

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.
- 9.1.3 The Council may require a District Structure Plan and Local Structure Plans to be prepared 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. The proponent should ensure that adequate consultation with the City, relevant Government agencies and where appropriate, the community, affected and adjoining landowners has occurred, prior to the lodgement of a Structure Plan for consideration by Council under Clause 9.4. The proponent should submit evidence to the City to demonstrate that this consultation has occurred and how the issues have been incorporated and/or addressed in the Structure Plan. 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. The Council may waive public notification of a Structure Plan under Clause 9.5, when it considers that adequate publicity of the proposal has already been undertaken. Pursuant to Clause 9.7, public notification of minor amendments to Structure Plans may be waived at the discretion of Council;
- (b) determine that the Structure Plan is satisfactory and shall be advertised subject to specified modifications being made by the proponent or the Council and/or other specified matters being 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 ninety (90) 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 make or 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 as appropriate;
- (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. If the Council has not already certified the three copies, then 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 or the Council may make the modifications required by the Commission 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 should adopt, sign and seal the Structure Plan in the form illustrated in Schedule 8 and return one copy to the Commission. The Council at its discretion may adopt, sign and seal the Structure Plan in the form illustrated in Schedule 8, prior to forwarding the Structure Plan to the Commission for its consideration under subclause 9.6.3.
- 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.
- 9.6.8 Where more than one Agreed Structure Plan relates to the same land, the Agreed Structure Plans shall be appropriately flagged, marked or annotated

on the Council's copy to draw attention to the existence of all of the Agreed Structure Plans that affect the land, where appropriate.

9.7 AMENDMENT OR REVOCATION OF AGREED STRUCTURE PLAN

- 9.7.1 Any Agreed Structure Plan may, subject to the approval of the Commission, be amended or revoked by the Council. An amendment to a draft Structure Plan may be advertised by the Council at its discretion, however the Council should not sign and seal the amendment, prior to the substantive Structure Plan being signed, sealed and certified by the Council and the Commission under Clauses 9.6.3 and 9.6.5.
- 9.7.2 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.
- 9.7.3 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.
- 9.7.4 When an Agreed Structure Plan is revoked, the flagging, marking or annotation of the Agreed Structure Plan on the Council's copy of the Scheme Map under Clause 9.6.7 and an Agreed Structure Plan under Clause 9.6.8 shall be deleted.

9.8 OPERATION OF AGREED STRUCTURE PLAN

- 9.8.1 An Agreed Structure Plan shall come into operation on the later date when it is either certified by the Commission pursuant to subclause 9.6.3 or adopted, signed and sealed by the Council under subclause 9.6.5.
- 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 notwithstanding the provisions of paragraph (f), an Agreed Structure Plan may by a clear statement of intent to do so, 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 subject to the provision of subclause 9.8.3(b) allowing for a specific variation to a Scheme standard or requirement by a Structure Plan, if there is any other inconsistency or conflict not addressed as an intended variation by the 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 AND AGREED DETAILED AREA PLAN

Where land is subject to any obligation or liability under an Agreed Detailed Area Plan or 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 and Detailed Area Plans together with all supporting documentation submitted to the Council, and Agreed Detailed Area Plans 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 subclause 3.10.3(a), 3.13.3, 3.14.3, 3.15.3 and 3.23.2 that no subdivision or development should occur on land in the Marina, Rural Community, Centre, Urban Development, or-Industrial Development Zones until a Structure Plan in respect of that 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 60 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 or a Detailed Area 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 or the Detailed Area Plan is dissatisfied with such determination or decision, the proponent and/or landowners may appeal to the State Administrative 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 or Detailed Area 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.

9.14 DETAILED AREA PLANS

9.14.1 Detailed Area Plan May Be Required

- (a) (i) The Council or the Commission may, as part of a proposed or an Agreed Structure Plan or by notice in writing, require a person to prepare and submit to the Council a Detailed Area Plan within the time specified in the notice.
- (ii) A person or the City may prepare and submit to the Council, a Detailed Area Plan within a proposed or Agreed Structure Plan area, provided the Detailed Area Plan is consistent with the intent of the proposed Structure Plan or the Agreed Structure Plan and the Scheme.
- (b) A Detailed Area Plan shall be submitted to the Council in quadruplicate or such other quantity specified by the Council. A Detailed Area Plan is to relate to a particular lot or lots and may be prepared and submitted:
- (i) to enhance, elaborate or expand on the details or provisions contained in a proposed Structure Plan or an Agreed Structure Plan;
- (ii) to satisfy a condition of subdivision and/or planning approval;
- (iii) in place of an application for planning approval required to comply with Clause 2.3.3 of the Residential Design Codes; or
- (iv) for any other planning purpose.

9.14.2 Matters that may be included in a Detailed Area Plan

A Detailed Area Plan may include details as to:

- (a) building envelopes and setbacks;
- (b) distribution of land uses within a lot;

- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, site and building levels and drainage;
- (i) protection of sites of heritage, conservation, flora or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the Council.

