

PD703

TOWN PLANNING AND DEVELOPMENT ACT 1928

APPROVED TOWN PLANNING SCHEME

City of Gosnells

Revised Town Planning Scheme No. 9A—Maddington

Ref: 853/2/25/14.

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 approved the City of Gosnells, Revised Town Planning Scheme No. 9A—Maddington on 17 July, 1990, the Scheme Text of which is published as a Schedule annexed hereto.

Schedule

CITY OF GOSNELLS

REVISED TOWN PLANNING SCHEME No. 9A

Maddington

January 1990

The City of Gosnells under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928 hereby makes the following Town Planning Scheme.

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CITY OF GOSNELLS
Town Planning Scheme No. 9A
Maddington

1. CITATION

This Town Planning Scheme may be cited as the City of Gosnells Revised Town Planning Scheme No. 9A Maddington (hereinafter called "the Scheme") and shall come into operation on the publication of notice of the Hon Minister for Town Planning's final approval thereof in the *Government Gazette* and which automatically rescinds Town Planning Scheme No. 9A—Maddington.

2. RESPONSIBLE AUTHORITY

The authority responsible for enforcing the observance of the Scheme shall be the Council of the City of Gosnells (hereinafter referred to as "the Council").

3. SCHEME MAPS

The following maps are attached to this text and form part of the Scheme:

- (i) Land Use Map
- (ii) Scheme Map
- (iii) Services Map

4. SCHEME AREA

The Scheme shall apply to the land contained within the inner edge of the broken black line as shown on the Scheme Map. The said land is hereinafter referred to as "the Scheme Area".

5. SCHEME FUND

The Council shall establish a Scheme Fund for the sole purpose of receiving all contributions to Scheme Costs required to be paid to the Scheme and contributing to the various services and improvements strictly in accordance with this Text. Any surplus funds after completion of the Scheme shall be spent on upgrading of facilities within or near the Scheme Area.

6. GENERAL OBJECTS

The general objects of the Scheme are:

- (a) To facilitate and co-ordinate progressive subdivision and development of the land within the Scheme Area.
- (b) To plan within the Scheme Area suitable roads, accessways and cycleways.
- (c) To plan within the Scheme Area and make provision for Public Open Space.
- (d) To ensure the proper drainage of the roads and of those parts of the Scheme Area which require drainage or other such works.
- (e) To make provision for the creation of drainage reserves and easements for drains and deep sewers.
- (f) To ensure the provision of reticulated water to and throughout the Scheme Area.
- (g) All lots within the Scheme Area to be able to connect to a reticulated sewer system under the control of the Water Authority of Western Australia.

7. METHOD OF CARRYING OUT OBJECTS

7.1 General

The objects of the Scheme will be achieved by the control and co-ordination of subdivision in the area. The Scheme map forms a basis for subdivision and development and a framework within which orderly development can take place.

7.2 Council May Act Where Owner Obstructs

Where development of the area is held up by the lack of services or failure of landowners on strategic lots to proceed with subdivision, the Council is empowered under the terms of the Scheme to take action as hereinafter provided.

8. SUBDIVISION

8.1 Normal Procedure

An owner of land within the Scheme Area who desires to subdivide his land either alone or in conjunction with other owners shall submit a plan of proposed subdivision to the Department of Planning and Urban Development as required by the Town Planning and Development Act, 1928 (as amended). Where the plan of proposed subdivision is in conformity with the Scheme Map the subdivision will be handled by the Department of Planning and Urban Development in a normal manner and may be approved subject to construction of Subdivision Works as specified in Section 8.4 hereunder, payment of the necessary contribution to Scheme Costs as provided in Section 13 of this Text, and such other conditions as the Department may determine.

8.2 Variations Permitted

The Department of Planning and Urban Development may permit alterations or variations to the Scheme Map where in its opinion circumstances justify such action, provided that no such alteration or variation shall be permitted if in the opinion of the Council and the Department it would impede the subdivision and development of the Scheme as a whole.

