100m ²
1-19	Stevenage Street and Glenrothes Crescent Yanchep	Lots 1-6, 7-13 and 20	Business Zone Uses
1-20	876 Wanneroo Road, Wanneroo	Lot 1	Medical Centre, Pharmacy and Office
1-21	880 Wanneroo Road, Wanneroo	Lot 80	Office and Medical Centre
1-22	2359 Marmion Avenue, Jindalee	Lot 12	Corner Store
1-23	2 Ridgewood Boulevard, Ridgewood	Lot 1	Take-away Food Outlet and Restaurant
1-24	1890 Wanneroo Road, Neerabup	Lot 14	Treating, processing and packing of apiary products
1-25	529 Wanneroo Road, Woodvale	Lot 36	Restaurant, Production winery and wine sales
1-26	2469 Marmion Avenue, Jindalee	Pt Lot 10	Service Station
1-27	9 Bergen Way, Mindarie	Lot 6	Drive Through/Take-away Food Outlet

SCHEDULE 2—SECTION 2 (clause 3.21)—RESTRICTED USES

No.	Street/ Locality	Particulars of Land	Restricted Use and Conditions (Where Applicable)
2-1	2469 Marmion Avenue, Jindalee	Pt Lot 10	Medical Centre
2-2	2469 Marmion Avenue, Jindalee	Pt Lot 10	Church

SCHEDULE 2—SECTION 3 (CLAUSE 3.22)—SPECIAL USE ZONES

No.	Street/ Locality	Particulars of Land	Special Use and Conditions (Where Applicable)
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SCHEDULE 3 (SUBCLAUSES 3.7.3 & 3.13.5)—CENTRE & COMMERCIAL ZONES
COMMERCIAL AND CENTRE ZONES : RETAIL NET LETTABLE AREA

Locality	Description of Centre and Commercial Zones	NLA (m ²)
ALEXANDER HEIGHTS (Alinjarra Village)	Lot 5484 on Diagram 57377 (40) Greenpark Road	1000
ALEXANDER HEIGHTS	Lots 1-5 on Plan 23848 (190-200) Mirrabooka Avenue	12000
BANKSIA GROVE	Lot 2000 on Plan 21683 (131) Clarkson Avenue Lot 2001 on Plan 21682 (129) Flynn Drive	15000
CLARKSON DISTRICT CENTRE	Various lots on Plans 12492, 23837, 23838 & 23839 comprising approximately 41ha. and bounded generally by Marmion Avenue to the west, Belleville Gardens to the north, Neerabup Road to the south and Victorsen Parade to the east.	28800
CLARKSON	Lot 1 on Diagram 93277 (30) Ainsbury Parade	3000
CLARKSON	Lot 16 on Plan 12489 (650) Connolly Drive	3000
GIRRAWHEEN (Newpark)	Lot 501 on Diagram 47190 (64) Marangaroo Drive	10500
GIRRAWHEEN (Marangaroo)	Lot 503 on Diagram 52429 (70) Marangaroo Drive	2000
GIRRAWHEEN (Hainsworth Plaza)	Lot 10 on Plan 16672 (1) Tonkin Place	1000
GIRRAWHEEN (Summerfield)	Lot 4 on Diagram 52358 (3) Wade Court	5500
HOCKING	Lot 179 on Diagram 95026 (21) East Road	500
JINDALEE	Lot 10 on Plan 12465 (2469) Marmion Avenue	3000
JINDALEE	Lot 12 on Plan 12466 (2359) Marmion Avenue	500
KOONDoola (Koondoola Plaza)	Lot 252 on Diagram 51424 (34) Koondoola Avenue	3000
LANDSDALE	Lot 307 on Plan 23262 (127) The Broadview, and Lot 978 on Diagram 95473 (21) The Broadview	3000
MADELEY (Kingsway City)	Lots 161, 168, 888 and 1168 on Diagram 98863 (168-190) Wanneroo Road	15000
MARANGAROO (Banksia MiniMart)	Lot 417 on Plan 15037 (50) Highclere Boulevard	500
MERRIWA	Pt Lot 1384 on Diagram 83356 (44) Baltimore Parade	4000
MERRIWA	Lot 1769 on Diagram 90122 (241) Baltimore Parade and Lot 1768 on Diagram 90121 (235) Baltimore Parade	500
MINDARIE	Pt Lot 962 on Plan 17343 (1995) Anchorage Drive	500
MINDARIE	Lots 1 on Diagram 94178 (6) Rothesay Heights, and Lot 2 on Diagram 94198 (36) Anchorage Drive	2000
QUINNS ROCKS	Lot 21 on Diagram 73962 (23) Beverley Crescent	1500
QUINNS ROCKS (General Store)	Lot 119 on Plan 7318 (80) Ocean Drive	500
QUINNS ROCKS	Lot 80 on Plan 16188 (121) Quinns Road	2500
QUINNS ROCKS	Pt Lot 1001 on Plan 19619 (164) Tapping Way	3500
QUINNS ROCKS	Lot 292 on Plan 20371 (8) Duncombe Grove	500
RIDGEWOOD	Pt Lot 31 on Plan 13337 (870) Connolly Drive	3500
TWO ROCKS (Atlantis Village)	Lot 51 on Diagram 67042 (8) Enterprise Avenue	1500
WANGARA	Lot 4 on Diagram 58425 (35) Prindiville Drive	500
WANNEROO DISTRICT CENTRE	Various lots in the precinct generally bounded by the following roads/lots (in a clockwise direction from the southwest): Frederick Street, Crisafulli Avenue, Leach Street, Hastings Street, Shaw Road, Keane Street, Frederick Street, Church Street, Wanneroo Road, Pt Loc 1657 (northern & eastern boundaries), Dundobar Road, Civic Drive, Sinagra Street, Wanneroo Road and Ariti Avenue.	30000
YANCHEP	Lot 12 on Diagram 73759 (3) Newman Road	1500
YANCHEP	Pt Lot 614 on Plan 10472 (124) Lagoon Drive	1000

SCHEDULE 4 (SUBCLAUSE 5.1.5)—EXEMPTED ADVERTISEMENTS

- (a) All signs or advertising devices for which a licence is required under the Council's Signs Local Law and where the sign or advertising device does not exceed the design provisions of the Signs Local Law;
- (b) a sign erected or maintained in accordance with an Act;
- (c) a property disposal sign not exceeding 1.2m² erected on private property or immediately adjacent to the front boundary, where it is not possible to erect it on private property;
- (d) a plate not exceeding 0.2m² in area erected or affixed on the street alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the premises;
- (e) a direction sign;
- (f) a sign used solely for the direction and control of people, animals or vehicles or to indicate the name or street number of a premises, if the area of the sign does not exceed 0.2m²;
- (g) an advertisement affixed to or painted on a shop window by the occupier thereof and relating to the business carried on therein;
- (h) a sign displaying solely the name and occupation of any occupier of business premises painted on a window or wall of those premises providing that the sign does not exceed 1.2m² in area and a height of 600mm;
- (i) a sign within a building unless:
- (i) it is clearly visible from a public place outside the building;
 - (ii) it is exempted under any other paragraph of this sub clause; or
 - (iii) it is considered objectionable by the local government;
- (j) a sign not larger than 0.6m x 0.9m on an advertising pillar or panel approved by or with the consent of the local government for the purpose of displaying public notices for information;
- (k) a building name sign on any building, where it is of a single line of letters not exceeding 300mm in height, fixed to the facade of the building;
- (l) newspaper or magazine posters, provided they are displayed against the outside wall of the business premises from which the newspapers or magazines are sold;
- (m) a rural producer's sign which is the only sign on the lot on which it is erected;
- (n) a sign erected by the local government, or with the approval of the local government, on land under the care, control and management of the local government;
- (o) a sign erected and maintained on street furniture, bus shelters or seats in accordance with the terms and conditions of a contract between the local government and the company responsible for those signs;
- (p) a maximum of 4 garage sale signs, each not greater than 0.25m², advertising the sale of second hand domestic goods in domestic quantities, not being part of a business, trade or profession and only being displayed on the day of the sale and on no more than 2 occasions for the same lot in each 6 month period;
- (q) a sign or signs erected in accordance with a special event permit issued under the City of Wanneroo Signs Local Law;
- (r) a sign painted on a kerb, adjacent to a property depicting the house number and in accordance with specifications approved by the local government;
- (s) a sign erected by the local government for the purpose of:
- (i) encouraging participation in voting (but not in favour of any candidate, political party, group or thing) at a local government election, provided that the signs are erected no more than 5 weeks prior to the election; or
 - (ii) indicating the name and location of a polling place for an election.

The above signs are exempt from the requirement to obtain Planning Approval except where the signs contain any illumination or radio; animation or movement in its design or structure; reflective; retro-reflective or fluorescent materials in its design or structure.

SCHEDULE 5 (SUB CLAUSE 5.3.1)—PLACES AND OBJECTS HAVING SIGNIFICANCE FOR THE PURPOSE OF PROTECTION OF THE LANDSCAPE OR ENVIRONMENT

Locality	Address	Description
Jandabup	Reserve 7349 (110) Hawkins Road	Lake Jandabup Reserve
Neerabup	Reserve 27575 (200) Burns Beach Road	Neerabup National Park
Nowergup	Reserve 24581 (2500) Wanneroo Road	Nowergup Lake Fauna Reserve
Yanchep	Reserve 9869 (3499) Wanneroo Road	Yanchep National Park

SCHEDULE 6 (CLAUSE 8.6)—DELEGATION OF DEVELOPMENT CONTROL POWERS

The Council may delegate its powers under the provisions of Clause 8.6 to any of the following:

- (i) a committee of the Council;
- (ii) a member of the Council; and/or
- (iii) an officer of the Council.

