



# **DISTRICT PLANNING SCHEME No. 2**

Amendment No. 129

**PLANNING AND DEVELOPMENT ACT 2005**

**RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME**

**CITY OF WANNEROO**

**DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 129**

RESOLVED that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the above local planning scheme by:

- a) Replacing the words "*Single House*" with the words "*Single Dwelling House*" within the first sentence of subclause 6.1.3 (b);
- b) Replacing the word "*dwelling*" with the words "*Single House*" in subclause 6.1.3 (b); and
- c) Inserting the following definition into Schedule 1 - Interpretations under 1. General Definitions:

"Single Dwelling House: means a Single House, as defined by the Residential Design Codes, as well as any incidental development thereto, as defined by the Residential Design Codes."

Dated this            day of            20

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CHIEF EXECUTIVE OFFICER

PLANNING AND DEVELOPMENT ACT 2005

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 129

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) Replacing the words "*Single House*" with the words "*Single Dwelling House*" within the first sentence of subclause 6.1.3 (b);
- b) Replacing the word "*dwelling*" with the words "*Single House*" in subclause 6.1.3 (b); and
- c) Inserting the following definition into Schedule 1 - Interpretations under 1. General Definitions:

"Single Dwelling House: means a Single House, as defined by the Residential Design Codes, as well as any incidental development thereto, as defined by the Residential Design Codes."

# PLANNING AND DEVELOPMENT ACT 2005

## CITY OF WANNEROO

### DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO. 129

#### SCHEME AMENDMENT REPORT

#### Background

In the process of reviewing the City's development assessment and planning approval processes, Administration has noted that the Metropolitan Region Scheme (MRS) exemption of "*Single Dwelling House*" from the need for approval has different terminology, to the exemption under DPS 2 for "*Single House*" and associated "*dwelling*" development. In addition, Administration noted that no definition exists for "*Single Dwelling House*" in DPS 2, the Residential Design Codes (R-Codes) or even the MRS itself.

The inconsistency in the wording of the exemptions under DPS 2 and the MRS, and the lack of a definition for "*Single Dwelling House*", mean the single house exemption under DPS 2 is unclear and creates confusion between the requirements of the two planning schemes. Amendment No. 129 proposes to clarify these exemptions by amending DPS 2 so that the single house exemption is consistent with that of the MRS, and so that all applicable terms are clearly defined to avoid any doubt when applying and interpreting these exemptions.

The Amendment also seeks to ensure that incidental development associated with a single house, such as a garden shed and patio, are exempt from the need to obtain planning approval.

#### Detail

The MRS's "*Single Dwelling House*" exemption is included in Part III - Zones, under the subheading "*Development of Land in Zones*", where subclause 24(2) states that:

*"Approval under this Part is not required for the development of land if:*

*b) that development consists of:*

- (i) the erection on a lot of a single dwelling house which will be the only building on the lot..."*

The exemptions under DPS 2 are included in subclause 6.1.3, which state that:

*"the Council's prior Planning Approval on land zoned by the Scheme is not required if the development consists of:*

- (b) the erection on a lot of a single house which will be the only building on that lot and where a dwelling is a permitted ("P") use in the zone in which that lot is situated..."*

There are some clear inconsistencies between the MRS exemptions and those included in DPS 2. While the MRS exempts a "*Single Dwelling House*" from the need for approval, DPS 2 exempts a "*Single House*" from need for planning approval if a "*dwelling*" is a permitted

("P") use in the zone in which the development is proposed. These inconsistencies, along with the fact that "*dwelling*" is not a prescribed use class in DPS 2 and "*Single Dwelling House*" is not defined in the MRS, DPS 2 or the R Codes, mean that the exemptions are unclear and could be subject to different interpretations if not resolved.

Amendment No. 129 to DPS 2 proposes to clarify these exemptions by:

- replacing the term "*Single House*", in the first sentence of subclause 6.1.3 (b) of DPS 2, with the term "*Single Dwelling House*", as is used in the MRS;
- replacing the term "*dwelling*" with the DPS 2 use class "Single House"; and
- including a definition for "*Single Dwelling House*" in DPS 2, so that both the use class 'Single House' as well as any incidental development is clearly covered by this exemption. The proposal would amend subclause 6.1.3 (b) so that it would read as follows:

*"(b) the erection on a lot of a Single Dwelling House which will be the only building on that lot and where a 'Single House' is a permitted ("P") use in the zone in which that lot is situated..."; and*

The proposed definition for "*Single Dwelling House*" to be inserted into Schedule 1 of the Scheme is as follows:

**"*Single Dwelling House*:"** means a *Single House*, as defined by the Residential Design Codes, as well as any incidental development thereto, as defined by the Residential Design Codes."

## Comment

The proposed Amendment would result in the Single House exemptions under DPS 2 being consistent with the relevant exemption under the MRS and would further clarify the extent of the DPS 2 exemption. The proposal strengthens the current DPS 2 exemption from the need to obtain planning approval for 'Single House' development in the Residential and Special Residential zones, where that use class is a permitted ("P") use. It will also apply the same exemption to incidental development, such as garden sheds and patios.

The proposed Amendment will formally remove the need for planning approval for 'Single House' and incidental developments in the Residential and Special Residential zones, where that use class is a permitted ("P") use, thus avoiding the delays sometimes associated with the need to obtain planning approval.

The proposal is consistent with the MRS and the Western Australian Planning Commission's (WAPC's) State Planning Policy 3.1 Residential Design Codes (R-Codes), as the proposed definition of "*Single Dwelling House*" is based on the "*Single house*" and "*Incidental development*" definitions in the R Codes.

During drafting of Amendment No. 129, Administration approached the Department of Planning (DoP) seeking preliminary comment. DoP officers advised that other local governments have recently finalised similar amendments to their Planning Schemes for the purpose of streamlining development processes and that this type of amendment was encouraged.

## **Impacts of Proposed Amendment No. 129**

Currently, development applications are required for all incidental development (sheds, pergolas, retaining walls) within the residential zone, whether the proposal is compliant with the R-Codes or not. Once a development application has been approved, often a building permit application will also be required to be lodged and checked against the National Construction Code to ensure the development is structurally sound.

Amendment No. 129 will remove the requirement for development applications seeking planning approval to be lodged, however, incidental development that does not comply with the R-Codes and other guidelines (e.g. setbacks) will require a 'Codes Variation' which is assessed against the design principles of the R-Codes and the City's LPP 2.1 by the City's Building Services Section. With the assistance of the Planning Implementation Section, as required, the application can be reviewed to ensure that the proposal will not adversely impact the surrounding area.

Two flow on benefits of Amendment No. 129 are:

- Financial saving to land owners who no longer need to submit applications for planning approval and the associated fees; and
- Reduced timeframes for compliant development.

For the above reasons Administration recommends the initiation of Amendment No. 129.

Adopted by resolution of the Council of the City of Wanneroo at the Ordinary meeting of the Council held on the 14<sup>th</sup> day of October 2014

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MAYOR

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CHIEF EXECUTIVE OFFICER

Adopted for final approval by resolution of the City of Wanneroo at the 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:

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MAYOR

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CHIEF EXECUTIVE OFFICER

Recommended/Submitted for final approval

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DELEGATED UNDER S.16 OF  
PD ACT 2005

DATE .....

Final Approval Granted

.....  
MINISTER FOR PLANNING

DATE .....