

SHIRE OF MINGENEW

LOCAL PLANNING SCHEME NO. 4

Updated to include AMD 1 GG 14/11/2023



Department of Planning,
Lands and Heritage

Prepared by the
Department of Planning, Lands and Heritage

Original Town Planning Scheme Gazettal
8th January 2020

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Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

Please advise the Department of Planning, Lands and Heritage of any errors or omissions in this document.

Department of Planning,
Lands and Heritage
Gordon Stephenson
House
140 William Street
Perth WA 6000

Locked Bag 2506
Perth WA 6001

website: www.dplh.wa.gov.au

email: info@dplh.wa.gov.au

tel: 08 6551 9000

fax: 08 6551 9001

National Relay Service: 13 36 77

infoline: 1800 626 477

**SHIRE OF MINGENEW LOCAL PLANNING SCHEME NO. 4
AMENDMENTS**

| AMD.NO | GAZETTAL DATE | UPDATED | | DETAILS |
|------------|------------------------------|------------|-----|--|
| | | WHEN | BY | |
| New Scheme | 8 th January 2020 | 15/01/2020 | MLD | New Scheme |
| 1 | 14/11/23 | 30/11/23 | GL | Rezone Lot 802 Nelson Pearse Street, Mingenew from 'Rural Residential' to 'Rural Townsite' and amend the scheme maps accordingly |

OFFICIAL

SCHEME DETAILS

SHIRE OF MINGENEW **LOCAL PLANNING SCHEME NO. 4**

The Shire of Mingenew under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

| | |
|--|----|
| Part 1 - Preliminary | 5 |
| 1. Citation | 5 |
| 2. Commencement | 5 |
| 3. Scheme Revoked | 5 |
| 4. Notes Do Not Form Part Of Scheme | 5 |
| 5. Responsibility For Scheme | 5 |
| 6. Scheme Area | 5 |
| 7. Contents Of Scheme..... | 5 |
| 8. Purposes Of Scheme..... | 6 |
| 9. Aims Of Scheme..... | 6 |
| 10. Relationship With Local Laws | 7 |
| 11. Relationship With Other Local Planning Schemes | 7 |
| 12. Relationship With Region Planning Scheme | 7 |
| Part 2 – Reserves | 8 |
| 13. Regional Reserves | 8 |
| 14. Local Reserves | 8 |
| 15. Additional Uses For Local Reserves | 9 |
| Part 3 - Zones And Use Of Land | 10 |
| 16. Zones | 10 |
| 17. Zoning Table..... | 12 |
| 18. Interpreting Zoning Table | 15 |
| 19. Additional Uses..... | 16 |
| 20. Restricted Uses | 17 |
| 21. Special Use Zones..... | 17 |
| 22. Non-Conforming Uses | 17 |
| 23. Changes To Non-Conforming Use..... | 18 |
| 24. Register Of Non-Conforming Uses..... | 19 |
| Part 4 - General Development Requirements..... | 20 |
| 25. R-Codes | 20 |
| 26. Modification Of R-Codes..... | 20 |
| 27. State Planning Policy 3.6 To Be Read As Part Of Scheme | 20 |
| 28. Modification Of State Planning Policy 3.6..... | 20 |
| 29. Other State Planning Policies To Be Read As Part Of Scheme | 20 |
| 30. Modification Of State Planning Policies..... | 21 |
| 31. Environmental Conditions | 21 |
| 32. Additional Site And Development Requirements..... | 21 |
| 33. Additional Site And Development Requirements For Areas Covered By Structure..... | 21 |
| 34. Variations To Site And Development Requirements | 21 |
| 35. Restrictive Covenants | 22 |
| Part 5 - Special Control Areas..... | 24 |
| 36. Special Control Areas | 24 |
| Part 6 - Terms Referred To In Scheme | 26 |
| Division 1 - General Definitions Used In Scheme | 26 |
| 37. Terms Used | 26 |
| 38. Land Use Terms Used | 28 |
| Schedule A - Supplemental Provisions To The Deemed Provisions..... | 36 |
| Schedule 1 – General Development Requirements..... | 38 |
| Schedule 2 – Site Development Requirements | 46 |
| Schedule 3 – Car Parking | 47 |

Council Resolution To Advertise Local Planning Scheme 49
Council Resolution To Support Scheme For Approval 50

Part 1 - Preliminary

1. Citation

This local planning scheme is the Shire of Mingenew Scheme No. 4.