8.3 Council May Act

The Council may carry out the construction of Scheme Works as defined in Section 9 and Subdivisional Works both within and/or outside the Scheme Area and may acquire land necessary for that purpose. If the Council shall do so prior to the subdivision of the lands adjoining such works the costs of the construction and drainage of the said works and all compensation and other costs consequent upon the acquisition of the land shall be paid to the Council by the respective owners of land in accordance with the foregoing provisions as and when they subdivide their land.

8.4 Subdivision Works

Subdivision Works as referred to in the Scheme shall mean the construction of all roads, footpaths, fences, drains, sewers, water mains and other services, development of public open space areas and the filling and levelling of land which the subdivider may be required to undertake as a condition of subdivision.

Subdivisional Works shall include the cost of providing subdivisional services to the following specifications:

- Carriageways to 10 m wide and adjacent to Public Open Space to a maximum of 50% of the pavement and road drainage cost. Road widths shall generally be in accordance with the DPUD Residential Road Planning Policy DC 2.6.
 - Pedestrian footpaths and accessways as may be required as a condition of subdivision being constructed to the specification of the Council or in accordance with DPUD Policy DC 2.6.
 - Stormwater drains up to and including 600 mm diameter.
 - Sewers up to and including 230 mm diameter and 3 m deep.
 - All Water Mains except where they are greater than 150 mm diameter and marked on the services map.
 - Uniform fencing along lot boundaries which abut or face the Tonkin Highway and/or Public Open Space areas to a minimum standard of capped asbestos fencing of 2 m with a post and rail construction, or otherwise to the specification of the City of Gosnells.
- and the payment of water and sewer headworks charges to the Water Authority of Western Australia as determined by that Authority.

Where services larger than those specified in this section are required within the boundaries of land being subdivided, they shall be constructed as part of the Subdivision Works. The excess cost will be considered as credit towards the Scheme and adjusted on payment of Scheme Costs which are the liability of the Owner in accordance with this Text.

8.5 Subdivision Costs

Subdivision Costs are the cost of carrying out Subdivision Works and are the responsibility of the Subdivider. The Subdivider is also responsible for paying a contribution to Scheme Costs as stated in Section 14, prior to issue of subdivision clearance.

9. SCHEME WORKS

9.1 General

Scheme Works are all works necessary for the development of the area that confer a general benefit on the area and are not related to a particular piece of land and include the upgrading and/or relocation of existing services within and/or outside the Scheme Area to serve the Scheme Area.

9.2 Excess Cost of Services

Scheme Works shall include the excess cost of services required beyond the limits for Subdivisional Works as defined in Section 8.

9.3 Items Shown on Scheme Services Map

Scheme Works shall include all Roads, Drains, or other services specifically shown as such on the Scheme Services Map.

9.4 Relocation of Existing Services

Scheme Works shall include the cost of relocation of existing services which is caused by Scheme Works and by the closure of existing roads.

9.5 Development of POS Where Drainage is Included

Scheme Works shall include the cost of establishing the open space areas, which includes drainage basins, by recontouring, grassing, selected planting, reticulation and the provision of recreation equipment to the satisfaction of the Council.

10. ROADS

10.1 All Roads at Owner's Cost

All roads shown on the Scheme Map, whether constructed or unconstructed, existing or to be created by subdivision, within or outside the Scheme Area which front lots to be created by subdivision under the Scheme shall be constructed and/or widened and drained to the Council's specification as Subdivision Works at the expense of the owners abutting the road except to the extent that the construction of a particular road may be covered as Scheme Works as defined in Section 9 of this Text. The provision of land for road purposes is covered in Section 12—Land Requirements.

10.2 Sharing of Road Costs

In cases where the situation of a new road within the Scheme Area is such that it would be fair and equitable that the owners of adjoining land should each contribute to the cost of the construction or drainage of that road and apportion the value of the land available for roads and such owners are unable to agree upon the amount (if any) payable by each of them, the amount (if any) payable by each owner shall be determined by arbitration in the manner hereinafter provided.

