

Scheme Amendment No 66

District Planning Scheme No 2 to be amended as follows:

- Delete clause 3.7.2 and insert new clause 3.7.2 as follows:

Notwithstanding clause 3.7.1, any major development on land in the Commercial Zone which is wholly or partly within one of the following activity centres shall not be approved unless an activity centre structure plan has been prepared in accordance with the requirements of State Planning Policy 4.2 – Activity Centres for Perth and Peel and Part 9 of this Scheme and adopted by the Council and the Commission:

- (a) Warwick
- (b) Whitford
- (c) Currambine
- (d) Greenwood
- (e) Woodvale

- Deleting clause 3.7.3 and inserting new clause 3.7.3 as follows:

The requirement in clause 3.7.2 for an activity centre structure plan to be adopted prior to the approval of major development is not subject to clause 4.5.1 or 9.11.

- Delete clauses 3.11.4 and 3.11.5;

- Insert new clause 3.11.4:

Any major development on land in the Centre Zone which is wholly or partly within ~~the Joondalup Activity Centre~~ an activity centre shall not be approved unless an activity centre structure plan has been prepared in accordance with the requirements of State Planning Policy 4.2: Activity Centres for Perth and Peel and Part 9 of this Scheme and adopted by the Council and the Commission’.

- Insert clause 3.11.5 as follows:

The requirement in clause 3.11.4 for an activity centre structure plan to be adopted prior to the approval of major development is not subject to clause 4.5.1 or 9.11.

- Amend clause 4.5.1 by deleting the words ‘*and the requirements set out in Clauses 3.7.3 and 3.11.5*’;

- Insert new clause 9.1.3 as follows:

‘9.1.3 Where this Scheme requires an activity centre structure plan to be adopted before approval is granted for major development:

Version No.	Date	Status	Amendments / Comments	Distributed by:

- (a) the Council may prepare and adopt or the owner of land within the activity centre may prepare and submit an activity centre structure plan to Council; and
 - (b) the activity centre structure plan shall be in accordance with the provisions of:
 - (i) State Planning Policy 4.2 – Activity Centres for Perth and Peel; and
 - (ii) Part 9 of the Scheme and shall be regarded as a Structure Plan for the purpose of the provisions of Part 9.
- Amend clause 9.2 to refer to clause 9.1.1 instead of clause 9.1.
 - Amend clause 9.8.1 by deleting '9.6.1' and substituting '9.6.3'.
 - Insert the following after clause 9.11:

(1) '9.12 Detailed area plan

9.12.1 Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots, a detailed area plan may be prepared by:

- (a) the local government; or
- (b) an owner.

9.12.2 A detailed area plan may include details as to:

- (a) building envelopes;
- (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, finished site levels and drainage;
- (i) protection of sites of heritage, conservation or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the local government.

9.12.3 When a proposed detailed area plan is prepared under clause 9.12.1, the local government is to:

- (a) advertise, or require the owner who submitted the proposed detailed area plan to advertise, the proposed detailed area plan for public inspection by one or more of the following ways:
 - (i) notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;

- (ii) a sign or signs displaying notice of the proposed detailed area plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed detailed area plan applies; and
- (b) give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to:
 - (i) all owners whose land is included in the proposed detailed area plan;
 - (ii) all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed detailed area plan;
 - (iii) such public authorities and other persons as the local government nominates.

9.12.4 The advertisement and notice are to:

- (a) explain the scope and purpose of the proposed detailed area plan;
- (b) specify when and where the proposed detailed plan may be inspected; and
- (c) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

9.12.5 The local government is to consider all submissions received and:

- (a) approve the detailed area plan with or without conditions; or
- (b) refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.

9.12.6 If within 60 days of receiving a detailed area plan prepared under clause 9.12.1(b), or such longer period as may be agreed in writing between the owner and the local government, the local government has not made one of the determinations referred to in clause 9.12.5, the local government is deemed to have refused to approve the detailed area plan.

9.12.7 Once approved by the local government, the detailed area plan constitutes a variation of the structure plan.

9.12.8 The local government may vary a detailed area plan in accordance with the procedures set out in clause 9.12 onwards provided such variations do not prejudice the intention of any related structure plan.'

