



DISTRICT PLANNING SCHEME NO. 2

Amendment No. 200

PLANNING & DEVELOPMENT ACT 2005
RESOLUTION TO ADOPT AMENDMENT TO A LOCAL PLANNING SCHEME

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2

AMENDMENT NO. 200

Resolved that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. Replacing the second sentence of sub-clause 9.6.2 with the following:

This will be calculated by determining the number of hectares in the Area of a Cell and multiplying that area by 9 in the cases of Cell 1 and Cells 3 to 6, multiplying that area by 13 in the case of Cell 9, and multiplying that area by 15 in the case of Cell 2;

2. In sub-clause 9.6.3 (a) (i), replacing the description for variable B (1) in the Infrastructure Cost Per Lot calculation with the following:

in the case of Cell 1 and Cells 3 to 6 the lots produced at the rate of 9 lots per hectare for the Area equivalent of the land holding of an owner, in the case of Cell 9 at the rate of 13 lots per hectare for the Area equivalent of the land holding of an owner, and in the case of Cell 2 at the rate of 15 lots per hectare for the Area equivalent to the land holding of an owner; or

3. In sub-clause 9.6.3 (a) (ii), replacing the description for variable D in the Infrastructure Cost Per Lot calculation with the following:

D = in the case of Cell 1 and Cells 3 to 6 the number of lots to be produced to achieve 9 lots per hectare for the Area equivalent of the unsubdivided balance area of a Cell, in the case of Cell 9 the number of lots to be produced to achieve 13 lots per hectare for the Area equivalent of the unsubdivided balance area of that Cell, and in the case of Cell 2 the number of lots to be produced to achieve 15 lots per hectare for the Area equivalent of the unsubdivided balance area of that Cell.

4. Amending sub-clause 9.6.4 (a) to read as follows:

where Council identifies land as having the potential or the capability of being developed for grouped dwellings, or any other non-public purpose land uses, the Infrastructure Cost per lot will be charged on the basis that the lot has residential subdivision potential at the time it is created. This shall be calculated by Council as follows:

- (i) *In the case of land in Cells 1, 3, 4, 5 and 6, by dividing the total area of the lot by 450m²;*
- (ii) *In the case of land in Cell 2, by dividing the total area of the lot by 450m² for land coded R20 or lower, and by 350m² for land coded R25 or higher;*

(ii) *In the case of land in Cell 9, by dividing the total area of the lot by 500m².*

The Amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* because it is amending development contribution area provisions.

Date of Council Resolution: 7 December 2021 (As modified by WAPC – Schedule of Modifications)

Daniel Simms
CHIEF EXECUTIVE OFFICER

Dated this _____ day of _____ 2021

Contents

1	INTRODUCTION	2
2	BACKGROUND.....	2
2.1	CONTEXT	3
2.2	LOCATION, CHARACTERISTICS & OWNERSHIP.....	5
2.3	DCP EXPENDITURE	7
2.4	DCP INCOME	8
3	PLANNING FRAMEWORK	10
3.1	REGIONAL PLANNING CONTEXT	10
3.2	LOCAL PLANNING CONTEXT	11
4	PROPOSAL.....	18
4.1	OVERVIEW OF SCHEME AMENDMENT	18
4.2	SCHEME AMENDMENT CLASSIFICATION	18
4.3	EFFECT OF THE AMENDMENT ON STRUCTURE PLANS	18
4.4	SCHEME AMENDMENT APPROACH.....	18
5	PLANNING JUSTIFICATION	21
6	CONCLUSION.....	22

Figures & Tables

Figure 1 – Cell 2 Regional Context	4
Figure 2 – East Wanneroo Cell 2 Location Plan	5
Figure 3 – Remaining Land to be Developed (as reported to Council on 7 September 2021)	6
Figure 4 – Remaining Major Landholdings.....	7
Figure 5 – Metropolitan Region Scheme Map	10
Figure 6 – District Planning Scheme No. 2 Map	11
Figure 7 – Agreed Structure Plan No. 4	12
Figure 8 – Agreed Structure Plan 4 (R-Code Plan)	13
Figure 9 – Agreed Structure Plan No. 23 Density Coding Map	15
Figure 10 – Wanneroo Town Centre Activity Centre Plan No. 90	17
Table 1 – Estimated Excess DCP Income (@90% take-up) based on varying ELYs	9

SCHEME AMENDMENT REPORT

1 INTRODUCTION

This Scheme Amendment is submitted on behalf of Stockland Property Group and Acumen Development Solutions (for Quito Pty Ltd), the two largest landowners in Cell 2. Together, Stockland and Quito own a total of 72.25 ha (or around 64%) of the remaining 113 ha of developable land in Cell 2.

The third-largest landholding in Cell 2 is 31.5 ha (Lot 9000 Wanneroo Road, Sinagra, owned by the The Order of the Servants of Mary Inc). McGees Property represents the owner of Lot 9000 and has been consulted on the proposed Scheme Amendment. McGees has advised that it supports the proposed ELY increase from 9 to 18; however, has expressed concern with the calculation methodology that applies to Cell 2 under existing Scheme provisions, which this Amendment does not proposed to alter.

The purpose of this Amendment to District Planning Scheme No. 2 (DPS 2) is to correct the current misalignment between the estimated and actual lot yields for the East Wanneroo Cell 2 Development Contribution Plan (DCP).

It is proposed to increase the Estimated Lot Yield (ELY) for Cell 2 from 9 lots per hectare to a more realistic 15 lots per hectare. This will reduce the Infrastructure Cost Per Lot (ICPL) for land that remains to be developed in Cell 2, from \$25,476 per lot to approximately \$14,928 per lot (as at the last DCP review date in June 2021) while still yielding the same or higher overall value in development contributions. Importantly, this Amendment will not disadvantage any landowner or developer (past or present) within Cell 2.

Currently, under Part 9 of DPS 2 the ICPL for Cell 2 is based on an ELY of only nine lots per hectare. However, subdivision and development within Cell 2 are occurring (and planned to continue) at more than double this rate (around 18 lots per hectare) due to higher residential densities being delivered than were contemplated when the Cell 2 DCP was first established. Hence, the Scheme currently assumes that half as many contributions will be paid from the remaining developable land within Cell 2 than what will likely be paid, meaning the ICPL is effectively double that needed to complete all Cell Works in Cell 2.

2 BACKGROUND

At its Ordinary Meeting on 14 December 2020, the City of Wanneroo Council considered the East Wanneroo Cells 1-9 Development Contributions Arrangements – Annual Review of Costs (2020-2021) (Annual Review) and resolved to advertise the recommended ICPLs and land valuations for each Cell for public comment.

Council again considered this matter on 15 June 2021, after the close of the public advertising period and resolved to apply an ICPL of \$25,476 per lot for Cell 2. Council also resolved as follows:

- "6. *REQUESTS Administration to consider amending DPS 2 to align with SPP 3.6 to address the following improvements:*
- a) Operational monitoring and reporting requirements;*
 - b) Scope of works under the DPS 2 terminology for Cell Works.*
 - c) Define and reconcile (return) potential excess funds to contributors, prior to all the land in the Cell being developed;*

d) Increase the estimated lot yield to reflect current average lot density; and

e) Consider options to enable cells to be finalised or closed."

This Amendment specifically addresses point d) above, as it proposes to increase the ELY to reflect the average lot density being delivered and planned (at the local structure plan level) for land that remains to be delivered in Cell 2.

Retaining the current ELY for Cell 2 would result in a significant overcollection of DCP contributions from the remaining land to be developed. As a result, tens of millions of dollars in excess funds would be collected from Cell 2 and would need to be refunded back to past contributing landowners at the conclusion of all development in the Cell. In the intervening period, the unnecessarily high ICPL would increase the cost to bring residential land to market, thus impacting the price of land and housing affordability.

In the absence of an approved subdivision plan, the most accurate way to estimate lot yield for the remaining developable area of Cell 2 is to divide the actual net developable area (total land area less land for local roads and public open space) by the average lot size corresponding with the designated R-Code on the structure plan or scheme map.

This approach indicates Cell 2 will yield 3,823 lots if subdivision occurs at full potential. This amount includes the 1,204 lots already created (as of the 2020/21 review) plus 2,619 future lots estimated according to the above methodology. This means there could be up to 1,712 more contributions than predicted by the current ELY of 9 lots/ha (which indicates 904 contributions remain) prescribed for Cell 2 under the Scheme. Therefore, if the current ICPL of \$24,880 is charged for every future lot planned to be created in Cell 2, the DCP would collect approximately \$42.7 million more than is necessary to fund all Cell Works.