11. NATIVE TREES

So far as is practicable and consistent with the economic subdivisional development of land, existing trees and shrubs are to be retained. The Council may mark groups of trees and these trees are to be retained unless approval is given by the Council, in writing, for their removal.

12. LAND REQUIREMENTS

12.1 General

All land that is necessary for the provisions of Roads, Drain Reserves, Footways, Cycleways, Public Open Space and School Sites shall be provided by the owners under the terms of this Scheme and in accordance with the Scheme Map and Services Map.

12.2 Owners to Provide

Where an owner of land within the Scheme Area wishes to subdivide his land he shall transfer to the Crown free of charge all land required for Roads and Footways within his subdivision and 10% of the total area of his land for Public Open Space, or such other area of his land as is designated on the Scheme Map for Public Open Space. With the approval of the Department of Planning and Urban Development the land be transferred to the Council in fee simple.

12.3 Council May Acquire

Council may, at its discretion, acquire any land required for Scheme purposes ahead of subdivision development, whether by negotiation or resumption or partly by one method and partly by the other.

12.4 Resumed Roads and Betterment

If an owner shall claim compensation for the resumption from him of land to be used as a road or for drainage purposes there shall be set off against the amount of compensation payable to him, the amount by which the value of the remainder of his land has been or will be increased by the construction of the roads or drainage within the Scheme Area and by the operation of the Scheme.

12.5 Resumed Roads and Drainage and Subsequent Subdivision

If an owner shall subdivide his land and if he or his predecessors in title shall have claimed or shall have been paid compensation by reason of the resumption by the Council of the land for a new road or drainage within the Scheme Area he shall, before the approval of his plan of subdivision, release the Council from the payment of compensation or if payment has been made by the Council then the owner shall refund to the Council the amount of compensation paid to it by him or his predecessors in title as the case may be.

12.6 POS

The land shown as Public Open Space on the Scheme Map represents 8% of the total subdivisible area and shall be reserved for Public Recreation. The balance 2% Public Open Space taken as cash in lieu, will be used for improvement of parks within the Scheme Area or for purchase of land within the Scheme Area for public open space purposes.

12.7 POS Previously Given

If the owner or a previous owner of a parcel or parcels of land the subject of subdivision has as a condition of a previous subdivision transferred to the Crown or Council land for Public Open Space, then the area of land required to be transferred to the Crown or Council under Clause 12.2 shall be reduced to the extent that the total contribution does not exceed 10% of the original gross area.

Lot 102 which was previously vested for public open space (POS) will be divested and transferred to Lot 103 Dellar Road and a 10% POS contribution in accordance with the Scheme Map will be taken from Lot 103 Dellar Road. For the purpose of the divesting of Lots 102 final gazettal of Revised Scheme 9A will be deemed as having fulfilled any required advertising of this proposal.

12.8 Cash in Lieu of POS

If, within a parcel of land the subject of subdivision, the Scheme requires either no Public Open Space, or requires a lesser amount than the normal 10% provision, the Council and the owner shall agree on a land transfer or a cash equivalent, or a combination of land and cash, so that the owner's contribution equals 10% of the fair net expectancy value of the land inclusive of the subdivider's profit from the sale of the land in its optimum subdivided form for detached houses.

12.9 Compensation for Excess POS

If within a parcel of land the subject of subdivision and development more than 10% is required by the Scheme for Public Open Space the Council shall pay to the owner by way of compensation the fair net expectancy value of the land exceeding the said 10%. If the Council and the owner so agreed the Council may transfer to the said owner other land in or near the Scheme Area either owned by the Council or acquired by it for that purpose to compensate him for the land in excess of the said 10% required by the Scheme in which case the amount payable by the Council to the owner shall be reduced accordingly.

12.10 Subsequent Subdivision of Land from which POS has been required

If the Council has acquired land for Public Open Space, roads, drainage and Local Authority purposes it shall be reimbursed all compensation and costs paid by it from monies received by it from the sale of land or under preceding clauses hereof and upon the owner from whom the land was acquired by negotiation or compulsory purchased-subdividing his land the value of 10% of his land to be made available for Public Open Space or Local Authority purposes hereunder shall be assessed on the basis that such land had not been compulsorily purchased.

