



DISTRICT PLANNING SCHEME No. 2

Amendment No. 157

Planning and Development Act 2005

**RESOLUTION TO ADOPT AMENDMENT TO
LOCAL PLANNING SCHEME**

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 157

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above local planning scheme to introduce provisions for land use control specific to local structure plan areas by:

1. **Modifying clause 3.2.2.**
2. **Including a new clause 3.2.3.**
3. **Including a new clause 3.2.4.**
4. **Renumbering clauses 3.2.3 and 3.2.5.**
5. **Modifying clauses 3.10.3(b), 3.13.4, 3.14.4, 3.15.4 and 3.23.4.**
6. **Inserting a new Schedule 16.**

The Amendment has been deemed standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- a) it does not comply with the requirements of a basic or complex Scheme Amendment;
- b) it introduces changes to land use permissibility that could be utilised by other Structure Plan areas and therefore is more than administrative in nature;
- c) Yanchep City Centre Activity Centre Plan No. 100 has been advertised, however is only a draft document which is only being considered by the Council as part of this report and is still requires a full assessment and approval by the WAPC;
- d) Although it is acknowledged that some provisions proposed are consistent with the model provisions in Schedule 1, other provisions, including the introduction of Schedule 16 to determine land use permissibility within Structure Plan areas are not model provisions.

Dated this day of 20.....

.....
(Director, Planning & Sustainability)

PLANNING AND DEVELOPMENT ACT 2005

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 157

The City of Wanneroo under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above local planning scheme by:

1. Deleting the following from clause 3.2.2: *“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”.*
2. Including new clause 3.2.3: *“If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land-

(a) A structure plan;
(b) An activity centre plan;
(c) A local development plan.”*
3. Including new clause 3.2.4: *“Notwithstanding clause 3.2.3 and any other provision of the scheme, for land which is subject to clause 3.2.3 and a Structure Plan or Activity Centre Plan referred to in Schedule 16 of the scheme, the local government shall determine the permissibility of uses in accordance with the use permissibility provisions for that land included in Schedule 16”.*
4. Renumbering clause 3.2.3 to 3.2.5 and clause 3.2.4 to 3.2.6.
5. Modifying clauses 3.10.3(b), 3.13.4, 3.14.4, 3.15.4 and 3.23.4 to replace the words “in accordance with” to “with regard to”.
6. Insert Schedule 16 (Clause 3.2.4) – *Land Use Permissibility for Structure Plan and Activity Centre Plans* as follows:

Schedule 16 (clause 3.2.4) - Land Use Permissibility for Structure Plans and Activity Centre Plans