Recognising that subdivision may not occur at 100% of the planned development potential, the Amendment presents a scenario that subdivision and development will occur at a rate of 90% of development potential, which is consistent with the intended number of lots proposed for the Quito Pty Ltd Landholdings, which could yield 624 lots, whereas 550 – 600 lots are currently proposed to be developed.

Although the undeveloped land in Cell 2 is expected to yield up to 26 lots/ha, this Scheme Amendment proposes to apply a lesser ELY of 15 lots/ha at this time to provide a substantial 48% contingency (of over-collected funds) in the event that lot yield is less than 90% of that anticipated by the planning framework. This approach also ensures the DCP will still collect sufficient funds to refund over \$7.8 million in excess contributions paid by past contributing owners, ensuring past contributors are no worse off as a result of the Amendment.

2.1 CONTEXT

The East Wanneroo Cell 2 area is located on the eastern side of Wanneroo Road, approximately 25km north of Perth and incorporates the northernmost part of the Wanneroo Secondary Activity Centre, as depicted in Figure 1 below. Lake Joondalup is 500m to the west, and Lake Jandabup is 1.8km to the east. The land to the north, west and south of Cell 2 is predominantly urbanised and comprises residential, open space, civic and commercial uses. The land to the east is zoned rural and typically comprises two-hectare lots that will be urbanised in the future as part of the East Wanneroo District Structure Planning framework.



Figure 1 – Cell 2 Regional Context

2.2 LOCATION, CHARACTERISTICS & OWNERSHIP

The Cell 2 DCP covers the suburb of Sinagra and includes the land generally bounded by Wanneroo Road to the west, Pinjar Road and Caporn Street to the north, Griffiths Road to the east and Dundeebar Road to the south, as identified by the broken black line in Figure 2 below.

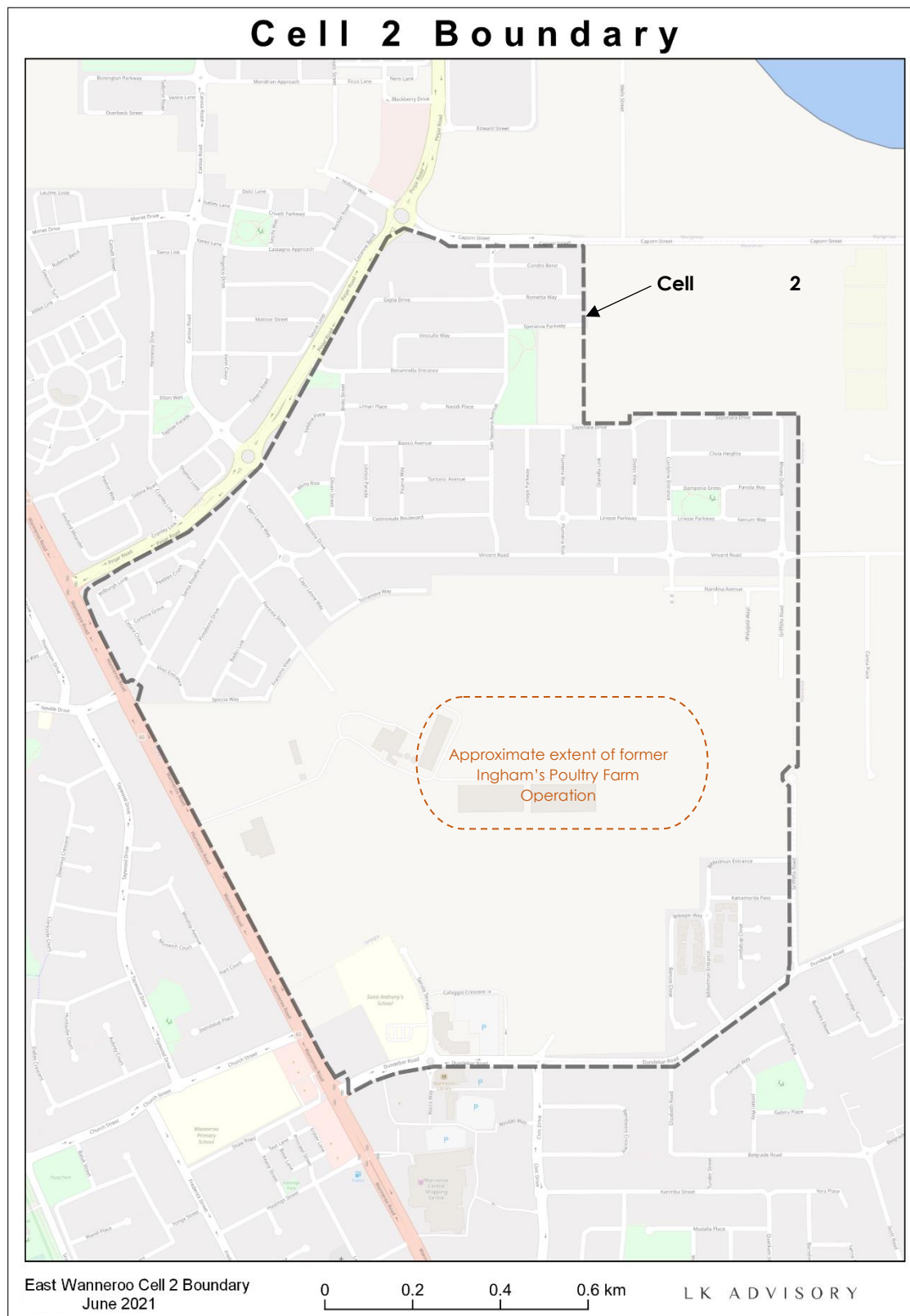


Figure 2 – East Wanneroo Cell 2 Location Plan

Ingham's Enterprises Pty Ltd (Ingham's) has historically operated a poultry farm and animal feed production facility at Lot 1665 (1040) Wanneroo Road, Sinagra (now owned by Stockland Property Group), in the southern, central portion of Cell 2, as generally depicted in Figure 2 on the preceding page. This poultry farming operation and its associated odour buffer have, until recently, sterilised a large portion of Cell 2 from urbanisation. However, the recent closure of the facility and cessation of all poultry farming activities on-site means the remaining area in Cell 2 is now unencumbered and expected to develop rapidly in the coming years.

Figure 3 (over page) illustrates that most of the remaining developable land in Cell 2 falls within the (former) Ingham's poultry farm buffer area.