- Renumber clause 9.12 to 9.13 and renumber clause 9.13 to 9.15.
- Amend clause 9.13.3 (previously clause 9.12.3) to insert 'or detailed area plan' after 'Structure Plan' in both instances where it appears in the clause.
- Amend clause 9.13.5 (previously clause 9.12.5) to delete the numbers '9.12.1' and replace with the numbers '9.13.1'.

- Insert new clause 9.14 as follows:

'If under this Scheme an activity centre structure plan is required to be adopted before approval is granted for major development:

(a) the activity centre structure plan shall be required notwithstanding the adoption or approval of another structure plan that applies to the site of the proposed major development under:

(i) a previous town planning scheme; or

(ii) this Scheme; and

(b) the adopted activity centre structure plan shall apply to the major development and the other structure plan shall not apply.'

- Amend clauses 9.15.1 (previously clause 9.13.1) and 9.15.2 (previously clause 9.13.2) by adding the following words at the commencement of each clause:

'Subject to clause 9.14.'

- Amend clause 9.15.3 (previously clause 9.13.3) to delete the numbers '9.13.1' and replace with the numbers '9.15.1', and delete the numbers '9.13.2' and replace with the numbers '9.15.2'.

- Amend Schedule 1, as follows:

(a) 'activity centre' means an activity centre identified in the activity centres hierarchy of State Planning Policy 4.2: Activity Centres for Perth and Peel as set out on page 4145 of the Government Gazette dated 31 August 2010 and which is referred to in clause 3.7.2 or 3.11.4 of this located (wholly or partly) within the Scheme area.

(b) amend the definition of 'Agreed Structure Plan' to add the following words at the end of the existing definition:

'and includes an activity centre structure plan prepared in accordance with State Planning Policy 4.2: Activity Centres for Perth and Peel and adopted under Part 9 of the Scheme'.

(c) 'major development' in relation to an activity centre has the same meaning as given to it by State Planning Policy 4.2: Activity Centres for Perth and Peel.

(d) in the definition of 'net lettable area' insert 'or NLA' after 'net lettable area' so it reads 'net lettable area or NLA means ...'.

(e) 'State Planning Policy 4.2: Activity Centres for Perth and Peel' means the policy by that name published in the Government Gazette on 31 August 2010 and includes any amendments to the policy.

- Delete Schedule 3 – Commercial and Centre Zones.

**PROPOSED AMENDMENT NO 66
SCHEDULE OF SUBMISSIONS FOLLOWING ADVERTISING
(CLOSED 7 NOVEMBER 2012)**

NO	NAME AND ADDRESS OF SUBMITTER	DESCRIPTION OF AFFECTED PROPERTY	SUBMISSION SUMMARY	OFFICER OR COUNCIL'S RECOMMENDATION
1	Urbis Level 1 55 St Georges Tce Perth WA 6000	Whitfords City Shopping Centre 470 Whitfords Ave Hillarys	<p>Offers support while seeking modifications.</p> <p>Concerned that the wording of some of the proposed clauses could be interpreted to preclude the consideration of major development in exceptional circumstances where an activity centre plan has not been adopted, which is specifically contemplated and provided for in SPP4.2.</p> <ul style="list-style-type: none"> • Requests the word 'should' as opposed to 'shall' in clauses 3.72 and 3.11.4 and the removal of clauses 3.7.3 and 3.11.5 to reflect a consistent approach to all forms of development within the City of Joondalup and to ensure consistency with the requirements and approach contained within SPP4.2. • Requests appropriate modifications to clauses 3.7.2 and 3.11.4 to accommodate the proposed rezoning of the Whitford centre from the 'Commercial' zone to the 'Centre' zone. 	<p>Partial support.</p> <p>There is significant difficulty with incorporating a scheme provision that reflects this aspect of SPP4.2 given that there is no indication or guidance about what constitutes an exceptional circumstance. This would create uncertainty and the potential for disputes between the City and proponents as to what constitutes exceptional circumstances. It is therefore not proposed to amend the proposed scheme amendment in this respect.</p> <p>It is agreed that clauses 3.7.2 and 3.11.4 need to knowledge the proposed inclusion of the Whitford Activity Centre in the 'Centre' zone. Further, it is proposed to modify the scheme amendment to encompass any activity centre that may be zoned 'Centre'</p>