2. Commencement

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

3. Scheme revoked

The following local planning scheme is revoked -

Shire of Mingenew Local Planning Scheme No. 3 as gazetted 18/04/2008.

4. Notes do not form part of Scheme

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

5. Responsibility for Scheme

The Shire of Mingenew is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

6. Scheme area

This Scheme applies to the area shown on the Scheme Maps 1 - 4.

7. Contents of Scheme

- (1) In addition to the provisions set out in this document (the scheme text), this Scheme includes the following -
 - (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2).
 - (b) the supplemental provisions contained in Schedule A.
 - (c) the Scheme Maps (sheets 1 – 4).
- (2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

8. Purposes of Scheme

The purposes of this Scheme are to -

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are –

- (a) to preserve, protect and enhance the amenity and character of Mingenew Townsite, and areas of cultural, heritage and natural and biodiversity significance across the Shire; and
- (b) to ensure there is sufficient supply of serviced and suitable land within Mingenew for existing and future housing, employment, commercial activities, community facilities, recreation and open space; and
- (c) to provide for a range of accommodation and lifestyle choices that meet the needs and aspirations of the community; and
- (d) provide opportunities for the ongoing use and potential expansion of commercial areas, and tourist facilities to serve the needs of the residents and visitors; and
- (e) to ensure the protection of agricultural land by discouraging land uses and developments that may detract from the principle function of the land while maintaining opportunities for innovations in agriculture to establish within the Shire; and
- (f) to facilitate and promote mining, including any subsequent and related land uses and developments that are required as a result; and

- (g) ensuring that mining-related land uses and developments such as workforce accommodation are developed within existing townsites where appropriate.

10. Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

11. Relationship with other local planning schemes

There are no other local planning schemes of the Shire of Mingenew which apply to the Scheme area.

12. Relationship with region planning scheme

There are no region planning schemes which apply to the Scheme area.

Part 2 – Reserves

13. Regional reserves

There are no regional reserves in the Scheme area.

14. Local reserves

(1) In this clause -

Department of Main Roads means the department principally assisting in the administration of the *Main Roads Act 1930*;

Western Australian Road Hierarchy means the document of that name available on the website maintained by the Department of Main Roads.

(2) Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(3) The objectives of each local reserve are as follows -

Table 1 Reserve objectives

| Reserve Name | Objectives |
|----------------------------|--|
| Cemetery | <ul style="list-style-type: none"> To set aside land required for a cemetery. |
| Civic and Community | <ul style="list-style-type: none"> To provide for a range of community facilities which are compatible with surrounding development. To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged and other services by organisations involved in activities for community benefit. |
| Education | <ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential education facilities. |
| Environmental Conservation | <ul style="list-style-type: none"> To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves. |
| Infrastructure Services | <ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential infrastructure services. |
| Local Road | <ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy. |
| Primary Distributor Road | <ul style="list-style-type: none"> To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy. |

| Reserve Name | Objectives |
|---------------------------|--|
| District Distributor Road | <ul style="list-style-type: none"> To set aside land required for a district distributor road being a road classified as a Distributor A or Distributor B under the Western Australian Road Hierarchy |
| Local Distributor Road | <ul style="list-style-type: none"> To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy |
| Public Open Space | <ul style="list-style-type: none"> To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152. To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage. |
| Public Purposes | <ul style="list-style-type: none"> To provide for a range of essential physical and community infrastructure. |
| Railway | <ul style="list-style-type: none"> To set aside land required for passenger rail and rail freight services. |
| | |

15. Additional uses for local reserves

There are no additional uses for land in local reserves that apply to this Scheme.