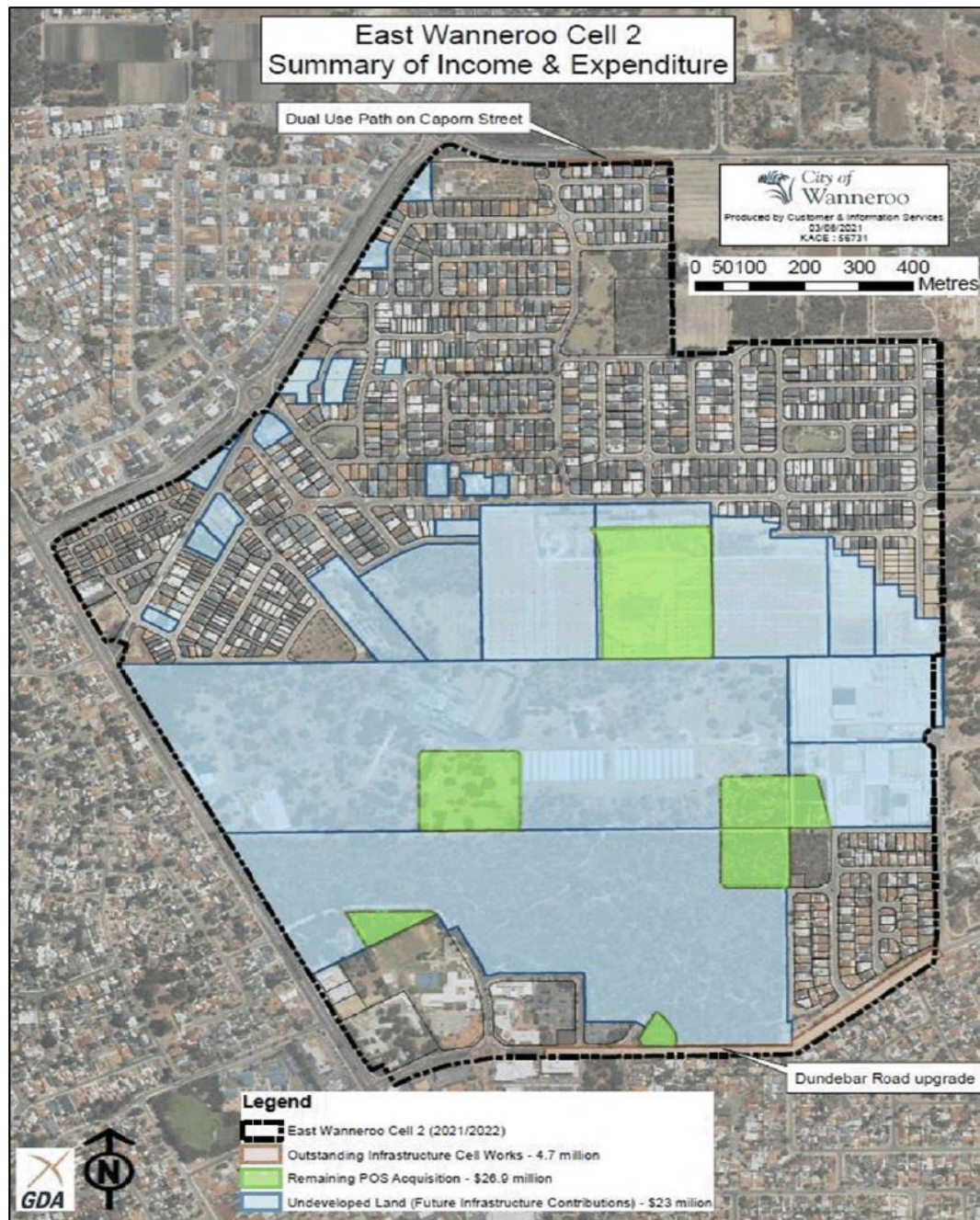


Figure 3 – Remaining Land to be Developed (as reported to Council on 7 September 2021)

Stockland, Quito Pty Ltd and The Order of the Servants of Mary Inc. own the three remaining large undeveloped landholdings within the odour buffer, as shown in Figure 4 below. These landholdings alone will accommodate more than 2,000 dwellings for some 5,000 new residents, along with a primary school and more than 13 hectares of public open space. In addition, one of the two remaining landowners shown in Figure 4 (Jardim) were consulted during the preparation of this Scheme Amendment and supports the proposal.



Figure 4 – Remaining Major Landholdings

2.3 DCP EXPENDITURE

According to the City's calculations, the total value of the Cell 2 DCP is \$45,454,329. This includes \$33,062,564 for POS, \$11,431,122 for District Distributor Roads (including related infrastructure items) and \$960,643 in administration costs.

As of the 2021 annual review, the City had spent \$6,135,611 on POS, \$6,718,097 on District Distributor Roads and \$734,873 on Administration Costs.

The remaining expenditure for Cell 2 relates to:

- Land acquisition of 13.1 hectares for Public Open Space (POS) (\$26,926,953), most of which is to be provided by our clients and other future developers in Cell 2.
- Infrastructure works amounting to \$4,713,025 for 'Dundobar Road Widening', 'Dundobar Road single carriageway from Civic/Friars Drive to Griffiths Road including Path Civic Drive to Griffiths Road', 'New pathway on Caporn St, Sinagra – San Teodoro Aven to eastern cell boundary on Pinjar Road and 'Dual-Use Path' on Caporn Street. The cost estimate for

the Dundobar Road Upgrade is considered excessive, as the road already exists, the length of upgrade attributable to Cell 2 is only 800m, and the City's cost estimate already includes a 30% contingency.

- Administration costs amounting to \$225,770 for the next five years, equating to an average of \$45,154 per year.

2.4 DCP INCOME

At the time of the City's 2021 annual review, the Cell 2 DCP had collected \$22,962,988.

At the adopted contribution rate of \$25,476 per lot, the City estimates the DCP would collect a further \$23,030,304 from 904 lots (excluding interest). This figure combines with income to date to total \$45,993,292, which is \$538,962 more than the total value of the DCP. Accordingly, the ICPL is currently proposed to be reduced by \$596 to \$24,880 per lot. At the time of writing this report, the reduced ICPL had been advertised for public comment and is expected to be considered for endorsement by Council at its meeting on 7 December 2021.

The calculations in the City's annual reviews are based on a historical, outdated ELY of only nine lots per hectare, which is not reflective of actual lot yields and not aligned with the Cell 2 Structure Plan's forecast development yield. This was recognised by Item 6 of Council's resolution from its meeting on 15 June 2021, as follows:

6. *REQUESTS Administration to consider amending DPS 2 to align with SPP 3.6 to address the following improvements:*
 - a) *Operational monitoring and reporting requirements;*
 - b) *Scope of works under the DPS 2 terminology for Cell Works.*
 - c) *Define and reconcile (return) potential excess funds to contributors, prior to all the land in the Cell being developed;*
 - d) *Increase the estimated lot yield to reflect current average lot density; and*
 - e) *Consider options to enable cells to be finalised or closed.*

The R-Codes in the approved structure plans within the DCP (see Sections 3.2.1 and 3.2.2 of this Report) provide a more reliable basis to estimate the lot yield contemplated by the planning framework. A reliable estimate of the number of development contributions payable can be calculated by measuring the net developable area of land still to be developed (total land area less land identified for local roads and public open space) and dividing that by the average lot size corresponding with the designated R-Code on the structure plan map. Further contingency can be incorporated into this methodology by reducing the overall take-up to just 90% of potential.

This approach is set out in Table 1 below, which identifies the various income scenarios based on differing ELYs ranging from 9 to 18 if development occurs at an average of 90% of potential. The only exception is that these calculations are based on Stockland developing 695 lots (as this figure is known), equivalent to 19.43 lots per hectare according to the DPS 2 definition of net developable area (which does not exclude land for local roads).

Table 1 – Estimated Excess DCP Income (@90% take-up) based on varying ELYs

NDA (DPS 2 definition)	100.44	Lots / ha	9	13	15	16	17	18
Total expenditure	\$ 45,454,329	ELY	904	1306	1507	1607	1708	1808
Income to date	\$ 22,962,988	ICPL	\$ 24,880	\$ 17,224	\$ 14,928	\$ 13,995	\$ 13,172	\$ 12,440
Total expenditure less income to date	\$ 22,491,341	Total Income	\$ 83,336,824	\$ 64,760,259	\$ 59,187,290	\$ 56,923,271	\$ 54,925,607	\$ 53,149,906
Lots created (2021)	1204	Excess contributions	\$ 37,882,495	\$ 19,305,930	\$ 13,732,961	\$ 11,468,942	\$ 9,471,278	\$ 7,695,577
Calculated likely development yield for remaining land	2427	Less refund required for past contributors	\$ 29,993,243	\$ 11,416,678	\$ 5,843,708	\$ 3,579,689	\$ 1,582,026	\$ 193,675
Total likely yield	3631	Contingency (%)	79.17	59.14	42.55	31.21	16.70	-2.52
Actual average contribution rate to date (2021)	\$ 19,072							
Required/true contribution rate	\$ 12,520							
Difference	\$ 6,553							
Value of refund owed to past contributors	\$ 7,889,253							

Table 1 demonstrates that if subdivision take-up occurs at 90% of potential, Cell 2 is likely to generate a further 2,427 contributions, which is 1,523 more than the 904 currently estimated by the City. Thus, at the proposed ICPL of \$24,880, the DCP would generate \$37,882,495 more in contribution income than is necessary to fund all remaining Cell Works.

Increasing the ELY to 15 lots/ha will reduce the contribution rate to \$14,928 per lot and still collect \$38,657,256 in contributions from the remaining estimated 2,427 lots. In addition to the funds already accumulated, this means the Cell 2 DCP will collect total contribution income in the order of \$59,187,290 or \$13,732,961 more than the total expenditure for the DCP. If we deduct from this figure a total estimated refund amount of around \$7,889,253 owed to past contributors due to their payment of excess contributions, the City will still be required to refund over \$5.8 million in surplus contributions at the closure of the DCP (excluding interest earnings). This equates to a 42.55% contingency, well beyond the 12% contingency adopted by Council for Cell 1 at its meeting on 4 June 2019 (Item PS02-06/19). Even if the City adopted an ELY of 17 and thus reduced the ICPL to \$13,172/lot, the DCP would still collect a sizeable \$9.4 million excess (if 90% take-up were to occur), which less the \$7.8 owed to past contributors, would secure a 16.7% contingency, 4.7% more than accepted by Council for Cell 1 in June 2019.

The approach in this Amendment ensures sufficient contributions are collected to provide an appropriate contingency of funds above and beyond those excess funds already owed to past contributors, eliminating any risk of loss for past contributing landowners and the City.

3.1 REGIONAL PLANNING CONTEXT

3.1.1 Metropolitan Region Scheme

The majority of land in Cell 2 is zoned "Urban" under the Metropolitan Region Scheme (MRS), except for the southernmost large landholding and a two-hectare area immediately east of the Pinjar Road and Messina Drive intersection zoned 'Urban deferred', as shown in Figure 5 below.