SCHEDULE 7 (CLAUSE 9.3)—STRUCTURE PLANS : MATTERS TO BE INCLUDED

Structure plans include plans and written texts and shall be accompanied by any other documents which the Council may require.

PART A—PLANS AND WRITTEN TEXTS

Plans shall be drawn to a scale clearly illustrating the intent of the structure plan. Structure plans shall include any of the following matters that the Council considers appropriate in relation to the nature of the structure plan:

- (a) the area covered by the structure plan in relation to surrounding landholdings;
- (b) contours and main physical/natural features including the identification of areas of high conservation value;
- (c) land reserved by the Metropolitan Region Scheme;
- (d) environmental considerations;
- (e) a comprehensive summary of the opportunities for and constraints to development;
- (f) proposed major land uses in particular residential areas, public open space, school sites, community purpose sites and commercial uses (including the location and hierarchy of centres and the net lettable area for shops);
- (g) residential densities including estimates of future population and dwellings;
- (h) location of industrial and business areas including estimates of future employment opportunities;
- (i) retail strategy and hierarchy of commercial centres together with estimates of retail floor space;
- (j) provision for major infrastructure including main drainage, sewerage, water supply and other key infrastructure services;
- (k) indicative lot patterns and general location of major buildings;
- (l) provision for emergency services including police, ambulance and fire services;
- (m) road network down to the level of local distributor roads, including any road widenings and proposed bus routes and the relationship to the surrounding area and surrounding roads;
- (n) public transport routes and corridors, and existing and proposed transit stations;
- (o) main cycle and pedestrian networks;
- (p) estimates for the staging of development;
- (q) structure plans and policies of the Commission;
- (r) the objectives for the development and future use of the area covered by the plan;
- (s) justification for and an explanation of the proposal;
- (t) the obligations of the parties involved including private/public funding responsibilities;
- (u) developer/proponent contributions towards the provision of infrastructure (including roads, drainage reserves, public open space and community purpose sites);
- (v) the time frame and an explanation of how the development will progress if it is staged;
- (w) special development control provisions
- (x) the maximum retail net lettable area to be developed;
- (y) provision for vehicular access and parking;
- (z) provision for the size, location, orientation, and design of buildings and open spaces;
- (aa) provision for the design and location of signage, landscaping and street furniture;
- (ab) types of industrial and related uses within industrial areas and the location of such uses within those areas;
- (ac) advice from relevant Government agencies regarding the compatibility of the proposal with adopted Government policies and strategies.

PART B—OTHER DOCUMENTS

Other documents which the Council may require to be submitted with structure plans include:

- (a) letters received from consultation with servicing authorities;
- (b) letters from the owners of all land within the structure plan area indicating their agreement to the structure plan;
- (c) public submissions;
- (d) relevant extracts of minutes.

SCHEDULE 8 (CLAUSE 9.6 AND SUB CLAUSE 9.6.5)—CERTIFICATION OF AGREED STRUCTURE PLANS

CERTIFIED THAT AGREED STRUCTURE PLAN
WAS ADOPTED BY
RESOLUTION OF THE WESTERN AUSTRALIAN PLANNING
COMMISSION ON

.....
Chairperson, Western Australian
Planning Commission

AND BY

RESOLUTION OF THE COUNCIL OF THE CITY OF
WANNEROO ON

AND THE SEAL OF THE MUNICIPALITY WAS PURSUANT
TO THE COUNCIL'S RESOLUTION HEREUNTO AFFIXED IN THE
PRESENCE OF:

.....
Mayor, City of Wanneroo

.....
Chief Executive Officer, City of Wanneroo

SCHEDULE 9—(PART 10 REFERS) EAST WANNEROO PLANNING AND DEVELOPER CONTRIBUTION ARRANGEMENTS PLANNING (CELLS 1 TO 8 INCLUSIVE)CELL WORKS AND CONTRIBUTION PROVISIONS

1.0 INTRODUCTION

For the purposes of administering the orderly development of the East Wanneroo Cells 1 to 8 inclusive, as outlined in Part 10 of the Scheme, the following shall be classified as Cell Works which are to be paid for by the affected Owners located in each of the eight (8) Urban and Industrial Cells in the East Wanneroo area.

These Cell Works and Contribution Provisions are presented in the form of General Cell Works and Specified Cell Works.

2.0 GENERAL CELL WORKS

1. The carrying out by Council of any cadastral survey or resurvey in connection with any matter set out in the Scheme in connection with Cell Works.
2. The acquisition of land for any arterial road (and associated infrastructure) and a minimum of 10% of the gross area of the Urban Cells 1 to 6 for public open space or the public open space areas identified on the Agreed Structure Plan for the Industrial Cells 7 and 8.
3. Any compensation paid or payable for or in respect of the provision of any of the Cell Works or facilities referred to in this Schedule.
4. The provision of any road including land acquisition, earthworks, the formation, preparation, priming and sealing of the road and the provision of kerbing, drainage, service ducts, intersection lighting and costs associated with the relocation of existing services in connection with the road or in the road reserve, as referred to in this Schedule.
5. The provision of any easement or way, including but without limiting the generality of the foregoing any carriageway, cycleway or walkway as referred to in this Schedule.
6. Any environmental remediation or improvement including the removal of any contaminant and peat associated with Cell Works referred to in this Schedule.
7. Any consulting fees associated with designing and undertaking Cell Works.
8. All costs associated with the preparation, processing and gazettal of the Scheme Amendment Nos 773 and 816 introducing these provisions, the District Structure Plan for East Wanneroo and the Local Structure Plans for the eight Urban and Industrial Cells, including but not limited to any environmental assessment as required by the Department of Environmental Protection (DEP) and Environmental Protection Authority (EPA).
9. Interest on loans raised externally or provided by the Council or drawn from the various accounts from each Cell (in accordance with Clause 10.9) apportioned to Cell Works and any other cost incurred by Council with the preparation and administration of Part 10 of the Scheme.

10. Council administration costs including bank charges, audit fees, office and sundry costs, legal expenses, valuation fees, conveyancing fees, Council staff salaries and on costs and the costs of establishing a Geographic Information System facilitating the administration of the ongoing management of development of the East Wanneroo area along with the specific requirements of the Scheme pertaining thereto.

3.0 SPECIFIC CELL WORKS

For the purposes of understanding the extent of Cell Works proposed, the term 'structures' includes but is not limited to underpasses/overpasses, drainage sites associated with arterial roads, dual use paths, etc.

Cell 1

Pinjar Road (between Wanneroo Road and Caporn Street)

- * 50% of the total cost to acquire the ultimate road reserved land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Pinjar Road (between Caporn Street and Clarkson Avenue)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Reimbursement to the Council of a proportional contribution toward Joondalup Drive (between Wanneroo Road and western boundary of Pt Lot 8 Drivers Place).

Cell 2

Pinjar Road (between Wanneroo Road and Caporn Street)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Dundebar Road (between Wanneroo Road and Griffiths Road)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Caporn Street (between Pinjar Road and the eastern boundary of Cell 2)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Reimbursement to the Council of a proportional contribution toward Joondalup Drive (between Wanneroo Road and western boundary of Pt Lot 8 Drivers Place).

Cell 3

Dundebar Road (between Griffiths Road and Steven Street)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Cell 4

Elliot Road (abutting Cell 4)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Lenore Road (between northern end of Cell 4 and Ocean Reef Road)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Reimbursement to the Council of half the cost for the reserve and half the cost of construction of the full earthworks and one carriageway for the portion of Ocean Reef Road which abuts Cell 4 between Wanneroo Road and Lenore Road/Hartman Drive intersection.

Cell 5

Mirrabooka Avenue (abutting Cell 6 and Cell 8)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Mirrabooka Avenue (between Furniss Road and Gngangara Road)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriage and all structures.

Hepburn Avenue (between Mirrabooka Avenue and Rangeview Road)

- * 73% of the total cost to acquire the ultimate road reserve land;
- * 73% of the total cost of constructing the full earthworks, one carriageway and all structures.

Hepburn Avenue (between Rangeview Road and the eastern boundary of Cell 5)

- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Ocean Reef Road (between Mirrabooka Avenue and the eastern boundary of Cell 5)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Cell 6

Skeit Road (between Hepburn Avenue and Gngangara Road)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Hepburn Avenue (abutting the Kingsway Recreation Reserve)

- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Hepburn Avenue (between the eastern boundary of Kingsway Recreation Reserve and Mirrabooka Avenue)

- * 73% of the total cost to acquire the ultimate road reserve land;
- * 73% of the total cost of constructing the full earthworks, one carriageway and all structures.

Mirrabooka Avenue (between Hepburn Avenue and Furniss Road)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Gnangara Road (between Wanneroo Road and Hartman Drive/Skeit Road)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Cell 7

Hartman Drive (between Gnangara Road and Action Place)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Gnangara Road (between Wanneroo Road and Hartman Drive/Skeit Road)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Cell 8

Hartman Drive (between Gnangara Road and Action Place)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

Hartman Drive (between Action Place and Ocean Reef Road)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Gnangara Road (between Hartman Drive/Skeit Road and Mirrabooka Avenue)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Ocean Reef Road (between Hartman Drive/Lenore Road and Mirrabooka Avenue)

- * 100% of the total cost to acquire the ultimate road reserve land;
- * 100% of the total cost of constructing the full earthworks, one carriageway and all structures.

Mirrabooka Avenue (between Gnangara Road and Ocean Reef Road)

- * 50% of the total cost to acquire the ultimate road reserve land;
- * 50% of the total cost of constructing the full earthworks, one carriageway and all structures.

