



DISTRICT PLANNING SCHEME No. 2

Amendment No. 199

Planning and Development Act 2005

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

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 – AMENDMENT NO. 199

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 Table 1 (Clause 3.2 – The Zoning Table) to make the ‘Car Park’ land use discretionary subject to advertising (‘A’) in the General Rural and Rural Resource Zones.

b) Introducing the following as a new Clause 3.16.4, relative to the General Rural Zone:

3.16.4 In considering the use or development of Car Park in the General Rural Zone, Council may support the parking of any vehicle type, regardless of size and carrying capacity, provided that all vehicles parked onsite are for private or personal use only. The parking of vehicles used for trade, professional or any other commercial purpose is not permitted.

c) Introducing the following as a new Clause 3.17.5, relative to the Rural Resource Zone:

3.17.5 In considering the use or development of Car Park in the Rural Resource Zone, Council may support the parking of any vehicle type, regardless of size and carrying capacity, provided that all vehicles parked onsite are for private or personal use only. The parking of vehicles used for trade, professional or any other commercial purpose is not permitted.

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: 10 August 2021

.....
(Chief Executive Officer)

Dated this day of 20.....

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO 2 – AMENDMENT NO. 199

SCHEME AMENDMENT REPORT

1.0 Background

1.1 Parking Needs and Constraints for Large Private Vehicles

The City of Wanneroo (**the City**) has been receiving an increase of enquiries and complaints in respect to caravan storage. The City has noted that the demand for places for caravan parking in particular (but also boats, trailers and trucks) is driven largely by the ongoing trend for decreasing residential lot sizes. This trend has resulted in new residential properties typically only being capable of parking up to two cars on site. Vehicle owners on many new and existing residential lots are therefore looking for alternative options for parking vehicles such as caravans, boats and trucks that they wish to own but cannot keep at their address.

The City's *Parking Local Law 2015* (Local Law) works to limit where caravans and commercial vehicles can be parked. This is to ensure that parking of large vehicles does not become unsightly (particularly in residential areas), and to ensure that movement of vehicles on local roads is not impeded. Clause 4.14 of the Local Law prevents parking of heavy and long vehicles on a road carriageway for a period exceeding one hour; and Section 7.9 of the Local Law prevents commercial vehicles and caravans from parking on verges.

Several landowners within the City's rural areas have been offering up their lots to respond to the issues above, and to accommodate parking of caravans and other larger vehicles on their rural lots for a fee.

1.2 Previous and Current Relevant Planning Considerations

The City's intention to date has been to deal with land use and permissibility changes in the City's rural areas holistically, through an extensive and thorough strategic planning process. The City is currently preparing its Local Planning Strategy which will (in part) set out the City's objectives for its rural areas; as well as addressing the social, environmental, resource management and economic factors that affect, and are in turn affected by land use and development. The Local Planning Strategy will be used to inform the preparation of a new local planning scheme, which will replace the City's District Planning Scheme No. 2 (DPS 2). The Local Planning Strategy preparation is a lengthy process which is anticipated to take up to three years to complete.

Landowners in the City's rural areas have faced issues and uncertainties around access to water, due to impacts of climate change and urban encroachment. The issue of water has also been compounded by the State Government's proposal to reduce water allocations to growers by ten per cent by 2028, which threatens to significantly reduce the viability of agricultural and horticultural businesses. Rural landowners are in turn looking for more innovative ways of making use of their landholdings.

Amendment No. 170 to District Planning Scheme No. 2 (DPS 2) is an approved amendment affecting Lot 31 (90) Rousset Road, Jandabup, a four-hectare site zoned General Rural under DPS 2. Lot 31 is zoned Urban Deferred under the MRS and falls within the East Wanneroo District Structure Plan area. Amendment No. 170 to DPS 2 allows for Lot 31 to be used to store caravans (over 200), boats, cars, trailers, sea containers and scaffolding. As the storage of items on Lot 31 is broader than just vehicles, the amendment allows the Additional Use of 'Storage Yard' to be carried out on that lot. The amendment was approved by the Minister for Planning in April 2020. As Storage Yards allow for storage of a broader

range of materials, and supports activity beyond the scope of the issues identified in this report, it is not proposed for Storage Yard to be permissible in the rural zones more broadly.

The City has received two separate proposals from rural landowners to amend DPS 2 to make caravan, boat, car and trailer parking facilities permissible on their properties. Both of the respective properties are zoned General Rural, where the activities subject to the proposed amendments are currently prohibited under the DPS 2 Zoning Table. Those amendments do not propose to make a land use broadly permissible across the General Rural zone, but rather make an 'Additional Use' permissible on the two respective properties. Those amendments will still progress independently, notwithstanding Council's resolution to prepare Amendment No. 199 to DPS 2.