Structure Plan / Activity Centre Plan	Use Permissibility Provisions																																																																				
Yanchep City Centre Activity Centre Plan No. 100	<p>Designation of land identified in Structure Plan Map as Precincts 1 to 4.</p> <p>Table 1 – Precinct 1 Land Use Permissibility Table</p> <table border="1" data-bbox="568 568 1391 1805"> <thead> <tr> <th data-bbox="568 568 991 607">'P' Uses</th> <th data-bbox="991 568 1391 607">'D' Uses</th> </tr> </thead> <tbody> <tr><td>Amusement Facility/Parlour</td><td>Car Park</td></tr> <tr><td>Art Gallery</td><td>Child Care Centre</td></tr> <tr><td>Auction Room</td><td>Club (non-residential)</td></tr> <tr><td>Bakery</td><td>Display Home Centre</td></tr> <tr><td>Bank</td><td>Dry Cleaning Premises</td></tr> <tr><td>Beauty Parlour</td><td>Education Establishment</td></tr> <tr><td>Cinema</td><td>Hall</td></tr> <tr><td>Cinema Complex</td><td>Market (retail)</td></tr> <tr><td>Civic Building</td><td>Mast or Antenna</td></tr> <tr><td>Consulting Room</td><td>Motel</td></tr> <tr><td>Corner Store</td><td>Night Club</td></tr> <tr><td>Costume Hire</td><td>Place of Assembly</td></tr> <tr><td>Department Store</td><td>Place of Worship</td></tr> <tr><td>Hairdresser</td><td>Restricted Premises</td></tr> <tr><td>Home Business – Cat 1</td><td>Small Bar</td></tr> <tr><td>Home Business – Cat 2</td><td>Stall-General</td></tr> <tr><td>Home Business – Cat 3</td><td>Tavern</td></tr> <tr><td>Hotel</td><td>Telecommunications Infrastructure</td></tr> <tr><td>Laundromat</td><td>Trade Display</td></tr> <tr><td>Liquor Store</td><td></td></tr> <tr><td>Medical Centre</td><td></td></tr> <tr><td>Multiple Dwelling</td><td></td></tr> <tr><td>Office</td><td></td></tr> <tr><td>Park</td><td></td></tr> <tr><td>Pharmacy</td><td></td></tr> <tr><td>Public Exhibition Centre</td><td></td></tr> <tr><td>Reception Centre</td><td></td></tr> <tr><td>Restaurant</td><td></td></tr> <tr><td>Shop</td><td></td></tr> <tr><td>Supermarket</td><td></td></tr> <tr><td>Take Away Food Outlet</td><td></td></tr> <tr><td>Theatre</td><td></td></tr> <tr><td>Video Hire</td><td></td></tr> </tbody> </table> <p>Notes:</p> <p>1. Land uses not listed in Table 1, which are listed as 'x' uses under the Scheme in the Commercial zone, are 'x' uses within the Precinct. Land uses listed in the Scheme in the Commercial zone as 'P', 'D' or 'A', but not listed in Table 1, or are unlisted in the Scheme, are to be considered in accordance with clause 3.3 of the Scheme (excepting 'Single House' which is 'x').</p> <p>2. Notwithstanding the provisions of Table 1, only non-residential development is permitted on the ground floor of buildings fronting the areas identified as Main Street.</p>	'P' Uses	'D' Uses	Amusement Facility/Parlour	Car Park	Art Gallery	Child Care Centre	Auction Room	Club (non-residential)	Bakery	Display Home Centre	Bank	Dry Cleaning Premises	Beauty Parlour	Education Establishment	Cinema	Hall	Cinema Complex	Market (retail)	Civic Building	Mast or Antenna	Consulting Room	Motel	Corner Store	Night Club	Costume Hire	Place of Assembly	Department Store	Place of Worship	Hairdresser	Restricted Premises	Home Business – Cat 1	Small Bar	Home Business – Cat 2	Stall-General	Home Business – Cat 3	Tavern	Hotel	Telecommunications Infrastructure	Laundromat	Trade Display	Liquor Store		Medical Centre		Multiple Dwelling		Office		Park		Pharmacy		Public Exhibition Centre		Reception Centre		Restaurant		Shop		Supermarket		Take Away Food Outlet		Theatre		Video Hire	
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Table 2 – Precinct 2 Land Use Permissibility Table

'P' Uses	'D' Uses
Amusement Facility/Parlour	Aged or Dependent Persons
Art Gallery	Dwelling
Auction Room	Bed & Breakfast
Bakery	Car Park
Bank	Club (non-residential)
Beauty Parlour	Drive Through Food Outlet
Child Care Centre	Dry Cleaning Premises
Cinema	Funeral Parlour
Cinema Complex	Grouped Dwelling
Civic Building	Hall
Consulting Room	Hardware Store
Corner Store	Hospital
Costume Hire	Market (retail)
Education Establishment	Mast or Antenna
Hairdresser	Motel
Home Business – Cat 1	Night Club
Home Business – Cat 2	Nursing Home
Home Business – Cat 3	Open Air Display
Hotel	Place of Assembly
Kindergarten	Place of Worship
Laundromat	Residential Building
Laundry	Restricted Premises
Liquor Store	Retirement Village
Medical Centre	Showroom ²
Multiple Dwelling	Single Dwelling
Office	Small Bar
Park	Stall - General
Pharmacy	Tavern
Public Exhibition Facility	Telecommunications
Private Recreation	Infrastructure
Reception Centre	Trade Display
Recreation Centre	
Restaurant	
Shop	
Take Away Food Outlet	
Theatre	
Veterinary Consulting Rooms	
Veterinary Hospital	
Video Hire	

Notes:

1. Land uses not listed in Table 2, which are listed as 'x' uses under the Scheme in the Mixed Use zone, are 'x' uses within the Precinct. Land uses listed in the Scheme in the Mixed Use zone as 'P', 'D' or 'A', but not listed in Table 2, or are unlisted in the Scheme, are to be considered in accordance with clause 3.3 of the Scheme (excepting 'Single House' which is 'x').