SCHEDULE 10 (PART 11 REFERS) CLARKSON/BUTLER DISTRICT DISTRIBUTOR ROAD INFRASTRUCTURE DEVELOPER CONTRIBUTION ARRANGEMENTS (CELLS 1 TO 4 INCLUSIVE) CELL WORKS AND CONTRIBUTION PROVISIONS

1 INTRODUCTION

For the purposes of administering the construction of District Distributor Roads and Pedestrian Crossings, Clarkson/Butler Planning District for Cells 1 to 4 as outlined in Part 11 of the Scheme and Map 1 set out in this Schedule, the following shall be classified as Cell Works which are to be contributed towards by Landowners in each of the four (4) Cells in the Clarkson/Butler District in accordance with the proportions shown in the table set out in this Schedule.

2 CELL WORKS

2.1 District Distributor Roads

- i) The construction of the complete earthworks both within the road reserves and where necessary, external to the road reserves, that are required for all future carriageways of the roads as well as public services, to the specification and satisfaction of the Council;
- ii) the construction of one carriageway of a width of two lanes with associated shoulder within the road reserves to the specifications and satisfaction of the Council;
- iii) construction of minimum pipe drainage at low points and a piped outfall to the drainage storage facility, intersections and road crossings to drain the road reserves of stormwater;
- iv) the construction of pathways designed for the dual purpose of the carriage of pedestrians and non-motorised cyclists along the total length of one side of each of the road reserves to the specifications and satisfaction of the Council;
- v) intersection channelisations;
- vi) the costs incurred for the survey design and supervision (including 1.5% fee, Local Government Act) of the implementation of the works described in paragraphs (i) to (v) hereof.

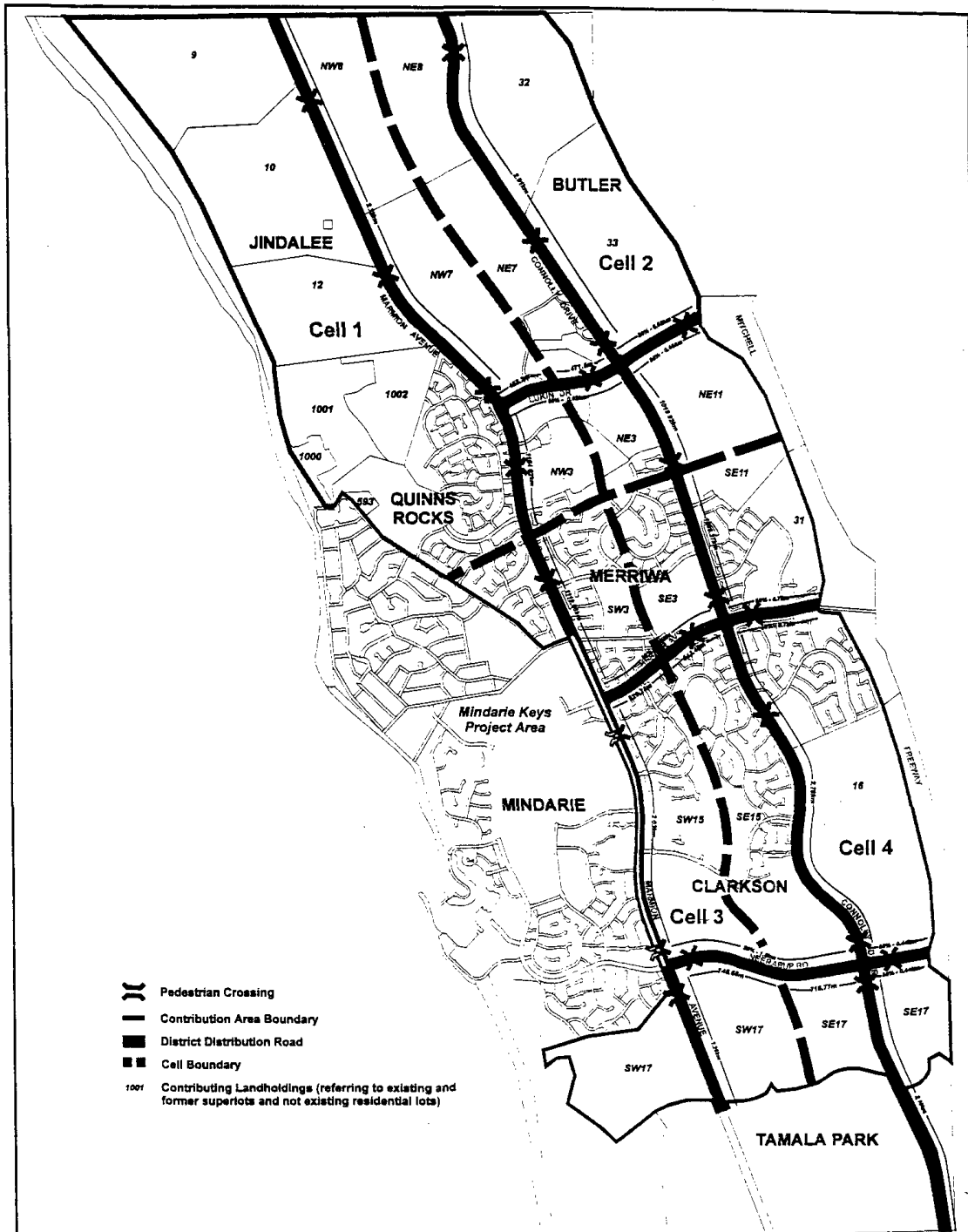
2.2 Pedestrian Crossings

- i) the construction of pedestrian crossing facilities (underpasses, overpasses, or if agreed by the local government and the Commission, a crossing at grade, traffic controlled as the case may be) shown at various locations within the Clarkson/Butler Planning District as detailed on Map 1 to the specifications and satisfaction of the Council. Such crossing facilities shall extend the full width of the road reserve to enable pedestrian access under/over the carriageway referred to in paragraph (ii) hereof as well as the second carriageway to be constructed by the Council in the future when it determines that carriageway is necessary as if the two carriageways were constructed to their ultimate design widths.

2.3 Other

- i) All costs associated with the preparation, processing and Gazettal of the Scheme Amendment introducing these provisions.
- ii) Interest on loans raised externally or provided by the Council or drawn from the various accounts from each Cell (in accordance with Part 11) apportioned to Cell Works and any other cost incurred by Council with the preparation and administration of Part 11 of the Scheme.

MAP 1 (SCHEDULE 10)



SCHEDULE 10									
Lot (or portions of - see Map 1)		Area	%	District	Distributor	Roads	Pedestrian Crossings		
				Km's	Funded	Balance	P.Crossings	Funded	Balance
Cell 1	3 (NW)	44.7201	6.3%	0.31	0.26	0.05	0.25	0.00	0.25
	905	10.1717	1.4%	0.07	0.00	0.07	0.06	0.00	0.06
	7(NW)	77.2048	11.0%	0.54	0.00	0.54	0.44	0.00	0.44
	8(NW)	69.3996	9.8%	0.49	0.00	0.49	0.39	0.00	0.39
	9	104.6549	14.8%	0.73	0.00	0.73	0.59	0.00	0.59
	10	112.2947	15.9%	0.79	0.00	0.79	0.64	0.00	0.64
	12	77.5797	11.0%	0.54	0.00	0.54	0.44	0.00	0.44
	1000	7.8643	1.1%	0.06	0.00	0.06	0.04	0.00	0.04
	1001	43.5038	6.2%	0.30	0.00	0.30	0.25	0.00	0.25
	1002	34.1598	4.8%	0.24	0.00	0.24	0.19	0.00	0.19
	2	60.3032	8.6%	0.42	0.66	-0.24	0.34	0.00	0.34
	593	2.4789	0.4%	0.02	0.00	0.02	0.01	0.00	0.01
	1	60.5478	8.6%	0.42	0.00	0.42	0.34	0.00	0.34
	Total	704.8833	100.0%	4.93	0.92	4.01	4.00	0.00	4.00
Cell 2	3(NE)	45.1883	9.4%	0.48	0.00	0.48	0.56	0.00	0.56
	8(NE)	59.5474	12.4%	0.63	0.00	0.63	0.74	0.00	0.74
	7(NE)	82.3923	17.2%	0.87	0.00	0.87	1.03	0.00	1.03
	11(NE)	76.6275	16.0%	0.81	0.00	0.81	0.96	0.00	0.96
	33	114.1992	23.8%	1.21	0.00	1.21	1.43	0.00	1.43
	32(NE)	98.3015	20.5%	1.04	0.00	1.04	1.23	0.00	1.23
	905	4.0017	0.8%	0.04	0.00	0.04	0.05	0.00	0.05
	Total	480.2579	100.0%	5.08	0.00	5.08	6.00	0.00	6.00
Cell 3	3(SW) & 31	81.6082	25.5%	1.13	0.65	0.36	1.02	0.00	0.82
	15(SW)	111.9903	35.1%	1.55	1.27	0.11	1.40	0.50	0.62
	17(SW)	125.85	39.4%	1.74	1.26	0.30	1.58	0.50	0.76
	*Homeswest	n/a	n/a	n/a	0.47	n/a	n/a	0.80	n/a
	Total	319.4485	100.0%	4.42	3.65	0.77	4.0	1.8	2.20
Cell 4	3(SE)	50.6422	9.0%	0.75	0.50	0.25	0.63	0.00	0.63
	11(SE)	19.8502	3.5%	0.29	0.00	0.29	0.25	0.00	0.25
	31	61.4767	10.9%	0.91	1.39	-0.48	0.77	0.50	0.27
	32(SE)	68.8959	12.3%	1.02	0.39	0.63	0.86	0.00	0.86
	16	120.3225	21.4%	1.77	0.00	1.77	1.50	0.00	1.50
	15(SE)	137.7752	24.5%	2.03	0.65	1.38	1.72	0.00	1.72
	17(SE)	102.55	18.3%	1.51	0.00	1.51	1.28	0.00	1.28
	Total	561.5127	100.0%	8.28	2.94	5.34	7.00	0.50	6.50
Total		2066.1024		22.71	7.50	15.21	21.00	2.30	18.70

* Homeswest have previously undertaken District Distributor Road Infrastructure Works in Cell 3 and require compensation from landowners in Cell 3 on a proportional area basis. The balance of works shown for Cell 3 reflect only the outstanding works required (and assume Homeswest will be compensated).