13. SCHEME COSTS

13.1 Items Included

The cost or estimated cost of all items covered in this Section are Scheme Costs and a contribution toward such costs shall be paid from Scheme Funds in accordance with the estimates calculated as part of the Scheme.

- (a) Any costs or expenses incurred by the Council in the preparation, adoption, administration, conduct, management and development of the Scheme including consultants fees.
- (b) All compensation payable and all the costs and expenses of determining and settling compensation in respect of matters under the Scheme.
- (c) The cost of the acquisition of any land within or near the Scheme Area for Scheme purposes in the event of such land being acquired other than by resumption.
- (d) The cost of Scheme Works as defined in Section 9.
- (e) Any interest charges on monies raised by the Council for the purpose of the Scheme.
- (f) The cost of providing Land Requirements (as per Section 12).

13.2 Calculation of Scheme Costs and Credits

The amount for nett Scheme Costs and Credits against the Scheme shall be calculated at the time of subdivision clearance or revised at the time of pro-rata payments and shall be the lesser of:—

- (a) an amount estimated based on the costs used by Council to establish Scheme Costs at the time of the Scheme being granted final approval and compounded from that date at 10% p.a.
- (b) the estimated cost of the works at the time of full or part payment determined by an independent expert and in default of agreement, by arbitration.

13.3 Reimbursement of Owner Who Finances

In the event of a subdivider providing funds or construction works after the date of the resolution to prepare the Scheme, in respect of any Scheme Works, or Subdivision Works that would normally be the responsibility of another subdivider, to serve and expedite development in the Scheme Area the Council subject to prior agreement shall reimburse the subdivider from Scheme funds as and when funds are available plus interest as the rate specified within 13.2 (a) to the extent that it considers fair and equitable, provided that such reimbursements shall not exceed the amount which represents the proportion of such works which would not be the subdivider's costs under the Scheme.

14. PAYMENT OF SCHEME COSTS

- 14.1 Subject to the provisions of this Scheme each owner shall, after conditional approval, and prior to the subdivision clearance, pay to the Council an amount which bears the same proportion to the total Scheme Costs as the area of owner's land being subdivided bears to the whole of the land that is privately owned within the Scheme Area and this may be expressed on a lot basis. Payment of Scheme Costs will be waived in relation to an existing habitable dwelling site at the general rate per lot application to all new lots. For the purpose of this calculation the High School site is not included.

- 14.2 A contribution to Scheme Costs is not required from the Education Department for the High School site.
The Education Department will pay the following contribution to abutting subdividers:
- (i) half cost of all new perimeter roads around the school site;
 - (ii) half cost of new water mains adjoining the school site;
 - (iii) half the cost of any new mains for sewerage, drainage and stormwater disposal continuous to the boundary of the school site and the full cost of any contiguous extension mains.
- 14.3 If an Owner disagrees with the Council's determination of his proportion of Scheme Costs the matter may be determined by Arbitration, in the manner specified in Section 18, providing that the owner notifies the Council that he wishes to take the matter to arbitration within 30 days of receiving notice of his costs.
- 14.4 If Scheme Costs have not been paid in accordance with Clause 14.1 hereof and the Council has expended a sum of money for any items of Scheme Costs it shall be entitled to charge interest on the sum of money expended at the rate negotiated by the Council to fund the Scheme.

15. ESTIMATE OF SCHEME COSTS

If any of the items of Scheme Costs have not been paid or ascertained at the time such costs become due, the costs may be estimated by the Council.