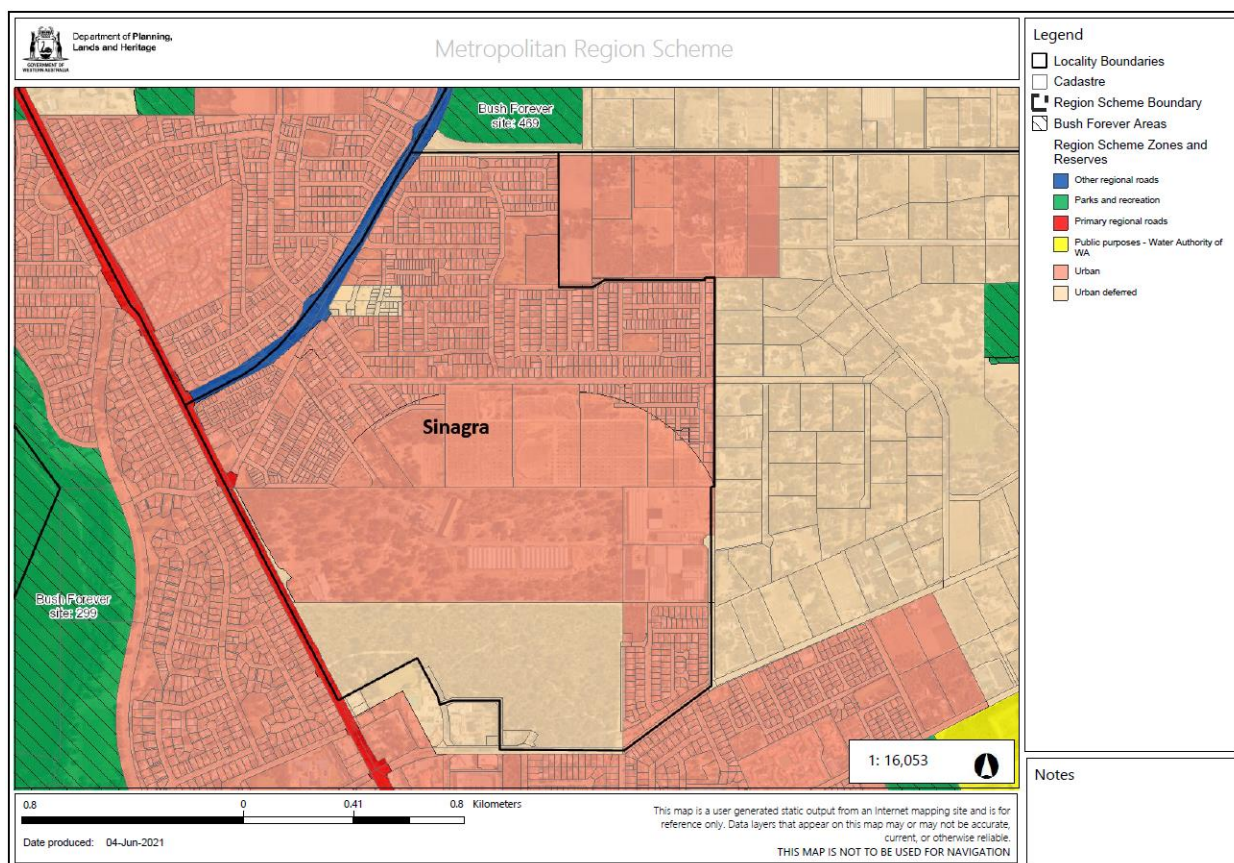


Figure 5 – Metropolitan Region Scheme Map

3.1.2 State Planning Policy 3.6 – Infrastructure Contributions

This Amendment will better align the Cell 2 DCP with State Planning Policy 3.6 (SPP 3.6), gazetted in April 2021, by ensuring that the method for calculating future lot yields and contribution income will be current and correct, as far as is possible.

Although the Cell 2 DCP pre-dates the current version of SPP 3.6, the SPP serves as a valuable benchmark for the structure and function of all DCPs. Relevantly, clause 6.10.4, i) of SPP 3.6 states that "cost-sharing arrangements between owners in the DCP area must be transparent, fair and reasonable". In this respect, we contend that it is not fair or reasonable for the Cell 2 DCP to continue deliberately charging contributions at a rate that is approximately double that needed to deliver all the DCP items.

Continuing with the current Cell 2 calculation methodology will unduly inflate the cost to bring residential land to market, impact housing affordability, and result in an overcollection of contributions in the order of \$40 million. While it is reasonable for a DCP to collect a contingency to account for increases in infrastructure costs, acquisition costs, or variance in

the number of lots created and thus contributions paid, the quantum of surplus expected to be collected in Cell 2 is excessive by any measure.

3.2 LOCAL PLANNING CONTEXT

The City's DPS 2, Agreed Structure Plan No. 4 (East Wanneroo Cell 2) (ASP 4), and the portion of Agreed Structure Plan No. 23 (Wanneroo Town Centre) (ASP 23) north of Dundobar Road are the three planning instruments primarily governing future subdivision, development, and infrastructure delivery in Cell 2. These three planning instruments are discussed in the proceeding sections of this report.

3.2.1 District Planning Scheme No. 2

Most of the land in Cell 2 is zoned "Urban Development" under DPS 2, except for the southernmost landholding (The Order of the Servants of Mary Inc.), which is zoned "Centre", as shown in Figure 6.

The "Urban Development" Zone provides for the orderly and proper planning and development of larger land areas by requiring an approved structure plan to be in place prior to most subdivision or development occurs.

The "Centre" zone accommodates existing and proposed business centres that require structure planning to coordinate development. DPS 2 states that land within the "Centre" Zone should not be subdivided or developed until an Activity Centre Plan has been prepared and adopted.

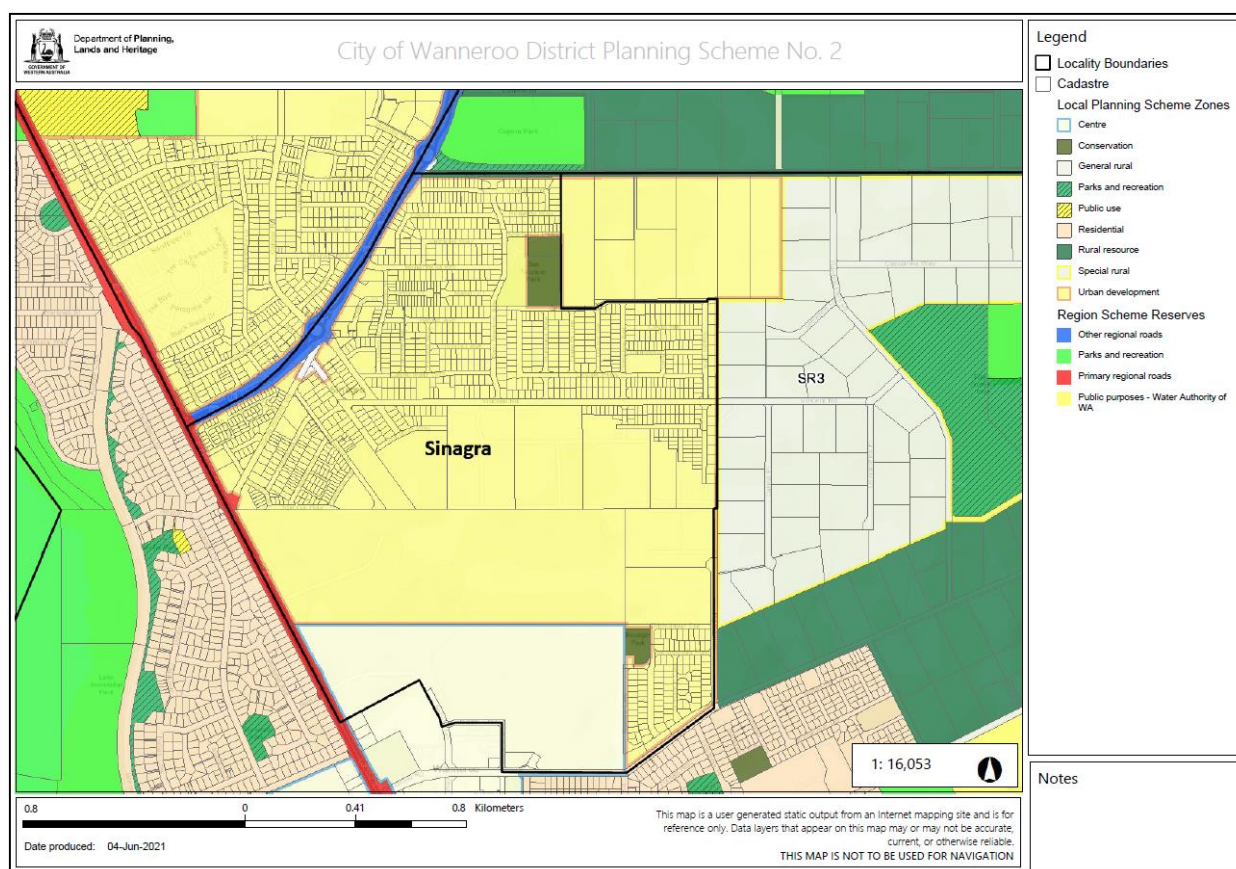


Figure 6 – District Planning Scheme No. 2 Map

3.2.2 Agreed Structure Plan No. 4 – East Wanneroo Cell 2

Agreed Structure Plan No. 4 has been operational since 30 June 2004, will expire on 19 October 2025 and has been amended 14 times, most recently in November 2020. Many of the amendments have increased the R-Codings throughout the Cell, which is part of the reason that significant overcollections are occurring.

