



DISTRICT PLANNING SCHEME No. 2

Amendment No. 180

Planning and Development Act 2005

**RESOLUTION TO PREPARE AMENDMENT TO
LOCAL PLANNING SCHEME**

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 – AMENDMENT NO. 180

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

- a) Modifying the permissibility of the following land uses from discretionary ('D') to not permitted ('X') in the Special Residential Zone:
 - i. Cattery
 - ii. Child Care Centre
 - iii. Consulting Room

- b) Deleting Special Residential No. 6 from Schedule 11.

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

An amendment that is not addressed by any local planning strategy.

Date of Council Resolution: 30 July 2019

.....
(Chief Executive Officer)

Dated this day of 20.....

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO 2 – AMENDMENT NO. 180

SCHEME AMENDMENT REPORT

Background

Through recent deliberations of a development application for a child care centre in the Special Residential Zone, the City has become aware of the concerns that can arise from the establishment of a range of discretionary non-residential land uses in this zone.

The impact of individual non-residential uses in a Special Residential zoned area can be properly managed through sensitive design and appropriate conditions of development approval. However, the cumulative impact of multiple non-residential uses in close proximity within a Special Residential Zone will likely detract from the intended low density residential character. In this regard, an accumulation of non-residential land uses would compromise and erode the purpose of the Special Residential Zone, which is to establish a low-density and spacious residential environment.

The City's Council was given the opportunity at its 30 July 2019 meeting to consider whether it would be appropriate to modify (reduce) the range of non-residential land uses permissible in the Special Residential zone. As a result, the City's Council initiated Amendment No. 180 to the City's District Planning Scheme No. 2 (DPS 2), which proposes to no longer permit "Child Care Centre", "Consulting Room" and "Cattery" in the Special Residential Zone.

Special Provisions for five defined Special Residential zoned areas are provided for in Schedule 11 (Special Provisions) of DPS 2. In addition to the above, Amendment No. 180 also proposes to remove the now redundant Special Provisions from Schedule 11 as they relate to Lot 51 (2) Travertine Vista, Carramar (formerly Lot 51 (575) Flynn Drive, Carramar), as this site was rezoned to Urban Development in 2013. The provisions in Schedule 11 were not deleted when Lot 51 was rezoned to Urban Development, and this additional action will rectify that matter.

Detail

Amendment No. 180 to DPS 2 proposes the following:

a) *Changes to land use permissibility in the Special Residential Zone:*

Amendment No. 180 to DPS 2 would modify land use permissibility to the extent as set out below:

Land Use	<u>Current</u> Permissibility in the Special Residential Zone	<u>Proposed</u> Permissibility in the Special Residential Zone
Cattery	D	X
Child Care Centre	D	X
Consulting Room	D	X

Amendment No. 180 does not propose changes to land use permissibility for 'ancillary accommodation', 'bed and breakfast', 'holiday accommodation', 'holiday house', 'home business (category 1-3)', 'mast or antenna', 'park' and 'single house'; which would remain either discretionary ('D') or permitted ('P') in the Special Residential Zone. All other land uses are not permitted (or 'X') in the Special Residential Zone, which Amendment No. 180 does not propose to change.

b) Deletion of Special Provisions

DPS 2 includes Special Provisions for Special Residential Zone No. 6 relating to Lot 51 (2) Travertine Vista, Carramar. However these provisions are now redundant given that Lot 51 was rezoned to Urban Development in October 2013. The Woodland Vista Local Structure Plan No. 92 (LSP 92) affects Lot 51, and supports residential subdivision with a density code of between R25 and R30. Amendment No. 180 proposes to delete the defunct Special Provisions contained in Schedule 11 of DPS 2 relating to Special Residential Zone No. 6.

DPS 2 Amendment Type

The *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) set out the criteria for the various types of local planning scheme amendments. The City considers that this proposed amendment will be a 'complex amendment' in the context of the Regulations, in that this amendment is not addressed by a local planning strategy.

Comment

DPS 2 Special Residential Provisions

The DPS 2 provisions vary from the model provisions for local planning schemes as set out in Schedule 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (model provisions). In particular, the Regulations provide model objectives for certain zones including the Special Residential Zone. However, as demonstrated in the table below, the model objectives for the Special Residential Zone are very similar to that found in DPS 2 already.

Model Objectives for Special Residential Zone	DPS 2 Intent and Objectives of Special Residential Zone
<ul style="list-style-type: none">• <i>To provide for lot sizes in the range of 2000m² and 1 ha.</i>• <i>To ensure development is sited and designed to achieve an integrated and harmonious character.</i>• <i>To set aside areas where the retention of vegetation and landform or other features which distinguish the land, warrant a larger residential lot size than that expected in a standard residential zone.</i>	<p>3.19.1 <i>The Special Residential Zone is intended to accommodate the development of single houses on lots of not less than 2,000m² with an average lot size of not less than 3,000m² unless otherwise approved on the relevant Structure Plan for that zone.</i></p> <p>3.19.2 <i>The objectives of the Special Residential Zone are to:</i></p> <ul style="list-style-type: none">(a) <i>accommodate a spacious style of living in a low density setting;</i>(b) <i>maintain important environmental and landscape values through site-sensitive design and development.</i>

As the objectives in DPS 2 for the Special Residential Zone are generally consistent with the model provisions and are not in conflict, the City did not consider that there was a need to align the DPS 2 objectives with the model provisions as part of this amendment.

Compatibility of Non-Residential Land Uses in the Special Residential Zone

The benefit of having child care centres and consulting rooms in the Special Residential Zone is that it provides such services in easy access to the residents of the surrounding residential development.