SCHEDULE 11 (CLAUSE 4.21)—RESTRICTIVE COVENANTS

1 Land burdened by the Restrictive Covenant	2 Description of the Covenant	3 Extinguishment or Variation of the Covenant	4 Description of Land benefited by the covenant

SCHEDULE 12 (CLAUSE 4.22)—ENVIRONMENTAL CONDITIONS**1. LOCATION OF LAND:**

Lots 201 & 202 Breakwater Drive, Two Rocks (Rural Community Zone No 1)

Environmental Conditions:

1.1 Environmental Management Plans

1.1.1 The following Environmental Management Plans shall be prepared in accordance with the specifications set out in Attachment 1 of the Minister for the Environment's "Statement that a Scheme may be implemented" No. 537 published on 15 February 2000:

- Drainage, Nutrient and Water Management Plan
- Karst Landform Management Plan

1.1.2 The Environmental Management Plans referred to in Condition 1.1.1 shall be prepared and implemented in accordance with the provisions of the Plans, to the requirements of the Responsible Authority.

1.2 Vegetation and Fauna Management

1.2.1 Regionally significant vegetation ('Bush Forever' sites) which surrounds the amendment area (as shown in Figure 1 of the Minister's Statement) shall be protected from indirect and direct impacts associated with the development of the amendment area by the following:

- Clear delineation of regionally significant areas of vegetation from the amendment area through the use of dual use paths, public open space areas and the like.
- Control of off-road vehicle use and dumping of rubbish.
- Fire management.
- Promotion of community awareness of bushland protection.

1.3 Aboriginal Heritage Management

1.3.1 The subdivider shall protect on a lot or public open space area not less than 3 hectares, the identified heritage site and the area immediately surrounding the site shall be fenced and sign posted, as appropriate. The entrance to the cave (which is part of the Aboriginal site) shall be gated in as sensitive a manner as possible. The Responsible Authority shall also ensure that management of the cave is undertaken to ensure public safety and to protect the biodiversity and cultural values of the cave and surrounding 3 hectares.

1.3.2 Prior to commencement of site works, contractors shall undergo a briefing on Aboriginal Heritage issues to enable them to recognise materials that may constitute an Aboriginal Site. During earthworks, all contractors shall be supervised by a Site Manager, who shall seek advice from the Aboriginal Affairs Department to confirm the identification of any suspected site.

2. LOCATION OF LAND:

Lots 207, 206, 220, 320, 321, 204, 101, 303, 304, 302, 16, 102, 301, Part 103, 200, 221, 209, 8, 322, 310, 311, 312, 309, 315, 208, 205, 200, 201, Location 11353 and Reserve 11932

Yanchep-Two Rocks District

Environmental Conditions:

2.1 Environmental Management Plans

2.1.1 The following Environmental Management Plans shall be prepared in accordance with the specifications set out in Attachment 1 of the Minister for the Environment's "Statement that a Scheme may be implemented" No. 538 published on 15 February 2000:

- Stygofauna and/or Troglobitic Fauna Management Plan
- Drainage, Nutrient and Water Management Plan
- Karst Management Strategy
- Solid and Liquid Waste Management Plan
- Aboriginal Culture and Heritage Management Plan

2.1.2 The Environmental Management Plans referred to in Condition 2.1.1 shall be prepared and implemented in accordance with the provisions of the Plans, to the requirements of the Responsible Authority.

2.2 Vegetation and Fauna Management

2.2.1 Regionally significant vegetation (Bush Forever sites) which surrounds the amendment area (as shown in Figure 1 of the Minister's Statement) shall be protected from indirect and direct impacts associated with the development of the amendment area by the following:

- Clear delineation of regionally significant areas of vegetation from the amendment area through the use of dual use paths, public open space areas and the like
- Control of off-road vehicle use and dumping of rubbish.
- Fire management.
- Promotion of community awareness of bushland protection.

2.3 Stygofauna and Troglobitic Fauna Management

2.3.1 If studies in relation to karst and hydrology (see 2.4.1) indicate the likelihood of significant stygofauna and/or troglobitic fauna assemblages being present in or immediately adjacent to the amendment area, the landowner (with assistance from relevant scientific experts) shall undertake a survey (at the Local Structure Planning Stage) to assess the nature and extent of any population/s.

The survey shall be completed prior to finalisation of the Local Structure Plan and to the requirements of the Responsible Authority on advice from the Department of Conservation and Land Management and the University of Western Australia (Department of Zoology).

2.4 Assessment of Karst Landform

2.4.1 At the District and Local Structure Planning Stage, the landowner shall review existing geotechnical information and undertake further site investigations to confirm the nature and extent of karst landform within the amendment area.

This review shall be completed prior to finalisation of the District and Local Structure Plan and to the requirements of the Responsible Authority on advice from the Department of Environmental Protection.

2.5 Solid and Liquid Waste Management

2.5.1 The landowner shall ensure that lots within the industrial zone are connected to the deep sewerage system for the disposal of appropriate liquid wastes as approved by the relevant Government Agency/ies.

2.6 Environmental Reporting

2.6.1 The Responsible Authority shall provide a report to the Environmental Protection Authority every five years, or at the time of the review of the existing town planning scheme (whichever is the earlier), as per Section 48H of the Environmental Protection Act.

SCHEDULE 13 (CLAUSE 3.18)—SPECIAL RURAL PROVISIONS

No.	Description of Locality	Special Provisions
1	Swan Location 1757 and 618 Flynn Drive and Wanneroo Road, Wanneroo	1) The minimum lot size shall be not less than 2ha. The maximum number of Special Rural lots to be created in the Amendment area shall be 154. Subdivision shall generally be in accordance with the Development Guide Plan. 2) The land the subject of this zone may be used for residential, equestrian, horticultural and/or agricultural purposes only. Notwithstanding this, the use of lots of less than 4 ha in area for commercial purposes is prohibited. 3) The existing vegetation on lots which are to be used for approved equestrian, horticultural and/or agricultural purposes may be cleared to the extent approved for those purposes. 4) The keeping of livestock and poultry for commercial purposes is prohibited.
2	Pt Swan Location 1942 and Pt 1669 and Lot 16 Swan Location 1791 Trichet Road, Wanneroo.	1) The minimum lot size shall be not less than 1.0 hectare and the average lot size shall be not less than 1.85ha and subdivision shall be carried out in accordance with the "Development Guide Map". 2) The land east of Franklin Road/Lenore Road may be used for equestrian, residential and/or horticultural purposes only. 3) Subject to the provisions of Special Provision No 4 the land west of Franklin Road/Lenore Road may be used for rural/residential purposes. 4) The keeping of livestock (with the exception of horses) and poultry for commercial purposes is prohibited. 5) The existing vegetation on lots which are to be used for approved equestrian or horticultural purposes may be cleared to the extent approved for those purposes.
3	Swan Location 1805 corner Franklin and Caporn Roads, Wanneroo	1) The minimum lot size shall be not less than 1.0 hectare and the average lot size not less than 1.5ha and subdivision shall generally be in accordance with the "Development Guide Map". 2) The land the subject of this Zone may be used for residential and/or horticultural purposes only. 3) The existing vegetation on lots which are to be used for horticultural purposes may be cleared to the extent approved for that purpose. 4) The keeping of livestock and poultry for commercial purposes is prohibited.
4	Swan Location 1948 and 1540 Corner Pinjar Road and Neaves Road, Wanneroo.	1) The minimum lot size shall be 1.0 hectare with the average lot size being not less than 1.5ha and all subdivision shall be carried out in accordance with the "Development Guide Map". 2) The land the subject of this Zone may be used for equestrian, residential and/or horticultural purposes only. 3) The existing vegetation on lots which are to be used for approved equestrian or horticultural purposes may be cleared to the extent approved for those purposes.