Figures 7 and 8 depict the Agreed Structure Plan and identify (among other things) the extent of the (former) buffer precinct that has recently become developable and the residential density codings currently in place.

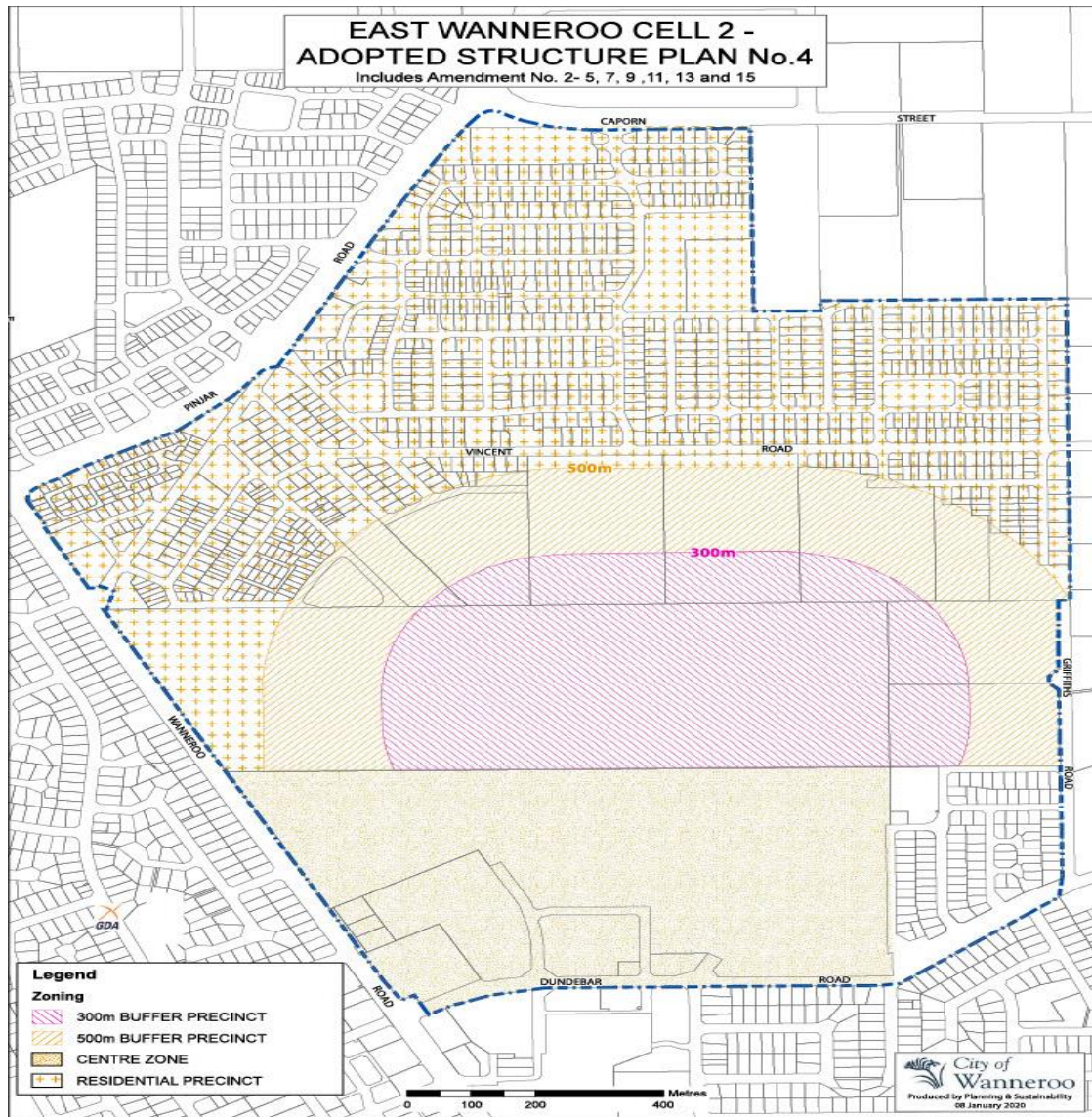


Figure 7 – Agreed Structure Plan No. 4

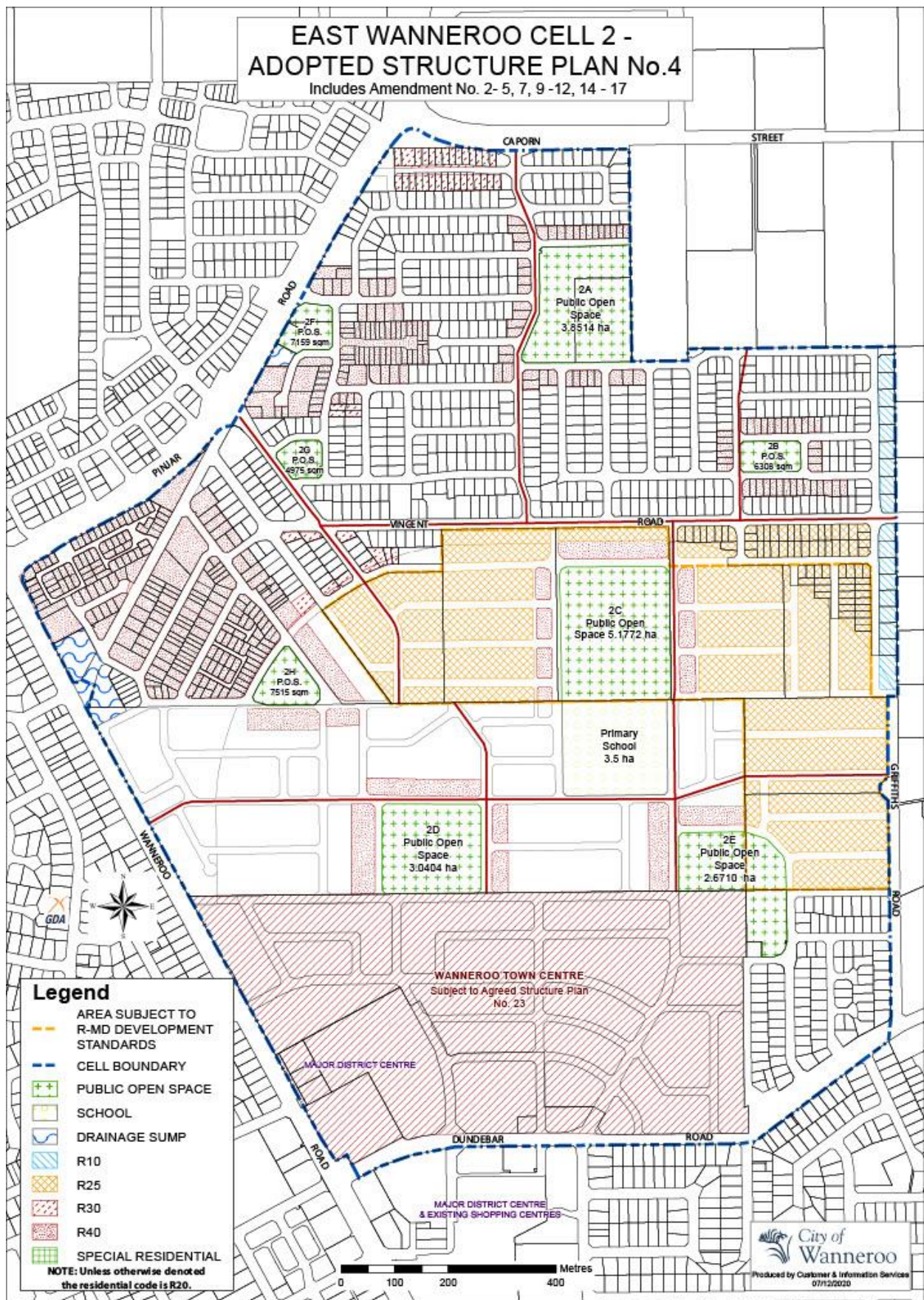


Figure 8 – Agreed Structure Plan 4 (R-Code Plan)

Overcollection of DCP contributions in Cell 2 has primarily arisen from smaller lot sizes being created over time, resulting in higher lot yields than were originally used to calculate the ICPL for Cell 2. This circumstance is not unique to Cell 2 or the City of Wanneroo, as average lot sizes have generally been trending downwards for some time in all outer metropolitan growth areas. Therefore, it is essential to ensure the ELY under a DCP keeps pace with the actual or planned lot yield in the DCP area.

