



DISTRICT PLANNING SCHEME No. 2

Amendment No. 231

Planning and Development Act 2005

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

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 231

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above local planning scheme by:

1. Amend subclause 1.10.3 and subclause 1.10.4 in Schedule 14 of District Planning Scheme No. 2 and;
2. Replace subclause 1.10.5 and 1.10.11 in Schedule 14 of District Planning Scheme No. 2; and
3. Insert a new subclause 1.10.6 in Schedule 14 of District Planning Scheme No. 2; and
4. Renumber subclauses from 1.10.6 to 1.10.15; and
5. Replace subclause 1.13.1 and subclause 1.13.2 in Schedule 14 of District Planning Scheme No. 2; and
6. Delete subclause 1.13.3 in Schedule 14 of District Planning Scheme No. 2

With details of the above amendments being set out in the Text modification Form and Attachment 1.

The Amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan.

Date of Council Resolution.....

.....
(Chief Executive Officer)

Dated this day of 20.....

TEXT MODIFICATION PAGE**PLANNING AND DEVELOPMENT ACT 2005****CITY OF WANNEROO****DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 231**

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 to:

1. Amend subclause 1.10.3 in Schedule 14 to remove 'then subclauses 1.10.5 (a) to (c) and'.
2. Amend subclause 1.10.4 in Schedule 14 to remove 'in accordance with subclause 1.10.5(d)'.
3. Replace subclause 1.10.5 in Schedule 14 with the following:

'The contribution of an owner to Cell Costs by way of payment of Infrastructure Costs arises on the earlier of:

- a) The Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;
- b) The commencement of any development on the owner's land within the development contribution area with the exception of clearing and earthworks commenced under a Development Approval in the case of land subdivisions;
- c) The approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
- d) The approval of a change or extension of use by the local government on the owner's land within the development contribution area.

The liability arises only once upon the earliest of the above listed events.

4. Insert a new subclause 1.10.6 in schedule 14 with the following:

'Notwithstanding clause 1.10.5, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.'

5. Replace sub clause 1.10.11 with the following:

'Any cost contribution for which an owner is liable shall be a charge on that land and the local government may lodge a caveat against the title of the land in respect thereof. The

local government may at the cost of the owner of such land and subject to such other conditions as the local government considers appropriate, withdraw a caveat to permit dealings and thereafter relodge the caveat to prevent further dealing until such costs are paid. Upon the payment of all Cell Costs contributions in respect of any land, and if requested to do so the local government shall withdraw any such caveat which it has lodged on the title to that land at the request of and at the expense of the owner.'

6. Renumber subclauses from 1.10.6 to 1.10.15, including in-text subclause references.
7. Replace subclause 1.13.1 in Schedule 14 with:

'If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a cell, the local government may—

- a) make good the shortfall;
- b) enter into agreements with owners to fund the shortfall; or
- c) raise loans or borrow from a financial institution.'

8. Replace subclause 1.13.2 in Schedule 14 with:

'If there is an excess in funds available where all cost contributions within a cell have been made, and/or all cell works have been completed, the local government is to refund the excess funds to contributing owners. The amount of any excess that an owner may be entitled to receive shall be in the same proportion to the total value of contributions paid by the landowner to the total value of the contributions received in a Cell. The amount payable to an owner under this clause shall be reduced by the amount of any shortfall in the payments made by that owner to their assessed Infrastructure Costs.

a) Prior to the distribution of excess funds, owners are to be advised in writing of the following:

- i. the extend of the excess funds;
- ii. how the excess funds are to be distributed; and
- iii. the anticipated timing for the return of excess funds.

b) Where it is not possible or practical to identify contributing owners, after making all reasonable efforts to identify and contact contributing owners, the City is to expend the excess funds to provide additional facilities or improvements within the cell, following consultation with the community. The City is to publish details of how these excess funds are intended to be spent in the Cell before funds are expended.'