No.	Description of Locality	Special Provisions
5 <small>(formerly SRZ No. 7 under TPS1)</small>	Lot Numbers 3, 4, 5 Sydney Road, Swan Location 2488 Part Swan Location 887 Sydney Road, Perth Shire Location 104 (C/T 1048 Sydney Road; Lots 18 and 19 Lorian Road, Swan Location 1882; Part Swan Location 1494 Lorian Road and Lot 20 Knight Street, Swan Location 1882 (A113 and 287).	<p>4) The keeping of livestock (with the exception of horses) and poultry for commercial purposes is prohibited.</p> <p>5) All fencing must be carried out to the satisfaction of the Local Authority.</p> <p>1) The minimum lot size shall be not less than 1.0 hectare and subdivision shall generally be in accordance with the "Development Guide Plan adopted 23 September 1987".</p> <p>2) The land the subject of this Zone may be used for equestrian, residential and/or horticultural purposes only.</p> <p>3) The existing vegetation on lots which are to be used for approved equestrian or horticultural purposes may be cleared to the extent approved for those purposes.</p> <p>4) The keeping of livestock (with the exception of horses) and poultry for commercial purposes is prohibited.</p> <p>5) Each lot is to have included within it an area of at least 1000m² which for the land west of Sydney Road, lies above the 47 metre (AHD) contour; for the land east of Sydney Road, lies above the 48 metre (AHD) contour; all residential development must be undertaken above that level.</p> <p>6) No Road surface is to be constructed below the 46.75 metre (AHD) contour.</p>
6 <small>(formerly SRZ No. 12 under TPS1)</small>	Part Swan Location 1942 and Part 1669 and Lot 16 Swan Location 1791 Trichet Road, Wanneroo.	<p>1) The minimum lot size shall be not less than 1.0 hectare and the average lot size shall be not less than 1.85ha and subdivision shall be carried out in accordance with the "Development Guide Map".</p> <p>2) The land the subject of this Zone may be used for residential, equestrian and/or horticultural purposes only</p> <p>3) The existing vegetation on lots which are to be used for approved equestrian or horticultural purposes may be cleared to the extent approved for those purposes.</p> <p>4) The keeping of livestock (with the exception of horses) and poultry for commercial purposes is prohibited.</p>
7 <small>(formerly SRZ No. 13 under TPS1)</small>	Swan Locations 672, 774, 1687, 1688, 2385, 2384, 2451 and Pt Swan Location 740.	<p>1) The minimum lot size shall be 1.0 hectare and all subdivision shall be carried out in accordance with the Development Guide Map.</p> <p>2) The land the subject of this Zone may be used for residential and equestrian purposes only.</p> <p>3) The existing vegetation on lots which are to be used for approved equestrian purposes may be cleared to the extent approved for that purpose.</p> <p>4) The keeping of livestock and poultry for commercial purposes is prohibited.</p>
8 <small>(formerly SRZ No. 15 under TPS1)</small>	Lots 1584, 1866, 2311 and 2314 Neaves Road, Mariginiup.	<p>1) The minimum lot size shall not be less than 2.0 hectares and the subdivisions and development shall be carried out in accordance with the "Development Guide Map".</p> <p>2) As parts of the land are subject to periodic inundation, no dwelling shall be constructed unless it is on at least a 1000m² portion of the lot, located behind the building setback, which will result in:</p> <p>(i) the finished floor level of dwellings being:</p> <ol style="list-style-type: none"> within areas determined by the City of Wanneroo to be subject to periodic inundation—a minimum of thirteen hundred (1300) millimetres above the Reduced Level to which flooding may occur (as determined from time to time by the City of Wanneroo); within areas determined by the City of Wanneroo to not be subject to periodic inundation—a minimum of four hundred (400) millimetres above natural ground level; <p>(ii) the underside of effluent disposal chambers of conventional effluent disposal systems servicing dwellings being a minimum of two (2) metres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency;</p>

No.	Description of Locality	Special Provisions
9	Portions of Swan Locations 1811, 1826, Lot 1 Swan (formerly Location 1827 and Lot 13 SRZ No. Swan Location 1676 18 under Badgerup Road, Gnangara. TPS1)	<p>(iii) the underside effluent disposal chambers or effluent disposal pads of modified, nutrient attenuating on-site sewage disposal systems servicing dwellings being a minimum of five hundred (500) millimetres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency;</p> <p>(iv) the effluent disposal chambers of conventional on-site sewage disposal systems servicing dwellings being a minimum horizontal distance of one hundred (100) metres from areas determined from time to time by the City of Wanneroo to be subject to periodic inundation;</p> <p>(v) the effluent disposal chambers or effluent disposal pads of modified, nutrient attenuating on-site sewage disposal systems servicing dwellings being a minimum horizontal distance of fifty (50) metres from areas determined from time to time by the City of Wanneroo to be subject to periodic inundation.</p> <p>3) The land the subject of this Zone may be used for residential and equestrian purposes only.</p> <p>4) The existing vegetation on lots which are to be used for approved equestrian purposes may be cleared to the extent approved for that purpose.</p> <p>5) The keeping of livestock (with the exception of horses) and/or poultry for commercial purposes is prohibited.</p>
10	Portion Swan Location 934 and Swan Locations 2383, 2483 and 2829 Badgerup Road, Wanneroo. (formerly SRZ No. 19 under TPS1)	<p>1) The minimum lot size shall be not less than 1ha and subdivision shall generally be in accordance with the "Development Guide Plan".</p> <p>2) The land the subject of this Zone may be used for residential, equestrian and/or non-commercial horticultural purposes only.</p> <p>3) The keeping of livestock and poultry for commercial purposes is prohibited.</p> <p>4) Council may permit an area of not more than 2000 m², in a central location on each lot, to be cleared for the establishment of a residence and a non-commercial garden/produce/pasture area, this cleared area shall be no closer than 15 metres to any side boundary.</p> <p>5) Development of this Zone shall have regard to protection of landscape qualities including topography and vegetation cover, as well as replanting where appropriate, in order to minimise the potential for soil erosion.</p> <p>1) The minimum lot size shall be 1ha and all subdivision shall be carried out in accordance with the "Development Guide Plan".</p> <p>2) The land the subject of this Zone may be used for rural/residential purposes and ancillary uses</p> <p>3) The keeping of livestock for commercial purposes is prohibited. Livestock shall be precluded from the transition zone shown on the Development Guide Plan by means of a stock-proof fence.</p> <p>4) No more than one horse shall be permitted on any lot.</p> <p>5) A cleared building envelope measuring no greater than 2000 m² and sited outside the transition zone will be permitted on each lot in a position to be endorsed by the Council. The clearing of trees and native vegetation outside of the building envelope is prohibited other than for fences, fire breaks, access and servicing.</p> <p>6) Ancillary land uses may be permitted on the condition that they do not generate further significant nutrient application, or involve the clearing of land (other than for building envelopes, fences, firebreaks, access and servicing).</p> <p>7) An on-site stormwater drainage system shall be constructed which is capable of retaining for three to four days a one-in-ten year flood event, and this system is to be designed in accordance with Council specifications.</p> <p>8) Septic systems are to be located at least 100m from Lake Badgerup with a minimum of 2m vertical separation between the base of the leach drains or soakwell and the highest known groundwater level or bedrock. Where separation cannot be</p>

No.	Description of Locality	Special Provisions
11	Swan Location 1739 Neaves Road, Mariginiup. <small>(formerly SRZ No. 20 under TPS1)</small>	<p>achieved other Health Department of Western Australia approved domestic waste water treatment system with adequate phosphorus retention capacity may be installed provided that the base of the system or modified irrigation area are above the highest known water table or are installed to the satisfaction of the Health Department.</p> <ol style="list-style-type: none"> 1) The minimum lot size shall not be less than 2.0 hectares and the subdivisions and development shall be carried out in accordance with the "Development Guide Map". 2) The land the subject of this Zone may be used for residential equestrian purposes only. 3) The keeping of livestock and/or poultry for commercial purposes is prohibited. 4) A building envelope no greater than 10 per cent of the lot size is to be endorsed by the Council for each lot. 5) Lots shall not be cleared of vegetation (new or existing remnant) outside of the endorsed building envelopes. Fertiliser application is to be restricted to the building envelope. 6) No reticulated water can be provided by the Water Corporation. 7) As part of the land is subject to periodic flooding, no dwelling shall be constructed unless it is on a portion of the lot at least 1000m² in area located behind the building setback, which will result in the dwelling and on-site effluent disposal system being located such that there is a two metre vertical separation between the base of the leach drain and the highest recorded groundwater level or bedrock, and at least a 100 metre horizontal separation between the disposal system and the nearest water body. <p>Alternative disposal systems can be considered if approved by the Council subject to advice from the Environmental Protection Authority and an appropriate amendment to these provisions.</p>
12	Pt Lot 22 Swan Locations 1794 and 2731 Badgerup Road, Wanneroo. <small>(formerly SRZ No. 21 under TPS1)</small>	<ol style="list-style-type: none"> 1) The minimum lot size shall be 1 hectare and all subdivision shall be carried out in accordance with the "Development Guide Plan". 2) The land the subject of this Zone may be used for residential, equestrian and/or non-commercial horticultural purposes only. 3) The keeping of livestock and poultry for commercial purposes is prohibited. 4) Council may permit the clearing of 2000 m² in a central location on a lot for the establishment of a non-commercial private product/pasture area. This cleared area shall be no closer than 10m to a side boundary. 5) All effluent disposal systems are to be located above the 47.5m AHD contour.
13	Lots 5, 7, 53 and Portion Location 3144 Adams Road, Mariginiup <small>(formerly SRZ No. 24 under TPS1)</small>	<ol style="list-style-type: none"> 1) The minimum lot size should be 1.0 hectare and subdivision should generally be in accordance with the Development Guide Plan. 2) The land the subject of this Zone may be used for residential purposes only. 3) The keeping of livestock is prohibited 4) The keeping of poultry for commercial purposes is prohibited. 5) No dwelling shall be approved by the Council unless it is connected to an alternative domestic wastewater treatment system as approved by the Health Department of Western Australia with an adequate phosphorus retention capacity, as determined by the Department of Environmental Protection and with the base of the system or the modified irrigation area being 0.5 metres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency. 6) No dwelling shall be constructed unless it has a vertical separation of at least 1.5 metres between the top of the building pad and the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency or is constructed at the minimum level indicated on the Development Guide Plan.