2.0 Amendment No. 199 to District Planning Scheme No. 2 Detail

2.1 Amendment No. 199 Proposal

The City's Council resolved for Amendment No. 199 to DPS 2 to be 'prepared' at its 10 August 2021 meeting in order to facilitate the parking of private vehicles (including caravans, boats, trailer and trucks) in the General Rural and Rural Resource zones. Amendment No. 199 proposes to make the 'Car Park' land use discretionary (subject to advertising) within the General Rural and Rural Resource Zones, by amending Table 1 (or the 'Zoning Table') of DPS 2 to reflect this.

There is already a land use definition of 'Car Park' in DPS 2, which is as follows:

***car park** : means premises used primarily for the parking of private vehicles or taxis whether open to the public or not but does not include any part of a public road which is used for the through movement of traffic or premises on or in which vehicles are displayed for sale or premises set aside to meet a specific parking requirement under the Scheme. The term includes the land required on site for access and manoeuvring to enable vehicles to gain access to car parking bays.*

The above definition encompasses not just cars (as the name of the land use may allude to), but an array of vehicles such as caravans, boats, trailers, cars and trucks – provided that these vehicles are for private or personal use only.

The amendment also proposes to introduce the following provisions into DPS 2, relevant to the General Rural and Rural Resource zones respectively:

3.16.4 *In considering the use or development of Car Park in the General Rural Zone, Council may support the parking of any vehicle type, regardless of size and carrying capacity, provided that all vehicles parked onsite are for private or personal use only. The parking of vehicles used for trade, professional or any other commercial purpose is not permitted.*

3.17.5 *In considering the use or development of Car Park in the Rural Resource Zone, Council may support the parking of any vehicle type, regardless of size and carrying capacity, provided that all vehicles parked onsite are for private or personal use only. The parking of vehicles used for trade, professional or any other commercial purpose is not permitted.*

Explanations for the proposed amendments to DPS 2 are provided for in Section 4 of this Report.

2.2 Amendment Type

The City's Council resolved that Amendment No. 199 to DPS 2 meets the following criteria for 'Complex Amendments' in the context of Regulation 34 of the *Planning and Development (Local Planning Scheme) Regulations 2015 (Regulations)*:

“an amendment that is not addressed by any local planning strategy”

This is due to the fact that the City's Local Planning Strategy has not yet been prepared and there are no other strategies in place that identify the need to include this type of activity in the City's General Rural or Rural Resource zones.

3.0 Amendment No. 199 Consultation

Following Council's resolution to 'prepare' Amendment No. 199 to DPS 2 pursuant to Section 75 of the *Planning and Development Act 2005 (Act)*, this 'complex amendment' will be referred to the WAPC pursuant to Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)* prior to advertising. The WAPC will undertake an assessment under the Regulations to determine whether it is satisfied that the amendment is suitable to be advertised.

The amendment will also be referred to the Environmental Protection Authority (EPA) pursuant to Section 81 and Section 82 of the Act; to assess the environmental impacts of the proposal, and to determine whether any formal environmental assessment is necessary.

Subject to the WAPC and the EPA being satisfied with the complex amendment (with or without modifications), Amendment No. 199 will then be advertised for public comment for a period of 60 days. Advertising of the amendment will occur pursuant to Regulations 38 and 76A of the abovementioned Regulations, in the following manner:

- a) A notice will be placed in Perth Now Wanneroo, a community newspaper circulating in the scheme area;
- b) A copy of the notice will be placed in the City of Wanneroo Civic Centre;
- c) A copy of the notice will be sent to each public authority likely to be affected by, or would be interested in, the amendment; and
- d) A copy of the notice of the amendment, including this amendment document, will be placed on the City's the website.

4.0 Rationale and Justifications for the Proposed Amendment

4.1 Parking of Vehicles – Private vs Commercial Use

DPS 2 defines the term 'vehicle' as outlined below:

Vehicle: *includes motorcycles, boats, caravans and trailers*

The vehicle types referred to in the above definition is not exhaustive; and the vehicle term can also encompass trucks, cars and buses.

DPS 2 then refers to the terms 'private vehicles' and 'commercial vehicles'. Although there is no definition for 'private vehicle', the City construes this term as being for any vehicle for personal or private use. The definition of 'Car Park' (as outlined in Section 2.1 above) allows for 'private vehicles' to occupy a car park; with the type, size and carrying capacity of 'private vehicles' being undefined.

However, the definition of 'commercial vehicle' in DPS 2 prevents consideration of private trucks being parked in a Car Park, as the parking of commercial vehicles is specifically defined within the 'Transport Depot' land use under DPS 2. This is because the definition of 'commercial vehicle' in DPS 2 is based on the size and design of a vehicle.