16. VALUATION

- 16.1 Where it is necessary to ascertain the value of any land for the purpose of the Scheme, the value shall be assessed on the basis of fair net expectancy by the Valuer General, one of his officers or such other valuer being a member of the Australian Institute of Valuers (Inc) as the Council determines.
- 16.2 If an owner objects to the value so determined, he may give notice of such objection to the Council within twenty eight (28) days after having been informed of the said value. If the valuer does not agree to change the value to a figure acceptable to the owner, the value shall be determined by arbitration.
- 16.3 When it becomes necessary to make a valuation by reason of an application for consent to a subdivision or development, the costs of the valuation shall be paid by the person making the application.
- 16.4 If a valuation made by the valuer shall be changed as the result of an objection the valuer may reconsider the values placed on the other land and make such revaluations as he considers just and equitable. The owners affected by such revaluation shall forthwith be notified of any change in value.

17. MONEY RECEIVED BY COUNCIL

All money received by Council under the provisions of this Scheme shall be held by the Council in the Scheme fund and used for the purpose of this Scheme and shall not form part of its general revenue. The Council shall prepare and make available an annual report when requested by a landowner.

18. ARBITRATION

Any dispute or difference between the owners or an owner or owners and Council (except where there is a right of appeal to the Minister for Planning) as to their respective rights under the Scheme and any matter which by the terms of this Scheme may be determined by arbitration may be referred to the arbitration of a single arbitrator in the manner provided by the Arbitration Act, 1895, or any statutory modification thereof for the time being in force and if parties fail to agree upon any one single arbitrator he will be nominated by the President of the Australian Institute of Valuers (Inc) WA Division. The allocation of costs for such arbitration shall be as determined by the Arbitrator.

19. FINANCE

- 19.1 The Council may if it so desires, raise loans or provide funds from other sources for the purpose of providing the finance necessary for the implementation of the Scheme. If the Council shall be unable to arrange the necessary finance it shall be under no obligation to the owners of the land within the Scheme Area or to any other person by reason of its failure to acquire funds or carry out works.
- 19.2 In the event of money received by the Council pursuant to the provisions of the Scheme being greater than the amount necessary to repay any loans and interest thereon or other money and to carry out the general objects of the Scheme, the balance thereof shall be applied by the Council in further improvements and facilities within or near the Scheme Area.

20. POWERS OF COUNCIL

20.1 In carrying out the provisions of the Scheme the Council shall have the following powers and authorities:

- (a) To enter and inspect at any reasonable time, land within the Scheme Area and to carry out works either by itself, its agents, employees or nominees that are pertinent to the Scheme.
- (b) To make agreements with the owners or occupiers of the land within the Scheme Area in respect of any matters affecting the Scheme.
- (c) To make agreements with the Water Authority of Western Australia, or any other Government instrumentality concerning any matters relating to the Scheme.
- (d) To enter into agreements with purchasers or prospective purchasers or prospective occupiers of land within the Scheme Area.
- (e) To purchase, develop and sell land within the Scheme Area.
- (f) If any owner of land within the Scheme Area does not proceed with the subdivision and development of his land in accordance with the terms of the Scheme, and his failure to do so in the opinion of the Council, will unduly delay or impede the completion of the Scheme or the subdivision and development of the Scheme Area or any part thereof, the Council shall notify the owner of its opinion, and may resume or purchase the land of such owner or any part thereof, and proceed with the subdivision and development of such land in accordance with the provisions of the Scheme.
- (g) In the event of the Council exercising its powers under paragraph (f) hereof it shall have all the powers of the owner in the subdivision development and disposal of the land acquired by it. If the land shall have been resumed, and the owner had not been paid compensation for the resumption of his land the Council shall, before selling the land so subdivided and developed, offer the new lots to the owner from whom the land was resumed upon his paying to the Council all costs and expenses consequent upon the operation of the Scheme, the resumption, subdivision and development of the said land, and upon his releasing the Council from all claims for compensation in respect of such resumption. The said offer shall be made in writing, and if not accepted within one calendar month of the service thereof, the Council may proceed with the sale of the subdivided lots. All money received by it from such sale shall be applied by the Council firstly in payment of all costs consequent upon such subdivision and the operation of the Scheme, and secondly in payment of all compensation in respect of the said land. The balance (if any) of such money will be retained by the Council and the Council will make good any deficit. An offer may be served by registered post, sent to the owner at his address in the rate book of the Council, and shall be deemed to have been served forty eight (48) hours after posting.
- (h) If the offer mentioned in paragraph (g) hereof be not accepted, the Council may retain all or any part of the said land, but if it does so, it shall be responsible to pay all costs of the subdivision of the said land including Scheme Costs and compensation for its resumption not paid from the proceeds of the sale.
- (i) The Council may resume any land within the Scheme Area for Scheme purposes, or in order to make it available for a particular use shown in the Scheme Map in cases where the owner thereof will not agree to make the land available for that purpose in accordance with the provisions of the Scheme.
- (j) To dispose of any lot or lots to which it becomes entitled, whether under paragraphs (f) or (i) hereof or otherwise upon such terms and conditions as it may think fit and without limiting the generality of the foregoing provisions of this paragraph the Council may sell the lots singly or in groups and subject to or with the benefit of easements.
- (k) Extend the time within which payments are to be made to the Council and agree to the securing of such payments.
- (l) To raise loans and/or to establish separate funds for any matters appertaining to the Scheme.
- (m) Make payments on account of any of the matters referred to in Clause 13 hereof.