2. Notwithstanding the provisions of Table 2, 'showroom' is only a permitted use where the gross retail floorspace does not exceed 400m².

Table 3 – Precinct 3 Land Use Permissibility Table

'P' Uses	'D' Uses
Consulting Room Corner Store Hospital Lunch Bar Medical Centre Office Park Pharmacy Recreation Centre	Amusement Facility / Parlour Art Gallery Bakery Bank Beauty Parlour Car Park Child Care Centre Cinema Civic Building Club (non-residential) Dry Cleaning Premises Education Establishment Hall Hotel Laundromat Laundry Mast or Antenna Multiple Dwellings Place of Assembly Place of Worship Private Recreation Public Exhibition Facility Reception Centre Recreation Centre Residential Building Shop ² Small Bar Special Place of Assembly Take Away Food Outlet Tavern Telecommunications Infrastructure

Notes:

1 Land uses not listed in Table 3, which are listed as 'x' uses under the Scheme in the Business zone, are 'x' uses within the Precinct. Land uses listed in the Scheme in the Business zone as 'P', 'D' or 'A', but not listed in Table 3, or are unlisted in the Scheme, are to be considered in accordance with clause 3.3 of the Scheme (excepting 'Single House' which is 'x').

2. Notwithstanding the provisions of Table 3, 'shop' is only a permitted use where the gross retail floorspace does not exceed 300m².

Table 4 – Precinct 4 Land Use Permissibility Table

'P' Uses	'D' Uses
Amusement Facility / Parlour	Beauty Parlour
Art Gallery	Car Park
Auction Room	Child Care Centre
Bakery	Civic Building
Bank	Club (non-residential)
Car Wash	Education Establishment
Consulting Room	Factory Unit
Convenience Store	Funeral Parlour
Corner Store	Hairdresser
Costume Hire	Hall
Drive Through Food Outlet	Hotel
Dry Cleaning Premises	Landscape Supplies
Hardware Store	Market (retail)
Hire Service	Mast or Antenna
Laundromat	Motel
Laundry	Motor Vehicle Repairs
Liquor Store	Place of Assembly
Lunch Bar	Place of Worship
Medical Centre	Plant Nursery
Office	Private Recreation
Open Air Display	Reception Centre
Pharmacy	Residential Building
Public Exhibition Facility	Restricted Premises
Recreation Centre	Shop ²
Restaurant	Stall-General
Road House	Tavern
Service Station	Telecommunications
Showroom	Infrastructure
Take Away Food Outlet	Trade Display
Veterinary Consulting Rooms	Warehouse
Veterinary Hospital	
Video Hire	

Notes:

1. Land uses not listed in Table 4, which are listed as 'x' uses under the Scheme in the Business zone, are 'x' uses within the Precinct. Land uses listed in the Scheme in the Business zone as 'P', 'D' or 'A', but not listed in Table 4, or are unlisted in the Scheme, are to be considered in accordance with clause 3.3 of the Scheme (excepting 'Single House' which is 'x').

2. Notwithstanding the provisions of Table 4, 'shop' is only permitted in Precinct 4 where the gross retail floor space of the shop exceeds 300m².

Adopted by resolution of the Council of the City of Wanneroo at the Ordinary meeting of the Council held on the _____ day of _____

.....
DIRECTOR, PLANNING & SUSTAINABILITY

Adopted for final approval by resolution of the City of Wanneroo at the meeting of the Council held on the _____ day of _____ 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:

.....
MAYOR

.....
DIRECTOR, PLANNING & SUSTAINABILITY

Recommended/Submitted for final approval

.....
DELEGATED UNDER S.16 OF
PD ACT 2005

DATE

Final Approval Granted

.....
MINISTER FOR PLANNING

DATE

CITY OF WANNEROO
DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO. 157
SCHEME AMENDMENT REPORT



April 2016

1.0 INTRODUCTION

The Yanchep City Centre Activity Centre Structure Plan (ACSP) was lodged with the City of Wanneroo in December 2014. The ACSP was lodged pursuant to the Yanchep City Local Structure Plan No. 68 which was endorsed by the City of Wanneroo and the WAPC in 2013.