**PROPOSED AMENDMENT NO 66
SCHEDULE OF SUBMISSIONS FOLLOWING ADVERTISING
(CLOSED 7 NOVEMBER 2012)**

2	Flint Moharich 3/70 Angelo Street South Perth WA 6151	Lakeside Joondalup Shopping Centre	<p>Suggests clause 3.11.4 be broadened to accommodate any land within the Centre zone, not just the Joondalup Activity Centre.</p> <p>Suggests clause 3.7.3 and clause 3.11.5 be modified to ensure that clause 9.11 cannot be used to allow consideration of major development prior to the adoption of an activity centre structure plan.</p> <p>Given a structure plan already exists, suggests a new clause (3.11.6) that allows consideration of major development within the Joondalup Activity Centre without the need for an activity centre structure plan, provided the application satisfies the Model Centre Framework elements of SPP4.2.</p> <p>Note - specific alternative clause wording is provided in the submission.</p>	<p>Partial support</p> <p>Agreed. It is considered appropriate to modify the scheme amendment to encompass any activity centre that may be zoned 'centre'</p> <p>The inclusion of a reference to clause 9.11 in clauses 3.7.3 and 3.11.5 would put any issue regarding Council's discretion to approve development in the absence of a structure plan beyond doubt, and is considered acceptable.</p> <p>The existing Joondalup City Centre Development Plan and Manual is outdated and the draft Joondalup City Centre Structure Plan has not yet been finalised. Therefore, this suggested change is not supported.</p> <p>Following consultation with the City's legal advisors, it is instead proposed that the amendment be reworded requiring that a structure plan be approved ahead of "major development" to a centre, irrespective of whether or not an agreed structure plan is already in place.</p> <p>This proposed change is to ensure equity between centres and is unlikely to unduly affect the Joondalup centre in that "major development" as defined under SPP4.2 is unlikely to be proposed in Joondalup before the Joondalup Activity Centre Structure is finalised.</p>
---	---	---------------------------------------	---	---

**PROPOSED AMENDMENT NO 66
SCHEDULE OF SUBMISSIONS FOLLOWING ADVERTISING
(CLOSED 7 NOVEMBER 2012)**

3	David Blackburn Kingsley	Not stated.	<p>Clause 9.1.3</p> <p>“the Council may prepare and adopt...” seems to enable the Council to unilaterally impose a Structure Plan upon an Activity Centre. This seems a significant change. Will the City be reviewing the activity centres listed at Clause 3.7.2 (Warwick, Whitford, Currambine, Greenwood, Woodvale) and prepare structure plans for the centres in advance of any owner initiated structure plan submission? (Excluding Whitfords as Westfield is already in the process of submission of a structure plan.)</p>	<p>The provision for Council to prepare and adopt a structure plan currently exists within DPS2 and is not a new provision.</p> <p>The City will be reviewing the existing Currambine District Centre structure plan with a view to address various issues within the structure plan. The City does not currently have any plans to prepare structure plans for the other centres.</p>
4	Angus Nardi Shopping Centre Council of Australia		<p>General support for the amendment, however principal position is that no local planning scheme should go beyond its general intent or provisions.</p> <p>Concerned primarily with clauses 3.7 and 3.11. Believes the wording goes further than SPP4.2 where it states that “activity centre structure plans should be endorsed” and also contemplates “exceptional circumstances” upon which major development can proceed in advance of, or in the absence of an endorsed structure plan. The amendment removes the “exceptional circumstances” provisions.</p> <p>The amendment contains some new clauses which removes the application of the General Discretion clause of the scheme to approve an application that does not comply</p>	<p>There is significant difficulty with incorporating a scheme provision that reflects this aspect of SPP4.2 given that there is no indication or guidance about what constitutes an exceptional circumstance. This would create uncertainty and the potential for disputes between the City and proponents as to what constitutes exceptional circumstances. It is therefore not proposed to amend the proposed scheme amendment in this respect</p> <p>There is no intent to diminish the powers of the Development Assessment Panel.</p>

**PROPOSED AMENDMENT NO 66
 SCHEDULE OF SUBMISSIONS FOLLOWING ADVERTISING
 (CLOSED 7 NOVEMBER 2012)**

			<p>with Scheme requirements out of the commercial and activity centre zones. The removal of the general discretion clause offered to other land uses, including within activity centres.</p> <p>Concerned the intention of these clauses is to diminish the power of the Development Assessment Panel.</p>	
--	--	--	--	--