9.14.3 Consideration of a Detailed Area Plan

- (a) Upon submission of a Detailed Area Plan to Council for consideration the Council is to assess the Detailed Area Plan within sixty (60) days if advertising is not required and ninety (90) days if advertising is required, and:
 - (i) adopt the Detailed Area Plan with or without conditions and/or modifications which the Council may make or require the proponent to make; or
 - (ii) refuse to approve the Detailed Area Plan.
- (b) If within sixty (60) days if advertising is not required and ninety (90) days if advertising is required of receiving a Detailed Area Plan under subclause 9.14.3, or such longer period as may be agreed in writing between the proponent and the Council, the Council has not made one of the determinations referred to in subclause 9.14.3(a), the Council is deemed to have refused to approve the Detailed Area Plan.
- (c) If the Council requires modifications under subclause 9.14.3(a)(i), the proponent shall make the modifications in consultation with the Council and resubmit the Detailed Area Plan under subclause 9.14.3(d). The Council may make the modifications required under subclause 9.14.3(a)(i).
- (d) Following approval by the Council and any modifications required by the Council under subclause 9.14.3(a)(i) being made to the Detailed Area Plan where required, the Detailed Area Plan should be certified by an officer authorised by Council.

- (e) The Council should forward a copy of the Agreed Detailed Area Plan to the Commission within 14 days of certification of the Agreed Detailed Area Plan under subclause 9.14.3(d).
- (f) The Agreed Detailed Area Plan should be included as an appendix to Part 1 of the Council's copy of the Agreed Structure Plan. The Agreed Detailed Area Plan should be appropriately flagged, marked or annotated on the Council's copy of the Agreed Structure Plan maps to draw attention to the existence of the Agreed Detailed Area Plan.

9.14.4 Public Notice of a Detailed Area Plan

- (a) The Council may at its discretion require a Detailed Area Plan to be advertised with or without conditions and/or modifications, prior to Council considering the Detailed Area Plan under Clause 9.14.3(a).
- (b) The Council may at its discretion require an Amendment to an Agreed Detailed Area Plan to be advertised with or without conditions and/or modifications, prior to Council considering the Amendment to the Agreed Detailed Area Plan under Clauses 9.14.3(a) and 9.14.6.
- (c) Such publicity shall be undertaken by the proponent in accordance with the provisions of Clause 6.7 as may be directed by the Council.

9.14.5 Operation of an Agreed Detailed Area Plan

- (a) An Agreed Detailed Area Plan shall come into operation on the date it is certified under subclause 9.14.3(d).
- (b) Once the Detailed Area Plan has been agreed it should be used, with respect to the land subject to the Agreed Detailed Area Plan, as the basis for:
 - (i) making recommendations to the Commission on subdivision applications;
 - (ii) determining requests to clear a condition of subdivision approval; and
 - (iii) determining applications for planning approval.
- (c) Without limiting the generality of the Clause 9.8.2, under a Detailed Area Plan:
 - (i) the standards and requirements applicable to zones and R Codes under the Agreed Structure Plan shall apply to the same extent to the areas having corresponding designations under the Agreed Detailed Area Plan; however notwithstanding the provisions of subparagraph (iii), an Agreed Detailed Area Plan may by a clear statement of intent to do so, make provision for the design standards and requirements applicable to R Codes and zones to

be varied, and the design standard or requirement varied in that way shall apply within the area of the Agreed Detailed Area Plan, or any stipulated part of that area of the Agreed Detailed Area Plan, as if it was a variation incorporated in the relevant Agreed Structure Plan;

- (ii) 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 Detailed Area Plan as if they were provisions of the Scheme;
- (iii) any other provision, standard or requirement in relation to the R Codes and zones in the Agreed Detailed Area Plan shall be given the same force and effect as if it was a provision, standard or requirement of the relevant Agreed Structure Plan, but subject to the provision of subclause 9.14.5(c)(i) allowing for a specific variation to the design standards and requirements by a Detailed Area Plan, if there is any other inconsistency or conflict not addressed as an intended variation by the Agreed Detailed Area Plan, the provision, requirement or standard of the relevant Agreed Structure Plan shall prevail.

9.14.6 Amendment or Revocation of an Agreed Detailed Area Plan

- (a) An Agreed Detailed Area Plan may be amended with the approval of the Council under subclause 9.14.3(a), but where there is a related Agreed Structure Plan, such Amendments are to conform with the intent of any related Agreed Structure Plan.
- (b) The provisions of subclauses 9.14.3 and 9.14.4 shall apply to the consideration of the amendment.
- (c) An amendment to an Agreed Detailed Area Plan shall come into operation on the date it is certified under subclause 9.14.3(d).
- (d) The Council should forward a copy of the Amendment to the Agreed Detailed Area Plan to the Commission within 14 days of certification.
- (e) The Council may revoke an Agreed Detailed Area Plan. Following the Council's decision to revoke an Agreed Detailed Area Plan, the Agreed Detailed Area Plan shall be deleted from the Agreed Structure Plan together with any associated flagging, marking or annotation. The Council should advise the Commission of its decision to revoke an Agreed Detailed Area Plan.