Part 3 - Zones and use of land

16. Zones

- (1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) The objectives of each zone are as follows -

Table 2 Zone objectives

| Zone name | Objectives |
|-------------------|---|
| Residential | <ul style="list-style-type: none"> • To provide for a range of housing and a choice of residential densities to meet the needs of the community. • To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. • To provide for a range of non-residential uses, which are compatible with and complementary to residential development. |
| Rural Townsite | <ul style="list-style-type: none"> • To provide for a range of land uses that would typically be found in a small country town. • To provide for the variety of predominantly commercial, service, social and administrative uses required to service the needs of local residents and visitors alike. |
| Rural Residential | <ul style="list-style-type: none"> • To provide for appropriately developed lots within proximity to the Mingenew Townsite for rural residential lifestyle purposes. • To provide for lot sizes in the range of 1 ha to 4 ha. • To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land. |
| Rural | <ul style="list-style-type: none"> • To provide for the maintenance or enhancement of specific local rural character. • To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use. • To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage. |

| Zone name | Objectives |
|------------------|---|
| | <ul style="list-style-type: none"> • To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone. • To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses. |
| General Industry | <ul style="list-style-type: none"> • To provide appropriately located, accessible, serviced and level industrial land to cater for the needs of anticipated industrial development within the townsite area. • To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses. • Seek to manage impacts such as noise, dust and odour within the zone. |
| Tourism | <ul style="list-style-type: none"> • To promote and provide for tourism opportunities. • To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area. • To allow limited residential uses where appropriate. • To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities. |
| Special Use | <ul style="list-style-type: none"> • To facilitate special categories of land uses which do not sit comfortably within any other zone. • To enable the local government to impose specific conditions associated with the special use. |

17. Zoning table

The zoning table for this Scheme is as follows —

Table 3 - Zoning Table

| Use and development class | Residential | Rural townsite | Rural residential | Rural | Tourism | General Industry |
|----------------------------------|--------------------|-----------------------|--------------------------|--------------|----------------|-------------------------|
| Abattoir | X | X | X | A | X | X |
| Aged care facility/nursing home | D | D | A | X | X | X |
| Agriculture — extensive | X | X | X | P | X | X |
| Agriculture — intensive | X | X | X | P | X | X |
| Ancillary Dwelling | P | P | D | D | X | X |
| Animal establishment | X | A | A | P | X | X |
| Animal husbandry — intensive | X | X | X | A | X | X |
| Bed and breakfast | P | P | D | D | P | X |
| Betting agency | X | A | X | X | X | X |
| Bulky goods showroom | X | A | X | X | X | P |
| Caravan park | X | X | X | X | P | X |
| Caretaker's dwelling | X | D | X | X | D | D |
| Car park | D | P | X | X | X | P |
| Childcare premises | A | A | A | X | X | X |
| Civic use | D | D | D | D | D | D |
| Club premises | X | D | X | X | X | X |
| Commercial vehicle parking | X | X | X | A | X | P |
| Community purpose | D | P | X | X | X | X |
| Consulting rooms | A | P | A | X | X | X |
| Convenience store | X | P | X | X | X | X |
| Educational establishment | X | P | X | D | X | X |
| Exhibition centre | A | P | X | A | A | X |
| Family day care | A | A | A | X | X | X |

| Use and development class | Residential | Rural townsite | Rural residential | Rural | Tourism | General Industry |
|----------------------------------|--------------------|---------------------------|------------------------------|--------------|----------------|-----------------------------|
| Fuel depot | X | X | X | A | X | P |
| Garden centre | D | P | P | D | X | P |
| Grouped dwelling | D | D | X | D | X | X |
| Holiday accommodation | A | A | A | A | P | X |
| Holiday house | A | A | A | A | X | X |
| Home business | A | D | D | D | X | X |
| Home occupation | D | P | D | D | X | X |
| Home office | P | P | P | P | X | X |
| Home store | A | D | D | D | X | X |
| Hotel | X | A | X | X | P | X |
| Industry | X | X | X | X | X | P |
| Industry — extractive | X | X | X | A | X | X |
| Industry — light | X | A | X | X | X | P |
| Industry — primary production | X | X | A | P | X | X |
| Liquor store - small | X | A | X | X | X | X |
| Market | D | P | D | X | X | X |
| Medical Centre | D | P | D | X | X | X |
| Mining operations (*) | X | X | X | A | X | X |
| Motel | A | D | X | X | P | X |
| Motor vehicle repair | X | X | D | X | X | P |
| Motor vehicle wash | X | D | X | X | X | P |
| Nature based park | X | X | X | A | X | X |
| Office | D | P | X | X | X | P |
| Place of worship | D | P | X | A | X | X |
| Reception centre | D | P | A | A | X | X |
| Recreation - private | D | D | A | A | X | X |