21. ADMINISTRATION

21.1 Twenty eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Town Planning and Development Act 1928 (as amended). Any expenses incurred by the Council under the said Section may be recovered from the person in default as a simple contract debt in such court of Jurisdiction as is competent to deal with the amount of the claim.

21.2 The Council may at any time exercise the powers conferred by Section 13 of the said Act.

21.3 In this Scheme the word 'lot' has the meaning given to it by the Town Planning and Development Act 1928 (as amended), but does not include a lot on a Strata Plan.

22. CLAIMS FOR COMPENSATION

Claims for compensation by reason of the coming into operation of the Scheme shall be made within six months of the date of the Scheme's final gazettal.

23. LAND OWNED OR ACQUIRED BY COUNCIL

All or any of the land owned by or subsequently acquired by the Council within or near the Scheme Area may be used by the Council for any purposes appropriate to the Scheme. If such purpose is one for which land may be acquired by Council pursuant to this Scheme the Council shall be compensated for the value of the land so used by the Council. If the Council shall subdivide or develop any land owned by it, the provisions of this Scheme shall apply to the Council.

Adopted by resolution of the Council of the City of Gosnells at the Ordinary Meeting of the Council held on 20 December 1988.

P. MORRIS, Mayor.
G. WHITELEY, Town Clerk.

Adopted for final approval by resolution of the City of Gosnells at the Ordinary Meeting of the Council held on 28 November 1989.

The Common Seal of the City of Gosnells was hereunto affixed by authority of a resolution of the Council in the presence of:

P. MORRIS, Mayor.
G. WHITELEY, Town Clerk.

Recommended/Submitted for final approval.

13 July 1990.

JOHN F. FORBES, for Chairman, State Planning Commission.

Final approval granted.

17 July 1990.

KAY HALLAHAN, Hon Minister for Planning.

POLICE**PE401****POLICE AUCTION**

Under the provisions of the Police Act 1892-1983, unclaimed bicycles only will be sold by public auction at the Department of Services, Summers Street, East Perth on Tuesday September 25, 1990 commencing at 9.00am.

Auction to be conducted by Government Auctioneer.

B. BULL, Commissioner of Police.

PE402**POLICE AUCTION**

Commencing at 0900 hours on 6th September 1990.

A sale of unclaimed, found and stolen property will be held at the Kambalda Police Station, on the abovementioned date, phone 090 27 1555.

Intended purchasers paying by cheque must show identification when registering. Credit will not be granted.

Registration is to be completed prior to bidding. Bids will not be accepted from persons not registered.

Registration can be made on 5/9/90 between 0800 hours and 1500 hours or on the day of the auction at the above address prior to the auction starting.

Auctioneer will be Mr T. Morgan.

B. BULL, Commissioner of Police.