No. Description of Locality	Special Provisions
<p>14 Part Swan Location 887 Sydney Road, Gnangara</p> <p>(formerly SRZ No. 25 under TPS1)</p>	<p>7) All lots 2 hectares or below being provided with a reticulated water supply.</p> <p>8) All dwellings and buildings should be aesthetically compatible with the site in terms of height and construction.</p> <p>9) The subdivider shall plant indigenous trees and shrubs of a species and at a density and distribution to the satisfaction of the Council prior to the transfer of lot(s) to a new owner.</p> <p>10) The subdivider shall maintain the trees and shrubs planted until the land is sold, or shall plant sufficient numbers of trees and shrubs to allow for natural loss. Thereafter, the owners of the subdivided lots shall be responsible for the maintenance and replacement (if and where necessary) of those trees and shrubs planted by the subdivider to the satisfaction of the Council.</p> <p>1) The minimum lot size shall not be less than 1.0 hectare and subdivision shall generally be in accordance with the Development Guide Plan.</p> <p>2) The land the subject of this Zone may be used for rural residential living purposes only.</p> <p>3) The keeping of livestock is prohibited.</p> <p>4) A cleared building envelope area measuring at least 1000m² and sited above 48 metres (AHD) will be permitted on each lot in a position to be endorsed by the Council generally as depicted on the Development Guide Plan. The clearing of trees and native vegetation outside of this designated building envelope area is prohibited.</p> <p>5) Ancillary land uses may be permitted but only within the designated building envelope area and on the condition that they do not generate further significant nutrient application, or involve the clearing (other than for building envelopes, fences, firebreaks, access and servicing).</p> <p>6) An adequate buffer of native vegetation shall be provided in the form of a public open space reservation along land which abuts Lake Gnangara. The size and configuration of the public open space reservation shall be as shown on the Development Guide Plan.</p> <p>7) Septic systems are to be located at least 100m from Lake Gnangara with a minimum of 2m vertical separation between the base of the leach drains or soakwell and the highest known groundwater level or bedrock. As an alternative, other Health Department of Western Australia approved domestic wastewater treatment systems with adequate phosphorus retention capacity may be installed provided that the base of the system or modified irrigation area are above the highest known water table or are installed to the satisfaction of the Environmental Protection Authority.</p> <p>8) Where native vegetation is absent or degraded within the public open space reservation, the developer of the estate shall rehabilitate the area with appropriate indigenous trees and shrubs as required.</p> <p>9) Where other cleared areas of native vegetation exist, these shall be rehabilitated with indigenous species.</p> <p>10) An on-site stormwater drainage system shall be constructed by the developer of the estate which is capable of retaining for three to four days a one-in-ten year flood event, and this system is to be designed in accordance with Council specifications.</p>
<p>15 Pt Location 883 Gnangara Road, Gnangara.</p> <p>(formerly SRZ No. 26 under TPS1)</p>	<p>1) The minimum lot size should not be less than 1.0 hectares whereby subdivision should generally be in accordance with the Development Guide Plan.</p> <p>2) The land the subject of this Zone may be used for rural/residential living purposes only.</p> <p>3) The keeping of livestock is prohibited.</p> <p>4) A cleared building envelope area measuring not more than 1000m² and sited above 48 metres (AHD) will be permitted on each lot in a position to be endorsed by the Council generally as depicted on the Development Guide Plan. The clearing of trees and native vegetation outside of this designated building envelope area is prohibited.</p>

No. Description of Locality**Special Provisions**

5) Ancillary land uses may be permitted but only within the designated building envelope area and on the condition that they do not generate further significant nutrient application, pose an increased risk to groundwater quality, or involve the clearing of land (other than for building envelopes, fences, firebreaks, access and servicing). Ancillary land uses shall be in accordance with the Water and Rivers Commission's guidelines for 'Acceptability of Land Uses within Public Drinking Water Source Areas'.

6) An adequate buffer of native vegetation shall be provided in the form of a public open space reserve along land which abuts Lake Gngangara. The size and configuration of the public open space reservation shall be as shown on the Development Guide Plan.

7) Septic systems shall be situated within the designated building envelope area and in the case of Lot 4, shall be situated only in the portion of the building envelope outside the groundwater capture zone as noted on the Development Guide Plan. Septic systems are to be located at least 100m from Lake Gngangara with a minimum of 2m vertical separation between the base of the leach drains or soakwell and the highest predicted groundwater level or bedrock. As an alternative, other Health Department of Western Australia approved domestic wastewater treatment systems with adequate phosphorus retention capacity may be installed provided that the base of the system or modified irrigation area are above the highest predicted water table or are installed to the satisfaction of the Environmental Protection Authority

8) Where native vegetation is absent or degraded within the public open space reservation, the developer of the estate shall rehabilitate the area with appropriate indigenous trees and shrubs as required.

9) Where other areas cleared of native vegetation exist, these shall be rehabilitated with indigenous species.

10) An on-site stormwater drainage system shall be constructed by the developer of the estate which is capable of retaining for three to four days a one-in-ten year flood event, and this system is to be designed in accordance with Council specifications.

11) Each lot shall be serviced by a reticulated water supply.

16 Lot 21 Badgerup Road,
Gngangara

(formerly
SRZ No.
27 under
TPS1)

1) The minimum lot size shall be 1.0 hectare and all subdivision shall be carried out in accordance with the Development Guide Map.

2) The land the subject of this Zone may be used for residential purposes only.

3) The keeping of livestock and poultry for commercial purposes is prohibited.

4) A cleared building envelope will be permitted on each lot in a position to be endorsed by the Council. All building envelopes are to be located below 65m AHD.

5) All lots are to be serviced with a reticulated water supply.

6) Ownership of horses on each lot is restricted to a maximum of 2.

17 Lots 24, 25, 26, 27 and 28
Badgerup Road, Gngangara

(formerly
SRZ No.
28 under
TPS1)

1) The minimum lot size should be not less than one hectare and subdivision should generally be in accordance with the "Development Guide Plan".

2) The land the subject of this zone may be used for residential and equestrian purposes only. Ancillary land uses may be permitted on the condition that they do not generate further significant nutrient application, or involve the clearing of land (other than for building envelopes, fences, fire breaks, access and servicing).

3) The keeping of livestock for commercial purposes is prohibited.

4) No more than one horse shall be permitted on any lot.

5) A cleared building envelope measuring no greater than 1,200 m² will be permitted on each lot as shown on the Development Guide Plan. The clearing of trees and native vegetation outside of the building envelope is prohibited other than for fences, fire breaks, access and servicing. The position of the building envelope shown on each lot may be varied subject to Council approval.

No.	Description of Locality	Special Provisions
		<p>6) Where re-vegetation is indicated on the Development Guide Plan, the subdivider of the estate shall re-vegetate the area in accordance with the recommendations contained in Appendix D1 of the 'Special Rural Rezoning Proposal Report for Lots 24, 25, 26, 27 and 28 Badgerup Road, Gnangara' prepared by Greg Rowe and Associates and dated November 1996 and such re-vegetation shall be undertaken by the subdivider prior to any lots being created.</p> <p>7) The subdivider shall provide a reticulated water supply to all proposed lots within this zone.</p> <p>8) The 2.5 metre widening of Badgerup Road shown on the Development Guide Plan shall be ceded free of cost to the Crown at the time of subdivision of the land within this zone.</p> <p>9) Prior to the final approval of a plan or diagram of survey, the subdivider shall undertake to the satisfaction of the Department of Environmental Protection a site investigation of building envelopes shown on the Development Guide Plan which have previously been used for market gardening purposes to determine the presence or otherwise of contamination through past use of fertiliser, pesticides, or herbicides.</p> <p>Should such contamination be determined as present, the subdivider shall undertake such actions as deemed necessary by the Department of Environmental Protection to achieve an acceptable building envelope.</p> <p>10) Proposed Lot Nos 19 and 20 shown on the Development Guide Plan are to be the subject of Service Agreements between the owners of those lots and the Water Corporation, ensuring that the owners of those lots are aware that these lots will not receive a normal standard of water supply from the Water Corporation's reticulated supply due to the height of these lots, and the difficulty this presents for normal gravity supply.</p> <p>11) On-site effluent disposal system requirements:</p> <ol style="list-style-type: none"> the underside of effluent disposal chambers of conventional effluent disposal systems servicing dwellings shall be a minimum of two (2) metres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency; the underside of effluent disposal chambers or effluent disposal pads of modified nutrient attenuating on-site sewage disposal systems servicing dwellings shall be a minimum of five hundred (500) millimetres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency; the effluent disposal chambers of conventional on-site sewage disposal systems servicing dwellings shall be a minimum horizontal distance of one hundred (100) metres from areas determined from time to time by the City of Wanneroo to be subject to periodic inundation; the effluent disposal chambers or effluent disposal pads of modified, nutrient attenuating on-site sewage disposal systems servicing dwellings shall be a minimum horizontal distance of fifty (50) metres from areas determined from time to time by the City of Wanneroo to be subject to periodic inundation.
18	<p>Description of Locality Lot 50 and Loc 3288 Bailey Road, Carabooda</p> <p>(formerly SRZ No. 29 under TPS1)</p>	<p>1. Special Provisions which Mainly Affect the Subdivision.</p> <p>Subdivision and development shall generally be in accordance with the Development Guide Plan dated 17 August 1999 on the understanding that the alignment of Alkimos Drive and the final configuration of the "Kiln settlement lot" and the public open space in the north west corner will be resolved during the subdivision approval process, however, such departure from the Development Guide Plan shall be made so as to comply with the requirements arising from the following:</p> <ol style="list-style-type: none"> the Caves and Other Karstic Features Management Plan to be prepared pursuant to Special Provision 4; the survey of significant trees to be prepared pursuant to Special Provision 5.

No. Description of Locality**Special Provisions**

A modified Development Guide Plan shall be prepared which incorporates the resolution of the various matters requiring such resolution referred to in this Special Provision, and compliance with a) and b) above, and such plan, upon approval by the Council and the Western Australian Planning Commission, shall be regarded as the Modified Development Guide Plan.