| Use and development class | Residential | Rural townsite | Rural residential | Rural | Tourism | General Industry |
|-----------------------------------|--------------------|-----------------------|--------------------------|--------------|----------------|-------------------------|
| Renewable energy facility | X | X | X | A | X | A |
| Repurposed dwelling | A | A | A | D | X | X |
| Restaurant/cafe | A | P | A | A | P | X |
| Roadhouse | X | P | X | A | P | X |
| Rural home business | X | X | P | P | X | X |
| Rural pursuit/hobby farm | X | X | D | P | X | X |
| Second-hand dwelling | A | A | A | A | X | X |
| Service station | X | D | X | A | X | P |
| Shop | A | P | X | X | X | X |
| Single house | P | P | P | P | X | X |
| Tavern | X | A | X | X | X | X |
| Telecommunications infrastructure | D | D | D | D | D | P |
| Tourist development | A | D | X | X | P | X |
| Trade display | X | A | X | A | X | P |
| Trade supplies | X | A | X | A | X | P |
| Transport depot | X | X | X | X | X | P |
| Tree farm | X | X | A | D | X | X |
| Veterinary centre | X | D | X | A | X | D |
| Warehouse/storage | X | D | X | X | X | P |
| Waste disposal facility | X | X | X | A | X | A |
| Waste storage facility | X | X | X | X | X | A |
| Workforce accommodation | A | A | X | A | A | X |

* Note: Although the provisions of this Scheme are considered in any application for the grant of a mining tenement, this Scheme cannot operate to prohibit or affect the granting of a mining tenement or the carrying out of any mining operations authorised by the *Mining Act 1978*.

18. Interpreting zoning table

- (1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.
 - (2) The symbols used in the zoning table have the following meanings -
 - P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;
 - I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this Scheme;
 - D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;
 - A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;
 - X means that the use is not permitted by this Scheme.
- Note: 1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.
2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.
 3. If a proposed development is identified as a 'P' use in the zoning table, but the proposed development does not comply with all of the development standards and requirements of the scheme, then it is to be treated as a 'D' use.
- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
 - (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table -
 - (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or

- (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless -
 - (a) the development approval application relates to land that is being used for a non-conforming use; and
 - (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.
- (7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land -
 - (a) a structure plan;
 - (b) an activity centre plan;
 - (c) a local development plan;
 - (d) the objectives of the zone.

19. Additional uses

- (1) Table 4 sets out –
 - (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
 - (b) the conditions that apply to that additional use.

Table 4 – Specified additional uses for zoned land in Scheme area

| No. | Description of land | Additional use | Conditions |
|-----|---------------------------------|-------------------------|---|
| 1 | Lot 72 on Deposited Plan 172946 | Agriculture – Intensive | 1. The additional use shall be a class I use in the zone. |

- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

20. Restricted uses

There are no restricted uses which apply to this Scheme.

21. Special use zones

- (1) Table 5 sets out -
- (a) special use zones for specified land that are in addition to the zones in the zoning table; and
 - (b) the classes of special use that are permissible in that zone; and
 - (c) the conditions that apply in respect of the special uses.

Table 5 - Special use zones in Scheme area

| No. | Description of land | Special use | Conditions |
|-----|---|---|------------|
| 1 | Lots 43 and 66 on Plan 573. (located along King Street between Victoria Road and Shenton Street) | Aged Care Facility/Nursing Home; Aged Persons' Dwelling. | |

- (2) A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

22. Non-conforming uses

- (1) Unless specifically provided, this Scheme does not prevent -
- (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or

- (b) the carrying out of development on land if -
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if -
 - (a) the non-conforming use of the land is discontinued; and
 - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government -
 - (a) purchases the land; or
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.