9. Delete subclause 1.13.3

COUNCIL ADOPTION

This Complex Amendment was adopted by resolution of the Council of the City of Wanneroo at the Ordinary Meeting of the Council held on the 25th day of November, 2025

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MAYOR

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

By resolution of the Council of the City of Wanneroo at the Ordinary Meeting of the Council held on the 25th day of November 2025, proceed to refer Amendment No. 231 to the Western Australian Planning Commission to advertise this amendment.

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MAYOR

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for [support with/without modification or not support] by resolution of the City of Wanneroo at the Ordinary Meeting of the Council held on the [number] day of [month], 20[year], 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:

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MAYOR

.....
CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDATION FOR APPROVAL

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

DATE

Approval Granted

.....
MINISTER FOR PLANNING, LANDS AND
HERITAGE

DATE

Attachment 1

Final Clean Version

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 to:

1.10 ESTIMATES OF INFRASTRUCTURE COST

- 1.10.1 The local government may, upon receiving any written request from an owner of land in a Cell make an estimate of Infrastructure Costs and issue an estimate to the enquirer which states the rate of contribution of Infrastructure Costs for the subject Cell. All estimates issued by the local government in writing, are valid for a period not exceeding six (6) months from the date of issue. The estimate will be based on the calculation described in Clause 1.6 and will be an estimate of the Infrastructure Costs that will apply in six (6) months from the date of issue.
- 1.10.2 Where an owner of land in a Cell seeks to make a payment for Infrastructure Costs based on the estimate provided under subclause 1.10.1 and the Infrastructure Costs being charged by the local government at the time are less than the amount of the estimate, then the owner may pay the lesser amount.
- 1.10.3 Where an owner has been provided with an estimate of the Infrastructure Cost for any land of the owner within a Cell and the owner subsequently pays a sum equal to that estimate within the time allowed for under subclause 1.10.1, then the owner is not liable to pay further Infrastructure Costs in relation to that land unless the estimation provided by the local government was calculated in error, Clause 1.8 would apply.
- 1.10.4 The provisions of subclause 1.10.3 shall not apply to those owners or former owners of land in a Cell who, prior to the adoption of an Local Structure Plan for the Cell have made a payment to Cell Works on the basis of Infrastructure Cost Contribution that is less than the contribution rate required after the Local Structure Plan for the relevant Cell came into effect. In such circumstances, the local government may seek a further payment from those owners who have made such payments, which represents the difference between such payment and the amount of the owner's contribution calculated as if the payment was made at the time the Local Structure Plan for that Cell came into effect.

Owners shall make the further payment stipulated by the local government on demand.
- 1.10.5 The contribution of an owner to Cell Costs by way of payment of Infrastructure Costs arises on the earlier of:
 - (a) The Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;

- (b) The commencement of any development on the owner's land within the development contribution area with the exception of clearing and earthworks commenced under a Development Approval in the case of land subdivisions;
- (c) The approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
- (d) The approval of a change or extension of use by the local government on the owner's land within the development contribution area.

The liability arises only once upon the earliest of the above listed events.

- 1.10.6 'Notwithstanding clause 1.10.5, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.
- 1.10.7 Having regard to the availability of funds in the relevant Cell Account and the priority of Cell Works, the local government shall endeavour to offset any credit to which an owner is entitled under this Part against the Infrastructure Contribution first assessed to be payable by that owner after determination of the credit.
- 1.10.8 If the date upon which the liability of an owner or former owner to pay Infrastructure Costs cannot be ascertained with certainty by reference to the time of the commencement of a development including a use involving the creation or production of a new or additional dwelling, then the date upon which the Infrastructure Costs shall be treated as being due and payable shall be the date of posting by the local government to the owner of a demand for payment of the contribution by prepaid letter addressed to the owner at the last address known to the local government of the owner.
- 1.10.9 The local government may agree (but is not required) to allow an owner to defer part of any Infrastructure Costs payable by such owner prior to or upon such costs becoming due and payable until a date acceptable to the local government and subject to payment of interest. Any interest payable pursuant to subclause 1.10.10 shall only be calculated on the balance of the Infrastructure Costs outstanding.
- 1.10.10 Interest shall be paid on all overdue Infrastructure Costs at the rate payable from time to time on judgement debts pursuant to Civil Judgement Enforcement Act (2004) and the associated Regulations from the date the contribution became due until the date of payment, although on application by an owner, the local government may agree to suspend or waive such interest or any part thereof if satisfied that it would be fair and equitable to make such allowance.
- 1.10.11 Any overdue Infrastructure Costs relating to land in a Cell shall be a liquidated debt due to the local government by the owner of such land and may be recovered by the local government in a court of competent civil jurisdiction.