Importantly, Agreed Structure Plan 4 has recently been amended (Amendment No. 18) to increase the lot yield for Stockland's Lot 1665 Wanneroo Road, Sinagra (former Ingham's poultry farm) to at least 695.

3.2.3 Agreed Structure Plan No. 23 – Wanneroo Town Centre

Agreed Structure Plan No. 23 has been operational since 4 May 2001, will expire on 19 October 2025 and has been amended seven times, most recently in July 2018.

The Structure Plan divides the Wanneroo Town Centre into four Precincts. The Residential Precinct and part of the Wanneroo Square Precinct (north of Dundobar Road) fall within the Cell 2 DCP (see Figure 9 over page).

Being the structure plan for the Wanneroo Secondary Activity Centre, ASP 23 aims to facilitate predominantly medium to higher density development.

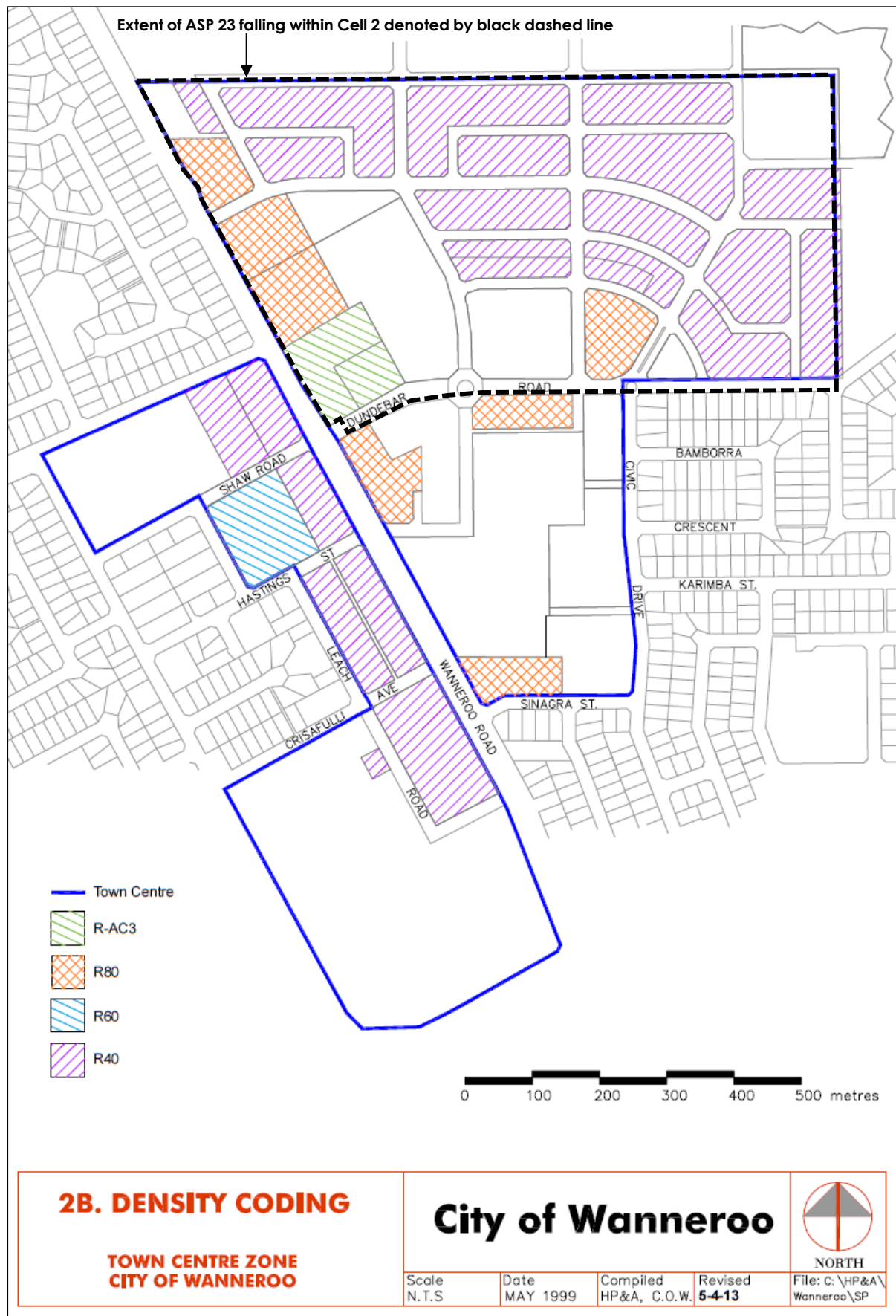


Figure 9 – Agreed Structure Plan No. 23 Density Coding Map

3.2.4 Draft Wanneroo Town Centre Activity Centre Plan No. 90

The draft Wanneroo Town Centre Activity Centre Plan No. 90 (ACP 90) is intended to replace ASP 23 and was advertised for public comment from 10 January 2019 until 14 February 2019.

ACP 90 proposes a residential density of R60, R100 and R-AC3 (6 Storey mixed-used development) generally within 400 – 600m of the Town Centre core, as shown in Figure 10 (over page). Once adopted, the ACP will facilitate substantially increased residential densities and, therefore, lot yields for the portion of Cell 2 located south of Stockland's landholding, well beyond the lot yield contemplated by ASP 4 and ASP 23.

Notably, the lot yield calculations included earlier Table 1 do not account for the higher densities promoted by ACP 90, thus magnifying the conservatism of the ELY proposed by this Scheme Amendment (15 lots/ha).

At this juncture, it is unclear whether ACP 90 will proceed in its current draft form or transition into a Precinct Structure Plan in accordance with the *Planning Regulations Amendment Regulations 2020*, State Planning Policy 4.2: Activity Centre (SPP 4.2) and State Planning Policy 7.2: Precinct Design (SPP 7.2).

Whether ACP 90 proceeds in its current form or not, it is abundantly clear that the planning framework for the Wanneroo Town Centre, and therefore the southern extent of Cell 2, facilitates a higher density of development within this area, which will further contribute to the collection of excess DCP contributions unless the ELY is appropriately adjusted in the future.