23. Changes to non-conforming use

- (1) A person must not, without development approval-
 - (a) alter or extend a non-conforming use of land; or
 - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
 - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use -
 - (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
 - (b) is closer to the intended purpose of the zone in which the land is situated.

24. Register of non-conforming uses

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following -
 - (a) a description of each area of land that is being used for a non-conforming use;
 - (b) a description of any building on the land;
 - (c) a description of the non-conforming use;
 - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government -
 - (a) must ensure that the register is kept up-to-date; and
 - (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and
 - (c) may publish a copy of the register on the website of the local government.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

Part 4 - General development requirements

25. R-Codes

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government -
 - (a) must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of the R-Codes on the website of the local government.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3).

26. Modification of R-Codes

There are no modifications to the R-Codes.

27. State Planning Policy 3.6 to be read as part of Scheme

- (1) State Planning Policy 3.6 - Development Contributions for Infrastructure, modified as set out in clause 29, is to be read as part of this Scheme.
- (2) The local government -
 - (a) must make a copy of State Planning Policy 3.6 available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of State Planning Policy 3.6 on the website of the local government.

28. Modification of State Planning Policy 3.6

There are no modifications to State Planning Policy 3.6.

29. Other State planning policies to be read as part of Scheme

- (1) The State planning policies set out in Table 6, modified as set out in clause 30, are to be read as part of this Scheme.

Table 6 - State planning policies to be read as part of Scheme

| State planning policies to be read as part of Scheme |
|---|
| State Planning Policy 2.5 - Rural Planning |
| State Planning Policy 2.7 - Public Drinking Water Source |
| State Planning Policy 3.7 - Planning in Bushfire Prone Areas |
| State Planning Policy 5.2 - Telecommunications Infrastructure |

(2) The local government -

- (a) must make a copy of each State planning policy referred to in subclause (1) available for public inspection during business hours at the offices of the local government; and
- (b) may publish a copy of each of those State planning policies on the website of the local government.

30. Modification of State planning policies

There are no modifications to a State planning policy that, under clause 29 is to be read as part of the Scheme.

31. Environmental conditions

There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

32. Additional site and development requirements

- (1) Schedules 1 to 3 set out requirements relating to development that are additional to those set out in the R-Codes, activity centre plans, local development plans or State or local planning policies.
- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, an activity centre plan, a local development plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

33. Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan

There are no additional requirements that apply to this Scheme.

34. Variations to site and development requirements

(1) In this clause -

additional site and development requirements means requirements set out in clauses 32 and 33.

- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must -
 - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64 of the deemed provisions; and
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that -
 - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and
 - (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

35. Restrictive covenants

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant
 - (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and

- (b) the local government must not grant development approval for the construction of the residential dwelling unless it gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

Part 5 - Special control areas

36. Special control areas

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area is set out in Table 7.

Table 7 - Special control areas in Scheme area

| Name of area | Purpose | Objectives | Additional provisions |
|---|---------------------------------|---|---|
| SCA1 Special Control Area - Public Drinking Water Source Protection Area (PDWSPA) | Identify the proclaimed PDWSPA. | Ensure that land use and development within the PDWSPA is compatible with the protection and long-term management of water resources for public water supply. | <ol style="list-style-type: none"> 1. In determining land uses and development proposals within the PDWSPA Special Control Area, the local government will have due regard to relevant State Government policies and the most recent Department of Water and Environment Regulation Land Use Compatibility Tables for PDWSPAs. 2. Notwithstanding any permissibility of land uses in the Zoning Table, the following uses are not permitted within the PDWSPA Special Control Areas: <ul style="list-style-type: none"> • Abattoir; • Animal Husbandry - Intensive; • Fuel Depot; • Service Station. 3. In determining proposals, the local government is to have due regard to any comments or recommendations from the Department of Water and Environmental Regulation and may impose relevant conditions to prevent or minimise the potential risk of groundwater contamination. Council should also have regard to the management direction provided by the priority classification of the PDWSPA Special Control Area, noting that Priority 2 (P2) areas are defined to ensure there is no increased risk of pollution to the water source. 4. The local government shall refer any development application which involves |