- 1.10.12 Any cost contribution for which an owner is liable shall be a charge on that land and the local government may lodge a caveat against the title of the land in respect thereof. The local government may at the cost of the owner of such land and subject to such other conditions as the local government considers appropriate, withdraw a caveat to permit dealings and thereafter relodge the caveat to prevent further dealing until such costs are paid. Upon the payment of all Cell Costs contributions in respect of any land, and if requested to do so the local government shall withdraw any such caveat which it has lodged on the title to that land at the request of and at the expense of the owner.
- 1.10.13 The local government may, but is not required, to accept land within the Cell to the value of any amount due to the local government in respect of Infrastructure Costs in lieu of payment of that amount. The land can either be provided to the local government on an en globo basis or as serviced and developed land. Any such land shall only be valued on a fair market value basis by a licensed valuer who is a member of the Australian Institute of Valuers and Land Economists (Inc) (WA Division) ("AIVLE") acceptable to the parties or if no such agreement can be reached as nominated by the President for the time being of AIVLE.
- The local government shall hold any land so acquired for future sale and expenditure of the proceeds on Cell Works, or for transfer to an owner in exchange for land required to be contributed for other Cell Works, on a fair market value basis.
- 1.10.14 Where the local government is required to acquire land for Cell Works and the owner of the land requests that the local government acquire the balance of the lot, local government may, subject to availability of funds within the Cell Account for that Cell, acquire such land. If deemed appropriate by the local government, funds may be drawn from another approved source.
- 1.10.15 Where the local government acquires land pursuant to subclause 1.10.14, it may at its absolute discretion, either offer this land for sale on a fair market value basis to an adjoining owner or other interested party or alternatively subdivide or develop this land in accordance with the prescribed zoning and the Structure Plan for the Cell.
- 1.10.16 Where the local government sells any land pursuant to subclause 1.10.15 the proceeds of sale shall be credited to the Cell Account from which the acquisition, subdivision or development costs were drawn and they shall not form part of the local government's Municipal Fund unless the acquisition, subdivision or development costs were drawn from that Fund.

1.13 FINANCE

- 1.13.1 'If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a cell, the local government may—
- a) make good the shortfall;
 - b) enter into agreements with owners to fund the shortfall; or

- c) raise loans or borrow from a financial institution.'

1.13.2

If there is an excess in funds available where all cost contributions within a cell have been made, and/or all cell works have been completed, the local government is to refund the excess funds to contributing owners. The amount of any excess that an owner may be entitled to receive shall be in the same proportion to the total value of contributions paid by the landowner to the total value of the contributions received in a Cell. The amount payable to an owner under this clause shall be reduced by the amount of any shortfall in the payments made by that owner to their assessed Infrastructure Costs.

- a) Prior to the distribution of excess funds, owners are to be advised in writing of the following:
 - i. the extend of the excess funds;
 - ii. how the excess funds are to be distributed; and
 - iii. the anticipated timing for the return of excess funds.
- b) Where it is not possible or practical to identify contributing owners, after making all reasonable efforts to identify and contact contributing owners, the City is to expend the excess funds to provide additional facilities or improvements within the cell, following consultation with the community. The City is to publish details of how these excess funds are intended to be spent in the Cell before funds are expended.