The definitions for 'Commercial Vehicle' and 'Transport Depot' are as follows:

commercial vehicle : *means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any wheeled attachment to any of them or any wheeled article designed to be an attachment to any of them, and any bus or omnibus or any earthmoving machine whether self-propelled or not. If a truck, prime mover or other vehicle is attached to a trailer, semi-trailer or any other attachment, each trailer, semi-trailer or other attachment is to be regarded as a separate commercial vehicle. A loaded combination, such as a bobcat, forklift or other vehicle or attachment loaded on a truck, trailer or other attachment is to be regarded as one commercial vehicle. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes.*

transport depot : *means any land or building designed and used, or which is adapted for use for one or more of the following purposes:*

- (a) for the parking or garaging of more than one commercial vehicle;*
- (b) for the transfer of goods or passengers from one vehicle to another vehicle;*

and may include the maintenance, mechanical repair or refuelling of the vehicles referred to in (a) or (b) above but does not include any of the functions defined under Smash Repair Station.

The City has proposed a simple approach in amending DPS 2 to allow the parking of personal vehicles (including trucks for personal use) in a Car Park in the General Rural and Rural Resource zones; whilst ensuring the activity is not considered under the Transport Depot land use. The City has introduced new Clauses 3.16.4 and 3.17.5 to DPS 2 (outlined in Section 2 above), stating that the Car Park land use in the General Rural and Rural Resource zone can accommodate any type of vehicle; provided that the vehicle is not used for a trade, profession or other commercial purpose. This avoids the conflict with the Transport Depot land use and achieves the City's intent to allow parking of personal vehicles on lots in the General Rural and Rural Resource zones.

4.2 Economic Benefit of Car Parking in the Rural Zones

DPS 2 already permits parking of caravans, boats, trailers and trucks in the Service Industrial and General Industrial zones. However, parking of vehicles is a use that generates a low level of use of the land and is thus less likely to be commercially viable in well serviced industrial estates which command high land values. Use of well serviced industrial lots for car parking would also not generate a significant level of employment, and therefore not generate the economic benefits that more intensive industrial activities would within these areas.

Parking of caravans, boats, trailers and trucks will not require the level of infrastructure provided to industrial lots. Enabling parking in the General Rural and Rural Resource zones will provide a more attractive proposition for this activity, while freeing up land in the industrial zones to be used for more intensive industrial activities.

4.3 Advice Received from the Department of Planning, Lands and Heritage

The City has liaised with a senior officer at the DPLH to obtain their views on how to enable parking in the City's rural zones through the planning process. The advice received from DPLH recommends the City complete its Local Planning Strategy first, and that the Strategy incorporates discussion on issues such as demand for vehicle parking in rural areas.

The City's Local Planning Strategy will be a comprehensive document that will not be completed in the short term. There is a clear need to address this matter more swiftly; and therefore the City considers that this scheme amendment needs to proceed now, rather than waiting the Local Planning Strategy to be prepared.

4.4 Objectives of Relevant Zones

The proposed amendment needs to be considered against the objectives of the zones where Council considers the Car Park land use should be made permissible.

The objectives of the General Rural Zone are to:

- (a) accommodate agricultural, horticultural and equestrian activities;*
- (b) maintain and enhance the rural character and amenity of the areas designated for rural use and to protect their ground water and environmental values.*

The objectives of the Rural Resource Zone are to:

- (a) protect from incompatible uses or subdivision, intensive agriculture, horticultural and animal husbandry areas with the best prospects for continued or expanded use;*
- (b) protect from incompatible uses or subdivision basic raw materials priority areas and basic raw materials key extraction areas.*

As outlined above, the objectives of the rural zones seek to accommodate and protect rural uses; whilst maintaining the rural character and amenity of respective areas. The City is of the opinion that the Car Park land use, while not directly aligning with the objectives of the General Rural and Rural Resource zones, could be managed and controlled through conditions and standards to ensure the Car Park land use minimises or avoids impacts on the rural use, character and amenity in these zones. Should the Car Park land use cease to operate, the land is reasonably able to be remediated so that it could again be used for rural purposes.

Establishing 'Car Park' as a discretionary use in the General Rural and Rural Resource zones would require consideration of each application against the relevant DPS 2 objectives. Each application would also be assessed on a case by case basis on their merits through

the development application process, based on submissions received during community consultation.

Permissibility of the Car Park land use is not appropriate in the Special Rural and Landscape Enhancement Zones, where there is an emphasis in preserving the natural landscape as set out in the objectives for both zones under DPS 2.

4.5 Policy Implications

The City's Council adopted Local Planning Policy 5.3: East Wanneroo (LPP 5.3) at its 9 April 2019 Meeting. LPP 5.3 provides an overriding principle that there be a general presumption against subdivision and development in the East Wanneroo rural area, that may detrimentally impact on the orderly and proper planning prior to more detailed planning. In applying this principle, LPP 5.3 states that the City shall not support any planning proposals that may compromise the preparation of a planning framework which will enable urban development to occur in the East Wanneroo area in an orderly and proper manner. Although making permissible the Car Park land use in East Wanneroo through DPS 2 amendments would intensify land use on rural lots, they are uses that could easily cease to operate and relocate to accommodate urban development in the future. Therefore, the principle in LPP 5.3 would not be compromised.