| Name of area | Purpose | Objectives | Additional provisions |
|--------------|---------|------------|--|
| | | | <p>the following activities to the Department of Water and Environmental Regulation for advice prior to determination of the application:</p> <ul style="list-style-type: none"> • potential for increased nutrient loading, in particular point source for nutrients; • e.g. Animal Husbandry - Intensive; • intensification of application of fertilisers and pesticides; • storage of chemicals, fuels and other potentially polluting substances; • substantial increase in runoff; • any other impact which Council considers could have an impact on the quality of public drinking water. |

Part 6 - Terms referred to in Scheme

Division 1 - General definitions used in Scheme

37. Terms used

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows —

building envelope means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;

building height, in relation to a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes;

cabin means a dwelling forming part of a tourist development or caravan park that is

- (a) an individual unit other than a chalet; and
- (b) designed to provide short-term accommodation for guests;

chalet means a dwelling forming part of a tourist development or caravan park that is

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to provide short-term accommodation for guests;

commencement day means the day this Scheme comes into effect under section 87(4) of the Act;

commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including —

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

floor area has meaning given in the Building Code;

frontage, in relation to a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the line where a road reserve and the front of a lot meet and, if a lot abuts 2 or more road reserves, the one to which the building or proposed building faces;

incidental use means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;

minerals has the meaning given in the *Mining Act 1978* section 8(1);

net lettable area or **nla** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas-

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

plot ratio means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;

precinct means a definable area where particular planning policies, guidelines or standards apply;

predominant use means the primary use of premises to which all other uses carried out on the premises are incidental;

retail means the sale or hire of goods or services to the public;

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

wall height, in relation to a wall of a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;

wholesale means the sale of goods or materials to be sold by others.

(2) A word or expression that is not defined in this Scheme —

- (a) has the meaning it has in the *Planning and Development Act 2005*; or
- (b) if it is not defined in that Act — has the same meaning as it has in the R-Codes.

38. Land use terms used

- (1) If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —

abattoir means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

aged care facility/nursing home means a premises used to provide accommodation and personal or nursing care for the aged and may include recreational, health or laundry facilities and services for residents of the facility;

agriculture — extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

agriculture — intensive means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following —

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);
- (d) aquaculture;

animal establishment means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre;

animal husbandry — intensive means premises used for keeping, rearing or fattening of alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), sheep or other livestock in feedlots, sheds or rotational pens and excludes 'agriculture - extensive';

bed and breakfast means a dwelling —

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms;

betting agency means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;

bulky goods showroom means premises —

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes —
 - (i) automotive parts and accessories;
 - (ii) camping, outdoor and recreation goods;
 - (iii) electric light fittings;
 - (iv) animal supplies including equestrian and pet goods;
 - (v) floor and window coverings;
 - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;

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- (ix) office equipment and supplies;
 - (x) babies' and childrens' goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools;
- or
- (b) used to sell by retail goods and accessories by retail if —
 - (i) a large area is required for the handling, display or storage of the goods;
 - or
 - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods;

caravan park means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

caretaker's dwelling means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant;

car park means premises used primarily for parking vehicles whether open to the public or not but does not include —

- (a) any part of a public road used for parking or for a taxi rank;
- or
- (b) any premises in which cars are displayed for sale;

child care premises means premises where —

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
- (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

civic use means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes;

club premises means premises used by a legally constituted club or association or other body of persons united by a common interest;

commercial vehicle parking means premises used for parking of one or two commercial vehicles but does not include —

- (a) any part of a public road used for parking or for a taxi rank;
- or
- (b) parking of commercial vehicles incidental to the predominant use of the land;

community purpose means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;

consulting rooms means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

convenience store means premises —

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and
- (b) operated during hours which include, but may extend beyond, normal trading

