

PS01-08/23 Administration of Developer Contribution Arrangements - Proposed Amendment 208 to Introduce Operational Periods for the East Wanneroo Cells 1-9.

File Ref: 42217 – 23/239866
Responsible Officer: Director Planning & Sustainability
Attachments: 1

Issue

To initiate proposed Amendment 208 to introduce operational periods for the East Wanneroo Cells 1-9 as required by *State Planning Policy 3.6: Infrastructure Contributions* (SPP 3.6).

Background

The City of Wanneroo's District Planning Scheme No2 (DPS2) provides the statutory basis for the administration and management of developer contributions. The East Wanneroo Cells (1-9) include the areas of Wanneroo, Ashby, Tapping, Sinagra, Hocking, Pearsall, Landsdale, Darch, Madeley and Wangara (refer last page of **Attachment 1**).

The Developer Contribution Plans for Cells 1-9 were prepared prior to the adoption of State Planning Policy 3.6 (SPP3.6). These cells currently do not have operational timeframes. According to DPS2, Developer Contribution Plans will remain operational until all the land within the cell has been developed. Due to historical land uses and hold-out landowners, some cells may never achieve full development.

On 30 June 2020 (Report PS01-06/20), Council resolved to prepare Amendment 185 which sought to introduce provisions into DPS2 to enable Council to close a Cell prior to full development. However, in response to public submissions, Council on 20 April 2021 (Report PS03-04/21) resolved to modify Amendment 185 to exclude the proposed closure provisions. Administration subsequently met with industry representatives including the Urban Development Institute of Australia (UDIA) and Department of Planning, Lands and Heritage (DPLH) to consider options to close the East Wanneroo Cells (1-9) DCPs.

In April 2021, the Western Australian Planning Commission (WAPC) gazetted SPP3.6 to provide a framework for local governments to implement infrastructure contributions. SPP3.6 refers to Transitional Arrangements and mandates that the Local Government must assign an anticipated lifespan for each DCP and the priority and timing for delivery of infrastructure; and for this to take effect within 3 years after gazettal of SPP 3.6. On this basis, operational periods need to be included into DPS2 by way of a scheme amendment by April 2024 (proposed Amendment 208) to comply with SPP3.6.

Notwithstanding the introduction of operation periods, in accordance with SPP3.6, if all cell works have been completed prior to the expiry of the operation period, then local governments are required to take steps to close the DCPs within 12 months. Alternatively, if there are outstanding matters to be resolved, including remaining income and works, then a local government could request an extension of the operating period through a further scheme amendment process.

Detail

To facilitate the inclusion of operation periods for the East Wanneroo Cells 1-9, it is intended to initiate a scheme amendment to introduce operational timeframes that align with the draft Capital Expenditure Plan (CEP) and the estimated land development projections for each cell, as depicted in the following table.

Each Cell includes a contingency period to account for potential changes in market conditions and unforeseen delays in the delivery of the remaining infrastructure, including land acquisition. The extent of the recommended contingency applied is based on the complexity and potential constraints associated with each cell. **Table 1** defines the recommended operational periods for each East Wanneroo cell, the expected dates of capital works to be completed and the outstanding matters to be resolved in each cell.

Table 1

Recommended developer contribution plan closure dates for East Wanneroo (Cells 1-9)				
Cell Number	Area Remaining (%)	Estimated Completion Date (CEP) or Receipt of Income	Proposed Cell Operation Date (Closure)	Outstanding matters to be resolved before DCP can be closed
Cell 1 (Tapping/Ashby)	3%	30 June 2026	30 June 2027	Pending finalisation of POS acquisition and income (no capital works)
Cell 2 (Sinagra)	42%	30 June 2029	30 June 2033	Pending Dundobar Road design, POS acquisition and income
Cell 3 (Wanneroo)	10%	30 June 2028	30 June 2032	Pending Dundobar Road. Requires additional funding 50% for Dundobar Road (future EW or alternative source)
Cell 4 (Hocking/Pearsall)	5%	30 June 2029	30 June 2033	Pending finalisation of legal process for compulsory acquisition (MRWA & Bakota), remaining income and POS acquisition. Minor CW outstanding.
Cell 5 (Landsdale)	5%	30 June 2027	30 June 2029	Pending finalisation of Historic POS and income (no capital works)
Cell 6 (Madeley/Darch)	11%	30 June 2031	30 June 2035	Gnangara Road/MRWA timing (as per CW Program 2031), POS acquisition, remaining income.
Cell 7 (Wangara)	26%	30 June 2031	30 June 2035	Gnangara Road/MRWA timing (as per CW Program 2031) and remaining income.
Cell 8 (Wangara)	21%	30 June 2032	30 June 2036	Gnangara Road land acquisitions (as per CW program 2031) and remaining income.
Cell 9 (Landsdale)	10%	30 June 2029	30 June 2033	Community purpose site land acquisition and construction, POS acquisition and remaining income