2. Building Envelopes:

- a) In the interest of landscape preservation, indicative building envelopes (to a maximum size of 2000 m²) shall be shown on the lots in the Modified Development Guide Plan.
- b) Prior to the final approval of a plan or diagram of subdivision, the subdivider shall produce certificates from a registered engineer that the area within the indicative building envelope is geologically suitable for the construction of a dwelling house.

3. Bushfire Management:

Prior to the issue of clearances for diagrams of surveys, Council shall require the subdivider to prepare a Bush Fire Management Plan to the satisfaction of the Council and the Bush Fires Board. Such a plan will be used as the basis for ongoing bush fire management over the property.

4. Prior to subdivision of the land for rural-residential purposes, the subdivider shall prepare to the satisfaction of the Council, a Caves and Other Karstic Features Management Plan on which the Council will seek and have regard to advice from relevant State Government agencies, such plan to address the following matters:

- a) the identification and protection of caves and other karstic features on the subject land;
- b) the stability of all lands proposed for development including buildings, roads and driveways;
- c) the location of bores and on-site effluent disposal systems so as to avoid any detrimental impact on the water balance and water quality affecting caves;
- d) control of access, particularly by children, and including access to caves on Reserve 24637;
- e) inclusion of advisory records on the title of proposed lots affected by caves.

5. Prior to subdivision of the land for rural-residential purposes, the subdivider shall undertake a survey to the satisfaction of the Council, of significant trees worthy of protection.

6. The subdivider shall make arrangements satisfactory to the Water and Rivers Commission to ensure that the prospective purchasers in the initial transfer of lots acknowledge in writing that they are aware that the lots are located within the Wanneroo Groundwater Area where there is a need to obtain a licence before a well/bore can be constructed. The licence will contain a number of conditions including the quantity of water that can be pumped each year.

7. The land subject of this zone shall only be used for residential and controlled non-commercial keeping of livestock. In reference to the portion of the subject land shown bounded by the stippled boundary on the Modified Development Guide Plan, land use permissibility for this land shall be determined in accordance with the 'Rural Resource Zone'.

8. Building Envelopes:

Buildings shall not be constructed outside of the geologically verified envelopes except where approved by Council.

9. Dwellings of more than a single-storey shall not be permitted on those lots shown with an asterisk (*) on the Modified Development Guide Plan, unless otherwise approved by Council.

10. The following guidelines for building shall apply (these guidelines being of an advisory rather than a mandatory nature):

a) Guidelines for Colour

- i) The following colours are suitable for blending into the environment:

Cinnamon, rusts, brown, fawn, buff colours, greys, black, blood red to darker red, greens from yellow-green to dark

No.	Description of Locality	Special Provisions
		<p>green, blue-greens, all shades of blue from sky blue to darker, all purples from lavender to darker.</p> <p>ii) The following colours would be obtrusive for this area:</p> <p>White and cream, all shades of yellow and orange, pinks and bright reds, pale blues and mauves, silver, gold and pale greys.</p> <p>b) Guidelines for materials</p> <p>i) The following materials are suitable for blending into the environment:</p> <p>Brick, mud brick and timber</p> <p>ii) The following materials would be obtrusive for this area:</p> <p>galvanised iron, pale colour-bond materials, glass or plastic roof panels and white stucco.</p>
		<p>11. Except with the approval of the Council, no fencing outside of the building envelope shall be constructed within the land the subject of this zone.</p>
		<p>12. With the intention of preventing over-stocking or other practices detrimental to the amenity of the zone, the breeding or keeping of animals, other than domestic pets, shall not be permitted without the approval in writing of Council. If approved, the keeping or breeding of animals shall be restricted, by the erection of fencing, to the fixed building envelope area. Trees within the building envelope shall also be fenced to protect them from damage by livestock. In considering any applications for breeding or keeping of stock, Council will be guided by advice from the Department of Agriculture. Notwithstanding the above, in cases where stocking approval has been given but where environmental problems develop, Council may, after consultation with the Department of Agriculture, take appropriate action to ban or reduce the stocking of animals. Individual land owners shall be responsible for organising and meeting all costs associated with obtaining advice from the Department of Agriculture where the keeping of any stock is proposed.</p>
		<p>13. No vegetation on any part of the proposed lots may be cleared for any purpose other than the construction of buildings, drive-ways, strategic fire breaks, selective clearing of lower fuel areas around buildings and for road construction associated with the subdivision development of the property. The land is to be managed in such a manner to avoid the land being laid bare of vegetation resulting in loose, wind erodible conditions. All improvements within building envelopes shall be sited and located such that the removal of vegetation within the building envelope is minimised. The Council may also, at its discretion, vary the position of any required fire break or building envelope to avoid destruction of vegetation or other ways to take account of the physical features of the land, subject to the land owner concerned providing a certificate from a registered engineer that the area within the proposed new building envelope is geologically suitable for construction of a dwelling house.</p>
		<p>14. Outside of an approved building envelope, only endemic vegetation may be planted. (Endemic vegetation in this case being vegetation of the Cottesloe North Complex).</p>
		<p>15. Bushfire Management:</p> <p>a) Individual land owners shall be responsible for the maintenance of strategic fire breaks where they cross the land owners lot as depicted on the Bush Fire Management Plan.</p> <p>b) The clearing of firebreaks, other than for strategic fire break purposes, will not be permitted unless for safety reasons to comply with Council and Bush Fire Board requirements. Selective clearing of low fuel areas to a minimum of 20m around each building shall be required by Council. Such low fuel zones should be kept free of debris and shrubs and maintained to a standard approved by Council in accordance with the Bush Fire Management Plan.</p> <p>c) All fire breaks shall be provided to the specification and satisfaction of the Local Authority and the Bush Fires Board.</p>

No. Description of Locality	Special Provisions
	16. On Site Effluent Disposal System Requirements:
	a) The underside of effluent disposal chambers of conventional effluent disposal systems servicing dwellings shall be a minimum of two (2) metres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency;
	b) The underside of effluent disposal chambers of effluent disposal pads of modified nutrient attenuating on-site sewage disposal systems servicing dwellings shall be a minimum of five hundred (500) millimetres above the estimated maximum water table level as determined from time to time by the Water and Rivers Commission or equivalent State Government agency;
	c) The effluent disposal chambers of conventional on-site sewage disposal systems servicing dwellings shall be a minimum horizontal distance of one hundred (100) metres from areas determined from time to time by the City of Wanneroo to be subject to periodic inundation;
	d) The effluent disposal chambers or effluent disposal pads of modified, nutrient attenuating on-site sewerage disposal systems servicing dwellings shall be a minimum horizontal distance of fifty (50) metres from areas determined from time to time by the City of Wanneroo to be subject to periodic inundation.
	17. All caves and other karstic landform features shall not be damaged in any way unless the prior written approval of the Council has first been obtained.

SCHEDULE 14 (CLAUSE 3.19)—SPECIAL RESIDENTIAL PROVISIONS

No. Description of Locality	Special Provisions
1 Lots 2, 3, 32 and 33 and Part Lots 20 and 21 all of Wanneroo Estate Lot 13; Lots 30, 31 and 32 Part Lots 1, 27 and 33 all of Wanneroo Estate 14 and portion of Scenic Drive.	1) A range of lot sizes with a minimum lot size of 4000m ² shall be provided. Subdivision shall be in accordance with the Development Guide Plan. 2) Access from individual lots to Wanneroo Road shall only be via approved subdivisional roads. 3) All stormwater run-off shall be disposed of by means of drainage systems constructed within Special Residential Zone No. 1 to the satisfaction and specification of the Council.
2 (formerly SRP No. 3 under TPS1) Swan Location 2579, Lots 1 and 2 Flynn Drive, Neerabup	1) Subdivision is restricted to a minimum lot size of 5000m ² in accordance with the Development Guide Plans for this zone and that all development shall be contained within the building envelopes as specified on these plans. 2) All stormwater run-off shall be disposed of by drainage systems constructed with the adjacent residential area to the satisfaction and specifications of Council.
3 (formerly SRP No. 4 under TPS1) Portion Swan Location 1803 Queensway Road, Landsdale.	1) Subdivision is restricted to a minimum lot size of 5000m ² . 2) All stormwater run-off shall be disposed of by means of drainage systems constructed within the adjacent Residential area to the satisfaction and specification of Council. 3) The Council may, as a condition of any approval granted under special provision (b) require the owner or occupier of the land to plant and maintain to its satisfaction mature trees and shrubs.
4 (formerly SRP No. 6 under TPS1) Lots 1 and 22-26 Elliot Road, Wanneroo.	1) Subdivision is restricted to a minimum lot size of 5000m ² . 2) All stormwater run-off shall be disposed of by drainage systems constructed with the adjacent residential area to the satisfaction and specification of Council.