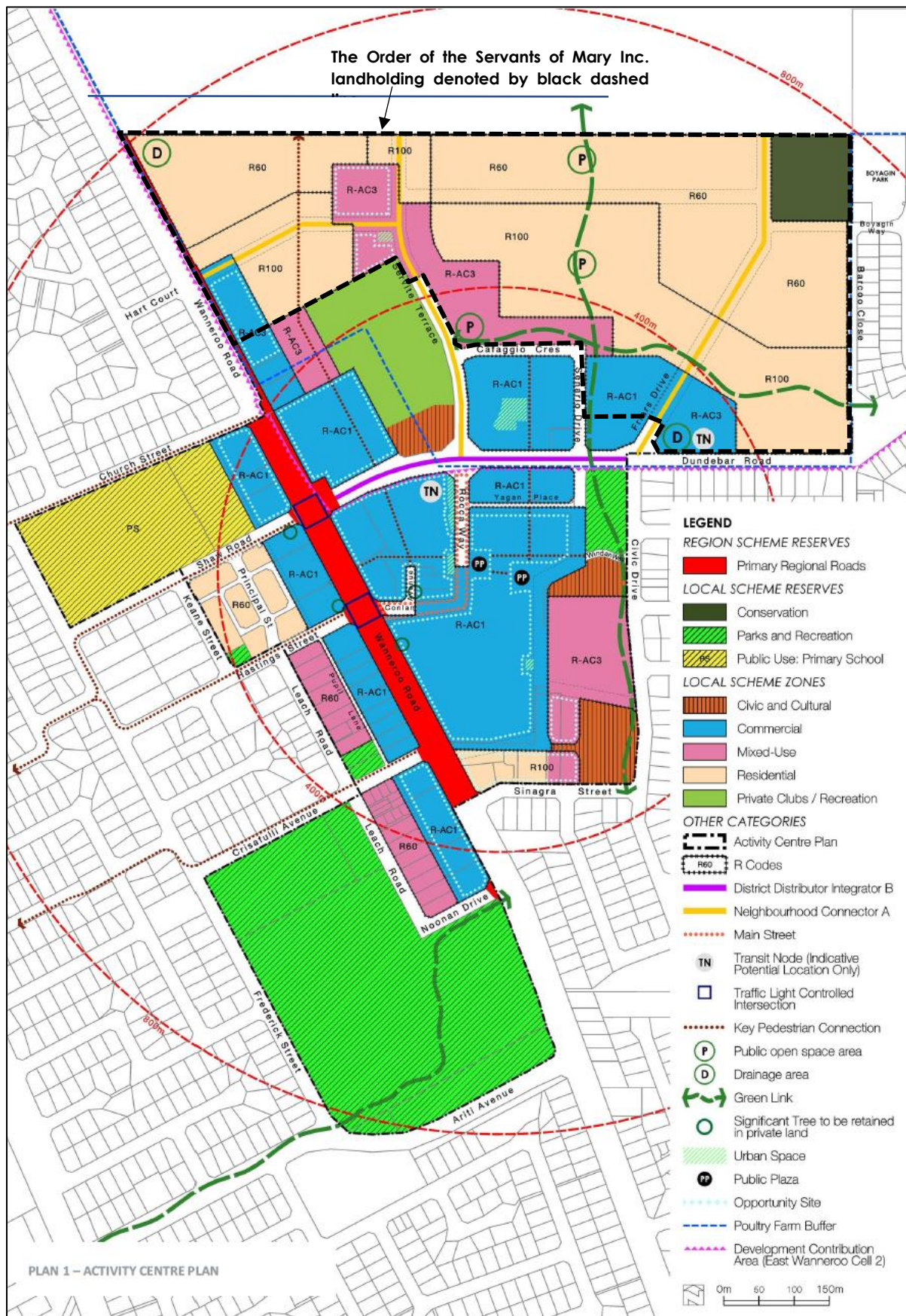


Figure 10 – Wanneroo Town Centre Activity Centre Plan No. 90

4.1 OVERVIEW OF SCHEME AMENDMENT

The purpose of this Amendment is to change the ELY for the Cell 2 DCP from nine lots per hectare to 15 lots per hectare; this will enable the ICPL to be set and charged at a more realistic rate that is closer to the actual and planned lot yield for the land that remains to be developed in the Cell. This reflects both the density of development that has occurred to date (which occurred at a rate of 15 lots/ha) and the density of development projected to occur based on the current planning framework, which is expected to be in the order of 19 lots p/ha.

4.2 SCHEME AMENDMENT CLASSIFICATION

This scheme amendment is classified as a "complex amendment" (modified by WAPC from Basic) under Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as:

- a) The Amendment corrects an administrative error inherent in the formula for calculating the ELY for Cell 2, which has proven to be outdated and inaccurate, and will result in a forecast surplus exceeding \$40 million in development contributions in Cell 2;
- b) The Amendment will bring the Cell 2 DCP Scheme provisions into closer alignment with State Planning Policy 3.6; and
- c) The Amendment is consistent with the Metropolitan Region Scheme and will have no adverse effect whatsoever on the Scheme or landowners in the Cell 2 DCP area.

4.3 EFFECT OF THE AMENDMENT ON STRUCTURE PLANS

Pursuant to regulation 35A of the *Planning and Development (Local Planning Schemes) Regulations 2015*, if an amendment to a local planning scheme affects the area to which a structure plan approved under the Scheme relates, the Amendment must include one of the following statements:

- (a) The approval of the structure plan is to be revoked; or
- (b) The structure plan is to be amended in accordance with the statement; or
- (c) The approval of the structure plan is not affected.

As the Amendment only addresses an administrative matter relating to the existing unrealistic ELY used to calculation the ICPL for the Cell 2 DCP, it has no bearing on any of the approved structure plans and therefore includes the below statement:

"Pursuant to Regulation 35A of the Planning and Development (Local Planning Schemes) Regulations 2015, when the Amendment takes effect, the approval of any applicable Structure Plan is not affected."

4.4 SCHEME AMENDMENT APPROACH

Principally, this Amendment increases the ELY for Cell 2 by making only minor adjustments to subclauses 9.6.2, 9.6.3, and 9.6.4 of DPS 2, using the same terminology and approach that introduced an ELY of 13 lots/ha for Cell 9 (Amendment No. 102 to DPS 2), compared to only 9 lots/ha for the remaining East Wanneroo residential Cells.

4.4.1 Estimated Lot Yield

Subclause 9.6.2 is reproduced below and establishes the methodology for estimating the lot yield for each Cell to calculate the ICPL:

- 9.6.2 Council will, for the purposes of apportioning Cell Costs to Owners in Cells 1 to 6 and 9, make an estimate of the lot yield for each Cell called the 'Estimated Lot Yield'. This will be calculated by determining the number of hectares in the Area of a Cell and multiplying that area by 9 in the cases of Cells 1 to 6 and multiplying that area by 13 in the case of Cell 9.

This Amendment proposes to re-word the second sentence of this subclause to distinguish between the proposed ELY for Cell 2, and the remaining Cells 1, 3 – 6 and 9, with the revised subclause to read as follows:

- 9.6.2 Council will, for the purposes of apportioning Cell Costs to Owners in Cells 1 to 6 and 9, make an estimate of the lot yield for each Cell called the 'Estimated Lot Yield'. This will be calculated by determining the number of hectares in the Area of a Cell and multiplying that area by 9 in the cases of Cell 1 and Cells 3 to 6, multiplying that area by 13 in the case of Cell 9 and multiplying that area by 15 in the case of Cell 2.

4.4.2 Infrastructure Cost Per Lot

Subclause 9.6.3 is reproduced below and establishes the methodology for calculating the ICPL by first deriving the Net Cell Cost and then dividing the Net Cell Cost by the subdivision potential of the balance of the Area of a Cell remaining to be subdivided:

- 9.6.3 The contribution to be made by each owner of land within a Cell to the implementation of the Cell Works for that Cell (to the extent that the land relates to Cells 1 to 6 and 9) shall be an Infrastructure Cost, based on an Infrastructure Cost Per Lot which is to be calculated by the Council in the following manner:

- (a) The Infrastructure Cost Per Lot is determined by first deriving the Net Cell Cost:

(i) $A - B = C$

Where:

A = gross cost of Cell Works being the total of fixed actual and estimated future costs which will be based on costs estimated no more than 12 months in advance. Such estimates shall be based on an average for each Cell cost and recognise all factors affecting the development of the relevant Cell and associated constraints the Council will encounter in the provision of the Cell Works. This shall include (but not be limited to) variable market conditions and the nexus between the time frame of development and provision of Cell Works

B = payments made to date by owners of land who subdivide or develop land within a Cell calculated on the basis of whichever is the lesser of:

- (1) in the case of Cells 1 to 6 the lots produced at the rate of 9 lots per hectare for the area equivalent of the land holding of an owner, and in the case of Cell 9 at

the rate of 13 lots per hectare for the area equivalent of the land holding of an owner; or

- (2) *the actual number of lots produced by the land holding of an owner;*

C = Net Cell Costs;

and then dividing the Net Cell Cost by the subdivision potential of the balance of the Area of a Cell remaining unsubdivided.

(ii) $C \div D = E$

Where:

D = in the case of Cells 1 to 6 the number of lots to be produced to achieve 9 lots per hectare for the area equivalent of the unsubdivided balance area of a Cell, and in the case of Cell 9 the number of lots to be produced to achieve 13 lots per hectare for the area equivalent of the unsubdivided balance area of that Cell.;

E = the Infrastructure Cost Per Lot.

- (b) *The Infrastructure Cost payable by each owner of land in Cells 1 to 6 and 9 inclusive is calculated by multiplying the number of lots produced by the Infrastructure Cost Per Lot.*
- (c) *Infrastructure Costs shall not be payable for land that is used for government school sites."*

This Amendment proposes to:

- Replace the description for variable B (1) in subclause 9.6.3 (a) (i) to read as follows –
"in the case of Cell 1 and Cells 3 to 6 the lots produced at the rate of 9 lots per hectare for the Area equivalent of the land holding of an owner, in the case of Cell 9 at the rate of 13 lots per hectare for the Area equivalent of the land holding of an owner, and in the case of Cell 2 at the rate of 15 lots per hectare for the Area equivalent to the land holding of an owner; or"
- Replace the description for variable D in sub-clause 9.6.3 (a) (ii) to read as follows –
"D = in the case of Cell 1 and Cells 3 to 6 the number of lots to be produced to achieve 9 lots per hectare for the Area equivalent of the unsubdivided balance area of a Cell, in the case of Cell 9 the number of lots to be produced to achieve 13 lots per hectare for the Area equivalent of the unsubdivided balance area of that Cell, and in the case of Cell 2 the number of lots to be produced to achieve 15 lots per hectare for the Area equivalent of the unsubdivided balance area of that Cell."