Administration intends to work with Council to consider a procedure for finalising the DCPs in the near future. This would be subject to a further report to Council to consider general criteria, which is likely to be based around the following:

- All land acquisitions have been finalised.
- All remaining cell works have been completed.
- Expenditure and income accounts audited and verified through Annual Reviews.
- For those who are yet to subdivide, the remaining income will be secured through legal agreement or financial caveat may be lodged on the landholding.
- Any excess funds generated used to complete cell works and/or returned to previous contributors in an equitable manner in accordance with DPS2.

Consultation

An amendment to DPS2 that relates to a DCP arrangement is considered a complex amendment and will be required to follow the requirements of the Planning and Development Act 2005 and the *Planning and Development (Local Planning Schemes) Regulations 2015*, including public advertising for a minimum period of 60 days.

Comment

Administration proposes to include operational periods in DPS2 for the East Wanneroo Cells 1-9 by April 2024 to comply with the transitional arrangements of SPP 3.6. Implementing operational timeframes will also keep the City accountable for the prompt delivery of capital works, the acquisition of land and receipt of outstanding contributions.

In the future, further consideration will be given to preparing an appropriate management procedure for the formal closure of a DCP, which will assist Administration in facilitating DCP closures.

Statutory Compliance

The statutory processes are defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* and the relevant clauses of DPS2.

Strategic Implications

The proposal aligns with the following objective within the Strategic Community Plan 2021 – 2031:

5 ~ A well planned, safe and resilient City that is easy to travel around and provides a connection between people and places

5.1 - Develop to meet current need and future growth

Risk Appetite Statement

In pursuit of strategic objective goal 5, we will accept a Medium level of risk, extended to High in the areas of Community / Reputation & Financial / Commercial impacts. Shifting transport modes and usage in the City may require short term pain for longer term gain as the City supports the development, maintenance and connection of alternatives to car use (e.g. cycle ways) and the supporting infrastructure.

Risk Management Considerations

Risk Title	Risk Rating
ST-G09 Long Term Financial Plan	Moderate

Accountability	Action Planning Option
Director Corporate Strategy & Performance	Manage

Risk Title	Risk Rating
ST-S23 Stakeholder Relationships	Moderate
Accountability	Action Planning Option
CEO	Manage

Risk Title	Risk Rating
CO - O17 Financial Management	Moderate
Accountability	Action Planning Option
Director Corporate Strategy & Performance	Manage

The above risks have been identified and considered within the City's Strategic and Corporate Risk Registers. The annual review of the DCP and associated provisions of DPS2 assist Council to address the strategic risk relating to Long Term Financial Planning (LTFP) as ensure that appropriate budget monitoring, timing and provisions are considered. The strategic risk relating to Stakeholder Relationships applies as a key element in the DCP review process to maintain effective engagement with relevant stakeholders. In addition, the Corporate Risk relating to Financial Management would apply as awareness of financial policies and financial management to promote accountability by business owners and an integrated approach to risk assurance.

Policy Implications

Nil

Financial Implications

The introduction of operation periods for the East Wanneroo (Cells 1-9) will require the City to prioritise certain works within the capital works programme and Long-Term Financial Plan.

At this stage, there are no recommended changes to these documents, however further consideration for the prioritisation of remaining Cell Works will be necessary and will be applied through the annual review process to reflect any amendments to the provisions of DPS2, for Council's consideration.