No.	Description of Locality	Special Provisions
5	Part Lot 1 and Lot 2 Flynn Drive, Neerabup. (formerly SRP No. 8 under TPS1)	<p>1) Subdivision of the Estate shall generally be in accordance with the Subdivision Guide Plan which also forms part of the Scheme.</p> <p>2) The number of Special Residential allotments within the Estate should not exceed 167.</p> <p>3) The minimum lot size should be no less than 2000m².</p> <p>4) Prior to subdivision, a Bush Fire Management plan shall be prepared by the subdivider and approved by the Bush Fires Board and Council.</p> <p>5) Strategic fire breaks shall be constructed as defined on the Development Guide Plan by the subdivider to the Bush Fire Board's specifications and shall be maintained by the Home Owners' Association in accordance with the Bush Fire Management Plan as approved by the Bush Fires Board and Council.</p> <p>6) Outbuildings shall be contiguous or semi-contiguous to the main dwelling and shall be constructed out of materials and colour schemes complimentary to the main dwelling.</p> <p>7) All development within the estate shall have regard for the Fire Management Plan for the Flynn Drive Special Residential Estate.</p> <p>8) All crossover accesses shall include a lateral culvert or pipe to connect table drains at either side to the satisfaction of the Council.</p> <p>9) The Recreation and Equine Park shall be developed for recreational and equine purposes and ancillary buildings only.</p>

SCHEDULE 15 (CLAUSE 3.23)—RURAL COMMUNITY PROVISIONS

No.	Description of Locality	Special Provisions
1	Lots 201 and 202 Breakwater Drive, Two Rocks	<p><u>1.1 Special Provisions (General)</u></p> <p>1.1.1 Rural Community Zone No 1 provides for conventional or cluster subdivision or a combination of both. The special provisions which follow are in the first instance general, thereafter additional provisions apply to conventional subdivision and cluster subdivision. Where a combination of both conventional and cluster subdivision is proposed, the lot yield shall not exceed 300 lots and shall be determined by the Commission after consultation with the Council. Should Lots 201 and 202 be developed separately, then the lot yields specified in Special Provisions 2.1 and 3.1 shall be divided between Lots 201 and 202 on a pro-rata basis.</p> <p>1.1.2 In addition to the matters contained in Schedule 7 of the Scheme, a Structure Plan for this land shall also include the following:</p> <p>(a) Identification of the aboriginal, heritage, environmental and landscape features and significant vegetation to be retained, and management provisions to maintain these qualities.</p> <p>(b) The management provisions prepared pursuant to (a) above shall include preparation of a Vegetation and Fauna Management Plan to the satisfaction of the Council on advice from the relevant State Government agencies and which addresses:</p> <ul style="list-style-type: none"> • the identification and retention of "locally significant" areas of native vegetation, especially those areas of native vegetation that provide fauna habitat; • clear delineation and retention of all three significant stands of trees to avoid habitat loss for fauna, particularly threatened fauna; • details of maintenance arrangements for the onsite native vegetation; • allocation of management responsibilities relating to the onsite native vegetation and identification of timing for implementation as appropriate; • fire management; • control of off-road vehicle use and dumping of rubbish.

No.	Description of Locality	Special Provisions
		<ul style="list-style-type: none"> (c) Detailed geotechnical assessment of the site to identify land unsuitable for development. (d) Preliminary assessment of the extent of UXO (unexploded ordnance) on the site. (e) Identification of areas to be ceded to the Crown free of cost as public open space and buffers for areas of environmental significance, landscape value, aboriginal and heritage sites. (f) Determination of the maximum development potential of the land as a result of the assessments carried out above, and having regard to the minimum permitted lot sizes and maximum lot yields referred to in special provisions for conventional subdivision or cluster subdivision. (g) Management provisions to address the interface with and maintain the environmental integrity of adjoining Parks and Recreation reserves and other conservation areas, and addressing the requirements of the relevant management agencies with respect to matters including delineation of boundaries, fencing, access, signage and fire management. (h) Appropriate treatment for lots abutting Breakwater Drive shall reinforce the rural character of the area. There is to be no direct lot access onto Breakwater Drive. Building setback to Breakwater Drive is to be 50 metres. (i) The location of building envelope areas is to be justified by geotechnical testing to be carried out by the developer to the satisfaction of the Council in order to minimise impacts on karstic structures. Building envelopes shall be located having due regard to existing stands of tuart and jarrah and rural landscape. (j) The design of the drainage system should be based on water sensitive design principles to ensure water conservation and maximum recharge to the groundwater system and avoid impacting on karstic structures. (k) Council will only grant approval to the keeping of horses when it is satisfied that the site has been suitably fenced to protect trees and other vegetation requiring protection. Should a horse or horses be kept and damage is being caused to trees and other vegetation by the horse or horses, then Council may require that the horse or horses be removed from the lot until such time as improvements to the satisfaction of Council have been made to the fencing which is intended to protect the trees and other vegetation. The landowner will be required to rehabilitate, to the satisfaction of the Council, any trees and other vegetation damaged by the keeping of horses on the property. (l) The exclusive use of aerobic treatment units, modified septic or small package treatment plants shall be required within the zone to minimise potential water pollution via subsurface drainage. (m) The identification of an area for local public open space and a 5000 sqm Community Purposes Site to be ceded to the Crown free of cost.

1.1.3 The land the subject of this zone may be used for rural-residential purposes, and no more than one residence shall be permitted on each lot. Home Business—Categories 1, 2 & 3, and a maximum of one appropriately located Corner Store (as designated on the Structure Plan) may be considered as “D” uses. Intensive agriculture may be considered as an “D” use on the common rural area lot/s in a cluster subdivision.

1.1.4 The developer will undertake planting a 15 metre wide landscape buffer (i) parallel with the eastern boundary of Lots 201 and 202 and (ii) along both sides of Breakwater Drive.

1.2 Special Provisions (Conventional Subdivision)

1.2.1 The lot yield of Rural Community Zone No 1 shall be determined through a detailed site analysis to be undertaken to the satisfaction of the Council and the Commission as part of the preparation of a Structure Plan for the land, but shall not exceed 255 lots. The size of the lots to be created in this zone shall also be determined through this detailed site analysis, but should not involve lot sizes less than 1 hectare.

No.	Description of Locality	Special Provisions
		<p>1.2.2 A cleared building envelope measuring no greater than 2000m² will be permitted on each lot in a position to be endorsed by the Council. The clearing of trees and native vegetation outside of the building envelope is prohibited other than for fences, fire breaks, access and servicing.</p> <p>1.2.3 No more than one horse shall be permitted on any lot unless permitted by the Council in consultation with the relevant Government agencies.</p> <p>1.2.4 The keeping of livestock and poultry for commercial purposes is prohibited.</p> <p>1.2.5 The land is to be managed in such a manner as to avoid the land being laid bare of vegetation resulting in loose, wind erodible conditions. In particular, lots shall not be cleared of trees except where necessary to permit the construction of houses and outbuildings within the building envelope or where the Council agrees that trees are dead or pose a hazard to safety.</p> <p>1.2.6 The interface with Crown land to the west, north and south must be perceived as being publicly accessible i.e. public open space area, road, bridle path, dual use path, walkway.</p> <p>1.2.7 Building envelopes being located on the western side of those lots adjacent to the Mitchell Freeway to minimise noise impacts.</p> <p>1.2.8 Building envelopes for the lots proposed under the conventional subdivision option being located to minimise development being viewed from the Mitchell Freeway.</p> <p>1.3 Special Provisions (Cluster Subdivision)</p> <p>1.3.1 The lot yield of Rural Community Zone No 1 shall be determined through a detailed site analysis to be undertaken to the satisfaction of the Council and the Commission as part of the preparation of a Structure Plan for the land, but shall not exceed 300 lots. The size of the lots to be created in this zone shall also be determined through this detailed site analysis, but should not involve lot sizes less than 2000 square metres.</p> <p>1.3.2 The permissibility of use/s of the common rural area lot/s, subject to subclauses 9.8.2 and 9.8.3, shall be determined in accordance with the provisions of the relevant Agreed Structure Plan, and appropriate plans for managing the use/s shall be prepared to the satisfaction of the Council on advice from the relevant State Government agencies.</p> <p>1.3.3 The common rural area lot/s shall be the subject of a management structure prepared and implemented to the satisfaction of Council to ensure regular maintenance. The Commission and/or Council may require the placement of a restrictive covenant or other covenant or obligation protected by a caveat on the Certificate of Title to ensure the retention of the common rural area lot/s.</p> <p>1.3.4 No livestock or horses shall be kept on cluster subdivision lots. Suitable agistment may be provided on the common rural area lot/s where agreed to by the Council in consultation with the relevant Government agencies.</p> <p>1.3.5 Treatment of the interface with surrounding Crown land is to be addressed to the Commission and Council's satisfaction in the preparation of a Structure Plan.</p> <p>1.3.6 Village clusters are to be located away from the Mitchell Freeway to minimise any noise and visual impacts.</p>

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2

Adopted by resolution of the Council of the City of Wanneroo at the Ordinary meeting of the Council held on the 27th day of March 1991.

Modified by resolution of the Council of the City of Wanneroo at the Special meeting of the Council held on the 22nd day of August 1996.

Modified by resolution of the Council of the City of Wanneroo at the Special meeting of the Council held on the 10th day of September 1997.

On July 1, 1998, the City of Wanneroo ceased to exist. In its place, the City of Joondalup and the Shire of Wanneroo were created, with both municipalities coming into existence on the same date, July 1, 1998.

Adopted for final approval by resolution of the Shire of Wanneroo at the Ordinary Meeting of the Council held on the 22nd day of September 1998.

Modified and adopted for final approval by resolution of the Shire of Wanneroo at the Special Meeting of the Council held on the 17th May 1999.

On July 1, 1999 the Shire of Wanneroo became the City of Wanneroo, notice of which was published in the *Government Gazette* on 18 June 1999.

Adopted for final approval by the Council of the City of Wanneroo at the Ordinary meeting held on the 6th day of February 2001 and the Common Seal of the City of Wanneroo was hereunto affixed by the authority of a resolution of the Council in the presence of:

J. KELLY, Mayor.
K. WHITE, Chief Executive Officer.

Recommended/Submitted for final approval:

NEIL FOLEY, for Chairperson,
Western Australian Planning Commission.

Date: 3/4/2001.

Final Approval Granted:

ALANNAH MacTIERNAN, Minister for Planning and Infrastructure.

Date: 27/6/2001.