4.4.3 Determination of Potential lots

Subclause 9.6.3(a) currently reads as follows:

"This shall be calculated by Council by dividing the total area of the lot by 450m² to derive a lot potential for the lot in Cells 1 – 6. In the case of Cell 9 this shall be calculated by dividing the total area of the lot by 500m² to derive a lot potential for the lots in that Cell."

The Amendment proposes to amend subclause 9.6.3(a) to read as follows:

"(a) where Council identifies land as having the potential or the capability of being developed for grouped dwellings, or any other non-public purpose land uses, the Infrastructure Cost per lot will be charged on the basis that the lot has residential subdivision potential at the time it is created. This shall be calculated by Council as follows:

- (i) In the case of land in Cells 1, 3, 4, 5 and 6, by dividing the total area of the lot by 450m²;
- (ii) In the case of land in Cell 2, by dividing the total area of the lot by 450m² for land coded R20 or lower, and by 350m² for land coded R25 or higher;
- (iii) In the case of land in Cell 9, by dividing the total area of the lot by 500m²."

This reduction in lot size for Cell 2 recognises the higher density codes and higher ELY proposed compared to other East Wanneroo DCP Cells. Applying this 350m² lot size instead of 450m² in sub-clause 9.6.3(a) ensures the City will still collect sufficient funds even in the extraordinarily unlikely scenario that all remaining land in Cell 2 is developed as grouped dwelling sites and contributions are charged in accordance with this provision.

The number of contributions generated through this provision can be estimated by dividing the remaining net developable area (land area less land for roads (including local), public open space and public purposes) of approximately 77.5 hectares by 350, which equals 2,214 and is higher than the 1,507 contributions estimated using an ELY of 15 lots/ha.

In our estimation, the vast majority of contributions still to be yielded from Cell 2 will be paid based on the actual number of lots created, instead of the 'grouped housing site' rate provided under sub-clause 9.6.4(a) of the DPS 2.

5 PLANNING JUSTIFICATION

In addition to the matters already outlined in this Scheme Amendment Report, set out below is further planning justification for this proposal:

1. The Amendment will improve the Cell 2 DCP's compliance with SPP 3.6, including its core principles and supporting explanatory guidelines.
2. The Amendment reduces the cost to bring residential land to market by close to \$10,000 per lot, therefore incentivising creation of the higher densities desired by the local planning framework, contributing to housing affordability, and avoiding the wasteful overcollection of DCP contributions in the tens of millions of dollars.
3. The Amendment ensures the City will collect an appropriate contingency of surplus funds, thus mitigating the risk of any future shortfall in contributions (albeit improbable) whilst still collecting sufficient contributions from future developers in Cell 2 to ensure that past developers in Cell 2 are refunded any excess contributions they previously paid.
4. The existing DPS 2 methodology used to calculate lot yields (and therefore DCP income) is highly conservative for the following reasons:
 - a) It ignores the actual and planned lot yields, which far exceed 9 lots/ha;
 - b) It does not consider the proposed Structure Plan Amendment No. 18, which will substantially increase the density coding for land owned by Stockland;

- c) It does not account for ASP 23, which designates much of The Order of the Servants of Mary Inc. landholding as R40. It also does not recognise that the Wanneroo Town Centre ACP 90, will increase the residential density coding for that area to R60, R100 and R-AC3.
 - d) It does not consider the incentives incorporated into Section 1.1 – Site Area, and Table 1 of draft State Planning Policy 7.3: Residential Design Codes Volume 1 Low and Medium Density, which was advertised for public comment in November 2020, noting much of the remaining land in Cell 2 will be developed under the applicable density code range;
 - e) It does not account for or respond to any Structure Plan amendments that may be sought by remaining developable landholdings in Cell 2, which could further increase lot yields;
5. The DCP will generate significant interest earnings over the coming years. This interest income is entirely unaccounted for in the calculations contained in this report. Hence, future interest earnings on DCP funds will only bolster the contingencies incorporated in this proposal.
 6. Based on the latest actual and estimated costs and income projections, the required/true contribution rate is expected to be no more than \$12,520 per lot, which is \$1,408 less than the proposed ICPL of \$14,928 based on the proposed ELY of 15 lots/ha. This estimate does not account for interest income, likely reduced infrastructure costs, or likely increases to the lot yield contemplated by the planning framework. Accordingly, there is every likelihood that the surplus funds held for Cell 2 at the conclusion of the DCP will far exceed the figures estimated in this report.

6 CONCLUSION

This Amendment will correct a flawed and outdated ELY calculation methodology under the Scheme to better accord with actual and planned lot yields. This, in turn, will avoid the wasteful overcollection of DCP contributions in Cell 2 while still maintaining ample contingency of surplus funds to protect the City from any risk of a shortfall in future contributions.

Importantly, the Amendment will benefit *all* past, present and future developers in Cell 2, by ensuring that:

- Ample funds are collected to deliver the remaining Cell Works without any financial risk to the City;
- Surplus contributions paid by landowners/developers in the past are equitably accounted for and refunded; and
- Current and future landowners/developers only make contributions at the rate needed to fund their DCP liabilities, rather than double (or more) the contribution rate required.

It is therefore respectfully recommended that the Scheme Amendment be supported for the reasons outlined in this report.

PLANNING & DEVELOPMENT ACT 2005
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2

AMENDMENT NO. ...

RESOLVED that Council, pursuant to Section 75 of the *Planning and Development Act 2005*, amends District Planning Scheme No. 2 by:

1. Replacing the second sentence of sub-clause 9.6.2 with the following:

"This will be calculated by determining the number of hectares in the Area of a Cell and multiplying that area by 9 in the cases of Cell 1 and Cells 3 to 6, multiplying that area by 13 in the case of Cell 9, and multiplying that area by 15 in the case of Cell 2;"

2. In sub-clause 9.6.3 (a) (i), replacing the description for variable B (1) in the Infrastructure Cost Per Lot calculation with the following:

"in the case of Cell 1 and Cells 3 to 6 the lots produced at the rate of 9 lots per hectare for the Area equivalent of the land holding of an owner, in the case of Cell 9 at the rate of 13 lots per hectare for the Area equivalent of the land holding of an owner, and in the case of Cell 2 at the rate of 15 lots per hectare for the Area equivalent to the land holding of an owner; or"

3. In sub-clause 9.6.3 (a) (ii), replacing the description for variable D in the Infrastructure Cost Per Lot calculation with the following:

"D = in the case of Cell 1 and Cells 3 to 6 the number of lots to be produced to achieve 9 lots per hectare for the Area equivalent of the unsubdivided balance area of a Cell, in the case of Cell 9 the number of lots to be produced to achieve 13 lots per hectare for the Area equivalent of the unsubdivided balance area of that Cell, and in the case of Cell 2 the number of lots to be produced to achieve 15 lots per hectare for the Area equivalent of the unsubdivided balance area of that Cell."

4. Amending sub-clause 9.6.4 (a) to read as follows:

"(a) where Council identifies land as having the potential or the capability of being developed for grouped dwellings, or any other non-public purpose land uses, the Infrastructure Cost per lot will be charged on the basis that the lot has residential subdivision potential at the time it is created. This shall be calculated by Council as follows:

- (i) In the case of land in Cells 1, 3, 4, 5 and 6, by dividing the total area of the lot by 450m²;*

- (ii) *In the case of land in Cell 2, by dividing the total area of the lot by 450m² for land coded R20 or lower, and by 350m² for land coded R25 or higher;*
- (iii) *In the case of land in Cell 9, by dividing the total area of the lot by 500m²."*

Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* the Amendment No. 200 to District Planning Scheme No. 2 is a complex amendment because it is amending a development contribution area provisions.

This page is intentionally left blank

COUNCIL ADOPTION

Adopted by resolution of the City of Wanneroo at the Ordinary Meeting of the Council held on the

_____ day of _____ 2021.

Tracey Roberts
MAYOR

Daniel Simms
CHIEF EXECUTIVE OFFICER

This page is intentionally left blank

FINAL ADOPTION

Adopted for final approval by the City of Wanneroo at the Ordinary Meeting of the Council held on the on the _____ day of _____ 2022, 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:

Tracey Roberts
MAYOR

Daniel Simms
CHIEF EXECUTIVE OFFICER

Recommended / Submitted for Final Approval
DELEGATED UNDER S.16 OF PD ACT 2005

DATE
FINAL APPROVAL GRANTED

MINISTER FOR PLANNING

DATE