However, DPS 2 already recognises that child care centres and consulting rooms may not always be appropriate in the Special Residential Zone by listing them as discretionary ('D') land uses in the zone. While an individual child care centre and consulting room in isolation

may be acceptable in the Special Residential Zone, the possibility exists that over time an accumulation of such uses in the Special Residential Zone could occur. This outcome would impact the intended character and purpose of the zone, which is to provide for low-density and spacious form of residential living.

The objectives of the Residential Zone, for example, support the provision of 'compatible urban support services', which could include child care centres and consulting rooms. Child care centres and consulting rooms are also discretionary ('D') in the Residential Zone, as they are in the Special Residential Zone. As the Special Residential Zone objective in DPS 2 does not include statements on the provision of "urban support services" and focuses on low density residential development, there may be merit in removing the permissibility of child care centres and consulting rooms in the Special Residential Zone. Furthermore, given the higher density of living in a Residential Zone, an accumulation of child care centres and consulting rooms in the Residential zone would not have as much of an impact on residents compared to an accumulation of these uses in the Special Residential Zone.

The City considers that either a single cattery in the Special Residential Zone, or an accumulation of catteries, has the potential to impact on local amenity of the zone by way of odour and noise. Therefore, cattery should not be a use that is accommodated in the Special Residential Zone.

Proposed Amendment No. 180 to DPS 2 will not affect the ability of the owner of an approved child care centre in the Special Residential Zone (as discussed in the Background section above) to act upon their approval within the approval period. In the event that the child care centre is constructed and this proposed amendment is gazetted, the use would become a non-conforming use under DPS 2. Amendment No. 180 if approved by the Minister for Planning would, however, prevent further proposals for child care centres, catteries and consulting rooms from being approved in the Special Residential Zone.

Justification to Delete Special Provisions Affecting Lot 51 Flynn Drive, Carramar

DPS 2 also includes Special Residential Provisions in Schedule 11 (Special Provisions), for five defined Special Residential Zoned areas; including Special Residential Zone No. 6 which applies to Lot 51 (2) Travertine Vista, Carramar (formerly Lot 51 (575) Flynn Drive, Carramar).

Lot 51 was the subject of an amendment to the Metropolitan Region Scheme (MRS) in 2013, to rezone this land from 'Rural' to Urban' (1244/57). At the time, the City requested the Western Australian Planning Commission (WAPC) to amend DPS 2, to rezone the land from 'Special Residential' to 'Urban Development', to align DPS 2 with what was proposed through the MRS amendment. The WAPC agreed to this request, and Lot 51 was rezoned to 'Urban Development' effective 1 October 2013. An unintended consequence of that rezoning was that the Special Provisions relating to Lot 51 remained in Schedule 11 of DPS 2. Amendment No. 180 proposes to address this issue by removing the Special Provisions from Schedule 11 as they relate to Lot 51 Flynn Drive, Carramar.

Holiday Accommodation Land Use Permissibility

The City prepared a previous DPS 2 amendment (Amendment No. 160) to introduce 'holiday accommodation' and 'holiday house' land uses into DPS 2. Amendment No. 160 was approved by the Minister for Planning in January 2019. As a result, holiday accommodation and holiday house are now defined in DPS 2 as follows:

holiday accommodation: means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot.

holiday house: means a single dwelling on one lot used to provide short term accommodation but does not include a bed and breakfast.

The City's Council initiated Amendment No. 160 proposing that holiday accommodation be discretionary (or 'D') in the General Rural, Special Rural, Special Residential and Landscape Enhancement Zones. However, when Council further deliberated on Amendment No. 160 following advertising, it endorsed a modification to make holiday accommodation a not permitted (or 'X') use in these zones.

Although the WAPC was informed of Council's endorsed modifications, the City is of the understanding that the WAPC did not act to ensure that the modifications were presented to the Minister for Planning for approval. As such, the Minister for Planning approved Amendment No. 160 making holiday accommodation a discretionary (or 'D') use in the General Rural, Special Rural, Special Residential and Landscape Enhancement Zones, contrary to the intent of the amendment as endorsed by Council at the time. Officers at the Department of Planning, Lands and Heritage have informed the City that this is an error that could be resolved by way of a separate 'basic amendment' to DPS 2.

As holiday accommodation allows two or more accommodation units on one lot, establishment of this land use is contrary to the intent of the Special Residential Zone as prescribed in DPS 2, which is to accommodate the development of single houses. The City is of the view that holiday accommodation should be a use that is not permitted (or 'X') in the Special Residential Zone.

The City's Administration considered proposing to make holiday accommodation a use not permitted (or 'X') use in the Special Residential Zone through Amendment No. 180. However, as there is a need to consider land use permissibility for holiday accommodation in the General Rural, Special Rural and Landscape Enhancement Zones, the City considers it would be more appropriate to prepare a separate DPS 2 amendment to address this issue. At the time this Report was prepared, the City's Administration was intending to present that separate DPS 2 amendment (proposed Amendment No. 181) to the 27 August 2019 Council Meeting for initiation.

PLANNING AND DEVELOPMENT ACT 2005

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 – AMENDMENT NO. 180

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:

- a) Modifying the permissibility of the following land uses from discretionary ('D') to not permitted ('X') in the Special Residential Zone:
 - i. Cattery
 - ii. Child Care Centre
 - iii. Consulting Room
- b) Deleting Special Residential No. 6 from Schedule 11.

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 30th day of July, 2019.

.....
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 30th day of July, 2019, proceed to advertise this amendment.

.....
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:

.....
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