In September 2015, the City of Wanneroo (the City) advertised the ACSP for public comment and referred the document to all relevant agencies including the Department of Planning (the Department). The Department provided comments on the ACSP during the advertising period (correspondence dated 16 October 2015). In its letter, the Department provided the following in relation to the zoning and land use permissibility.

Structure Plans are to be prepared with the view to future normalisation into the Scheme and are to be generally consistent with the established Scheme. In this regard, Plan 1 should identify zones and corresponding land use permissibilities consistent with the Scheme, The inclusion of land use permissibility tables for individual Precincts, as proposed by this structure plan, is therefore not supported as it does not provide and consistency with the Scheme and has significant implications to the potential future incorporation into the Scheme.

Further detailed consideration, including discussions between the proponent, the City and the Department on the above aspects of the proposed structure plan is required at the earliest opportunity of the assessment process.

The Department's comments reflect the introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) which became effective in October 2015, post lodgement of the ACSP and alter the statutory status of Local Structure Plans under the City's District Planning Scheme. The Department's submission was the subject of significant discussion between the proponent, the Department and the City.

In response to the comments raised in Department's submission, and as agreed with both the Department and the City of Wanneroo (the City), the issue of zoning and land use within the ACSP, having regard P&D Regulations, is to be addressed via amendments to both the ACSP and the City of Wanneroo District Planning Scheme (the Scheme).

Specifically, the scheme amendment proposes a new schedule (land use permissibility for structure plan and activity centres) and associated textual modifications to the Scheme. The purpose of the inclusion of a new schedule is to enable the transfer of the ACSP provisions (and future structure plans / activity centre plans) relevant to land use permissibility into the Scheme. The advertised version of the ACSP will be modified to remove land use controls and accordingly reference the new schedule of the Scheme.

2.0 EXISTING STATUTORY FRAMEWORK

2.1 *Planning and Development (Local Planning Scheme) Regulations 2015*

The *Planning and Development (Local Planning Scheme) Regulations 2015* were gazetted on 25 August and became effective on the 19 October 2015 replacing the *Town Planning Regulations 1967*.

The introduction of the Regulations altered the status of Local Structure Plans under the City's District Planning Scheme. A further implication of the Regulations becoming effective is the requirement for Local Governments to include Model Scheme Text in local planning schemes (new and updated) and a key aspect of this is the inclusion of consistent reserves, zones and land use definitions.

The transfer of the ACSP provisions into the scheme responds to the altered status of structure plans under the *Planning and Development (Local Planning Schemes) Regulations 2015* which became effective following advertising of the Centre Structure Plan. Accordingly, the proposed scheme amendment acts to transfer the ACSP relevant to land use permissibility into the Scheme.

The Regulations also introduced multiple risk-based amendment streams classified as either 'complex', 'standard' or 'basic'. This amendment was submitted to the City as basic for the following reasons –

- The amendment is primarily administrative;
- The amendment is consistent with the model provisions in Schedule 1;
- The land use controls that the Amendment seeks to introduce for the Yanchep City Centre Activity Centre Structure Plan (ACSP) have already been advertised for public comment as part of the ACSP advertising (1 September to 13 October 2015) and attracted no comment during that period (other than those of the Department with regards to its preference for these to be catered for in the scheme). The transfer of these provisions into the scheme is purely administrative and responds to the altered status of structure plans under the *Planning and Development (Local Planning Schemes) Regulations 2015* which became effective following advertising of the Centre Structure Plan.

In considering the Amendment at its meeting of 28th June 2016, Council resolved that:

The Amendment is standard under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:

- a) *it does not comply with the requirements of a basic or complex Scheme Amendment;*

- b) *it introduces changes to land use permissibility that could be utilised by other Structure Plan areas and therefore is more than administrative in nature;*
- c) *Yanchep City Centre Activity Centre Plan No. 100 has been advertised, however is only a draft document which is only being considered by the Council as part of this report and is still requires a full assessment and approval by the WAPC;*
- d) *Although it is acknowledged that some provisions proposed are consistent with the model provisions in Schedule 1, other provisions, including the introduction of Schedule 16 to determine land use permissibility within Structure Plan areas are not model provisions.*

2.2 Yanchep City Centre Activity Centre Structure Plan (ACSP)

The ACSP was lodged with the City of Wanneroo in December 2014. The ACSP was lodged pursuant to the Yanchep City Local Structure Plan No. 68 which was endorsed by the City of Wanneroo and the WAPC in 2013.