Voting Requirements

Simple Majority

Recommendation

That Council: -

- PREPARES Amendment No. 208 to District Planning Scheme No. 2 pursuant to Section 75 of the *Planning and Development Act 2005*, to amend the District Planning Scheme No. 2 by adding a new Clause 1.15 to Schedule 14 of District planning Scheme Number 2, as per the following:**

1.15 – Operational Periods for East Wanneroo Cells 1-9

- 1.15.1 The following Operational Periods shall apply to the East Wanneroo Cells:**

- a) Cell 1 operational period until 30 June 2027.**

- b) Cell 2 operational period until 30 June 2033.
 - c) Cell 3 operational period until 30 June 2032.
 - d) Cell 4 operational period until 30 June 2033.
 - e) Cell 5 operational period until 30 June 2029.
 - f) Cell 6 operational period until 30 June 2035.
 - g) Cell 7 operational period until 30 June 2035.
 - h) Cell 8 operational period until 30 June 2036.
 - i) Cell 9 operational period until 30 June 2033.
2. Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES that Amendment No. 208 to District Planning Scheme No. 2 is a complex amendment because it is amending development contribution area provisions;
 3. Pursuant to Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, SUBMITS two copies of the Amendment No. 208 to District Planning Scheme No. 2 documentation to the Western Australian Planning Commission for its consideration;
 4. Pursuant to Section 81 of the *Planning and Development Act 2005* REFERS Amendment No. 208 to District Planning Scheme No. 2 to the Environmental Protection Authority; and
 5. Subject to approval from the Environmental Protection Authority and the Western Australian Planning Commission, ADVERTISES Amendment No. 208 to District Planning Scheme No. 2 for a period of not less than 60 days pursuant to Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Attachments:

1. Attachment 1 - Operational Periods for developer contribution areas - Scheme Amendment Report 23/175113



**DISTRICT
PLANNING
SCHEME No. 2**

Amendment No. 208

FORM 2A

Planning and Development Act 2005

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

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 208

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend District Planning Scheme No. 2 by:

Adding a new Clause under Schedule 14, Part 1 General Provisions, **Clause 1.15**, as per the following:

Schedule 14, Part 1 General Provisions,

Clause 1.15 – Operational Periods for East Wanneroo Cells 1-9

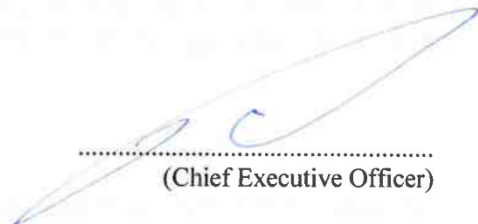
1.15.1 The following Operational Periods shall apply to the East Wanneroo Cells

- a) Cell 1 operational timeframe will be until 30 June 2027
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The amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- a) Under Regulation 34(e) a complex amendment is “*an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan*”.

Date of Council Resolution: 15 August 2023



.....
(Chief Executive Officer)

Dated this 28th day of August 2023

CITY OF WANNEROO
DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO. 208
SCHEME AMENDMENT REPORT

Background

The City of Wanneroo's District Planning Scheme No2 (DPS2) provides the statutory basis for the administration and management of developer contributions. The East Wanneroo Cells 1-9 include the areas of Wanneroo, Ashby, Tapping, Sinagra, Hocking, Pearsall, Landsdale, Darch, Madeley and Wangara (**Attachment 1**).

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In future, further consideration will be given for the appropriate management procedure for the formal closure of a DCP which will assist Administration in facilitating DCP closures.

TEXT MODIFICATION FORM**PLANNING AND DEVELOPMENT ACT 2005****CITY OF WANNEROO****DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 208**

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.

Adding a new Clause under Schedule 14, Part 1 General Provisions, **Clause 1.15**, as per the following:

Schedule 14, Part 1 General Provisions,

Clause 1.15 – Operational Periods for East Wanneroo Cells 1-9

1.15.1 The following Operational Periods shall apply to the East Wanneroo Cells.

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- g) Cell 7 operational timeframe will be until 30 June 2035
- h) Cell 8 operational timeframe will be until 30 June 2036
- i) Cell 9 operational timeframe will be until 30 June 2033

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 15^h day of August, 2023.

.....
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 15th day of August, 2023, proceed to advertise this amendment.

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for _____ by resolution of the City of Wanneroo at the Ordinary Meeting of the Council held on the _____ day of _____ 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

Attachment 1 - Consolidated Structure Plan Map