In assessing proposed Amendment No. 199 to DPS 2, the WAPC will likely consider whether what is proposed meets the requirements of the State Planning Framework, including the objectives and policy measures contained within State Planning Policy 2.5: Rural Planning (SPP 2.5). SPP 2.5 seeks to protect and preserve rural land for rural purposes, whilst minimising land use conflicts. The permissibility of the 'Car Park' land use in the General Rural and Rural Resource zones should not significantly interfere with surrounding landowners carrying out their own rural pursuits. Similarly the Car Park activities can be controlled, and land use conflicts minimised, through the development assessment process.

4.6 Potential Impacts of the Car Park Land Use in Rural Zones

The parking of caravan, boats, trailers or trucks on a rural property (for private use) may not significantly affect the potential for surrounding rural properties to be used for rural pursuits; such as agriculture. However, the City notes the potential for land use conflicts and amenity impacts that the 'Car Park' land use may have in the General Rural and Rural Resource zones. The potential amenity impacts and mitigation measures are discussed below:

- The parking of caravans, boats, trailers and trucks is likely to present at least some visual impact on adjoining landowners. Visual impacts could, however, be reduced by way of distancing these uses from boundaries, limiting the scale of these uses, and/or the application of landscaping and screening.
- The 'Car Park' land use is likely to increase traffic volumes on local rural roads, compared to other surrounding rural uses. This would be most prevalent at certain times such as weekends and holiday periods.
- The increased activity on a rural lot with the Car Park land use could generate higher levels of noise. Noise impacts from such activities could be mitigated through imposing existing noise regulations, as well as controlling operating hours through development approval conditions.
- Development approval for parking of caravans, boats and trailers could be time limited, so as to reduce the prospect of causing long-term planning impacts on the surrounding rural area.

Parking of commercial vehicles on rural properties (Transport Depot) is likely to result in significantly greater amenity impact on surrounding areas.

Should Amendment No. 199 to DPS 2 be approved by the Minister for Planning, landowners seeking to establish a Car Park on a rural lot would be required to obtain development approval. There are provisions within DPS 2 already, which will assist the City in mitigating

impacts of the Car Park land use; however only to a limited degree. Relevant existing provisions within DPS are:

- Clauses 3.16.3 (a) and 3.17.3 of DPS 2 stipulate that buildings and development should be set back 7.5m from a front boundary and four metres from a side or rear boundary in the General Rural and Rural Resource zones;
- Clause 67 of the DPS 2 Deemed Provisions list a series of matters that the City must have due regard to in considering an application for development approval. Such matters include consideration of:
 - The compatibility of development in its setting;
 - The amenity of the locality; including environmental impacts, character and social impacts;
 - Whether provision for landscaping is adequate, including whether trees and other vegetation should be preserved;
 - The amount of traffic and adequacy of access to and from a site – as well as arrangements for the manoeuvring and parking of vehicles; and
 - Any submissions received in respect to a proposal.
- Clause 72 of the DPS 2 Deemed Provisions allow the City to impose conditions on a development approval, limiting the period of time for which development approval is granted.

In the event that Amendment No. 199 to DPS 2 is approved, and further guidance is needed in implementing the controls of DPS 2, the City could later prepare a local planning policy if required.

PLANNING AND DEVELOPMENT ACT 2005

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 199

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 Table 1 (Clause 3.2 – The Zoning Table) to make the ‘Car Park’ land use discretionary subject to advertising (‘A’) in the General Rural and Rural Resource Zones.

b) Introducing the following as a new Clause 3.16.4, relative to the General Rural Zone:

3.16.4 In considering the use or development of Car Park in the General Rural Zone, Council may support the parking of any vehicle type, regardless of size and carrying capacity, provided that all vehicles parked onsite are for private or personal use only. The parking of vehicles used for trade, professional or any other commercial purpose is not permitted.

c) Introducing the following as a new Clause 3.17.5, relative to the Rural Resource Zone:

3.17.5 In considering the use or development of Car Park in the Rural Resource Zone, Council may support the parking of any vehicle type, regardless of size and carrying capacity, provided that all vehicles parked onsite are for private or personal use only. The parking of vehicles used for trade, professional or any other commercial purpose is not permitted.

COUNCIL PREPARATION

This Complex Amendment was prepared by resolution of the Council of the City of Wanneroo at the Ordinary Meeting of the Council held on the 10th day of August, 2021.

.....
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 10th day of August, 2021, 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

DATE