The overarching statutory framework relevant to the ACSP provide an indication of potential layout and land use within the City Centre but acknowledge that these are conceptual and that the urban form of the Centre is subject to a separate Activity Centre Structure Plan.

Accordingly, the ASCP was lodged in December 2014, however, the operation of this document, and subsequently the content has been impacted by the introduction of the Regulations. This amendment proposes modifications to both the Scheme and the ACSP to ensure the compliance with the Regulations and to reflect the Department of Planning and City's preference to embed land use controls for structure plan areas within the town planning scheme at the earliest opportunity.

3.0 PROPOSED AMENDMENTS

The proposed amendments to the Scheme consist of two key parts -

- Introduction of a Land Use Permissibility Schedule and associated textual modifications to reference this and to remove obsolete statements with regards to land use permissibility controls within structure plan areas; and
- Insertion of ACSP provisions relevant to the land use permissibility within the Land Use Permissibility Schedule to provide these with the force and effect of the Scheme.

3.1 Land Use Permissibility Schedule

A new schedule is proposed to be inserted within the Scheme as Schedule 16 and titled *Schedule 16 (clause 3.2.4) – Land Use Permissibility for Structure Plans and Activity Centre Plans*.

The following textual changes to the Scheme will support insertion of Schedule 16.

- Deletion of the now obsolete portion of Clause 3.2.2 which sought to give statutory effect to Local Structure Plan provisions. This is no longer applicable with the advent of the P&D Regulation Deemed Provisions which superseded it and which clarify that Local Structure Plans are documents of 'due regard' only;
- Introduction of new provisions within Clause 3.2.3 reflecting the Model Scheme Text contained within the P&D Regulations which specifies the due regard which should be given to land use permissibility specified within approved structure plans where land use is not otherwise controlled within the Scheme;
- Introduction of a new Clause 3.2.4 which makes provision for the application of Schedule 16; and
- Renumber of subsequent clauses.

3.2 ASCP Provisions

With the introduction of the new schedule, the ACSP land use permissibility provisions can be transferred from the ACSP into the Scheme. This gives the ACSP provisions the force and effect of the Scheme (as the Scheme previously sought to do through structure plans prior to the advent of the P&D Regulations) but otherwise makes no change to the advertised provisions.

The land use permissibility arrangement within the ACSP and the rationale for this was documented in the ACSP. In summary, the land use permissibility arrangement seeks to facilitate a high order Strategic Metropolitan Centre encompassing a wide range of commercial and community land uses mixed with high density residential. Four largely mixed use precincts are proposed to facilitate this, providing for:

1. Concentration of retail and more intensive land uses within the Precinct 1 – Centre Area area around the rail station;
2. A Mixed Use, Business and Education transition area within Precinct 2, surrounding the Centre Core, to cater for predominantly non-retail commercial land uses and residential. This precinct also caters for the primary school identified for the Centre and for the location of tertiary education (including a street-based university);
3. A Sports and Health Precinct east of the rail line to cater for a planned regional sports stadium, and public health facilities (including an anticipated District Hospital);
4. A small Service Commercial precinct providing for more car-dependent uses such as showrooms along the northern boundary of the Centre, fronting Toreopango Avenue.

The land use permissibility tables for the ACSP introduced by the Amendment are identical with those advertised for public comment as part of the ACSP and did not attract any comments (other than those of the Department with regards to its preference for these to be catered for in the scheme).

4.0 CONCLUSION

The lodgement of the proposed amendment to the Scheme responds to the Department's comments on the ACSP received by the City during the advertising period. In response to the Regulations, the scheme amendment proposes a new schedule (land use permissibility for structure plan and activity centre) and associated textual modifications. The purpose of the inclusion of a new schedule is to enable the transfer of the land use permissibility provisions for the ACSP (and future structure plans / activity centre plans) into the Scheme to provide these with the force and effect of the Scheme.

The advertised version of the ACSP will also be modified to remove land use controls and accordingly reference the new schedule of the Scheme. The manner in which the Department's comments have been addressed in the proposed amendment has been agreed with the City and the Department.