- hours; and
(c) the floor area of which does not exceed 300 m² net lettable area;

educational establishment means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;

exhibition centre means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;

family day care means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;

fuel depot means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used —

- (a) as a service station; or
- (b) for the sale of fuel by retail into a vehicle for use by the vehicle;

garden centre means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

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

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

home business means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50m²; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

home occupation means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20 m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and

- (f) does not —
 - (i) require a greater number of parking spaces than normally required for a single dwelling; or
 - (ii) result in an increase in traffic volume in the neighbourhood;
 and
- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

home office means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling;

home store means a shop attached to a dwelling that —

- (a) has a net lettable area not exceeding 100 m²; and
- (b) is operated by a person residing in the dwelling;

hotel means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

industry means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes;

industry — extractive means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

industry — light means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;

industry — primary production means premises used —

- (a) to carry out a primary production business as that term is defined in the *Income Tax Assessment Act 1997* (Commonwealth) section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses;

liquor store — small means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300 m²;

market means premises used for the display and sale of goods from stalls by independent vendors;

medical centre means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

mining operations means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1) is carried out;

motel means premises, which may be licensed under the *Liquor Control Act 1988* —

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

motor vehicle repair means premises used for or in connection with —

- (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or
- (b) repairs to tyres other than recapping or re-treading of tyres;

motor vehicle wash means premises primarily used to wash motor vehicles;

nature based park means premises used for a nature based park as defined in the *Caravan Parks and Camping Grounds Regulations 1997*;

office means premises used for administration, clerical, technical, professional or similar business activities;

place of worship means premises used for religious activities such as a chapel, church, mosque, synagogue or temple;

reception centre means premises used for hosted functions on formal or ceremonial occasions;

recreation — private means premises that are —

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge;

renewable energy facility means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or in connection with, the generation of energy by a renewable resource. It does not include solar panels or a wind turbine located on a lot with a single house where the energy produced only supplies that house or private rural use or anemometers;

repurposed dwelling means a building or structure not previously used as a single house which has been repurposed for use as a dwelling;

restaurant/cafe means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*;

road house means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) short-term accommodation for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;
- (f) dump points for the disposal of black and/or grey water from recreational vehicles.

rural home business means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m²; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;

rural pursuit/hobby farm means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household —

- (a) the rearing, agistment, stabling or training of animals;
- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises;

second-hand dwelling means a dwelling that has been in a different location, and has been dismantled and transported to another location;

service station means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; and/or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;

shop means premises other than a, bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

tavern means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;

telecommunications infrastructure means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

trade display means premises used for the display of trade goods and equipment for the purpose of advertisement;

trade supplies means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises —

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government;

transport depot means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles;
and
- (c) the transfer of goods or persons from one vehicle to another;

tree farm means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;

veterinary centre means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;

warehouse/storage means premises including indoor or outdoor facilities used for —

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

waste disposal facility means premises used —

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

waste storage facility means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

workforce accommodation means premises, which may include modular or relocatable buildings, used —

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

(2) A category of land use that is not defined in this Scheme —

- (a) has the meaning it has in Schedule 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; or
- (b) if it is not defined in those Regulations — has the same meaning as it has in the R-Codes.

Schedule A - Supplemental provisions to the deemed provisions

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

(39) 61 Development for which Development Approval Not Required

- 61(1)(k)** the erection or extension of a single house on a lot if a single house is a permitted (“P”) use in the Rural zone and where the development standards set out in the scheme for the Rural zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:
- (i) within a designated bushfire prone area;
 - (ii) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (iii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iv) included on a heritage list prepared in accordance with this Scheme; or
 - (v) within an area designated under the Scheme as a heritage area; or
 - (vi) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.
- 61(1)(l)** the erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house if a single house is a permitted (“P”) use in the Rural zone and where the development standards set out in the scheme for the Rural zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:
- (i) within a designated bushfire prone area;
 - (ii) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (iii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iv) included on a heritage list prepared in accordance with this Scheme; or
 - (v) within an area designated under the Scheme as a heritage area; or
 - (vi) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.
- 61(1)(m)** the erection or extension of a single house on a lot if a single house is a permitted (“P”) use in the Rural Townsite zone and where the development standards set out in the scheme for the Rural Townsite zone (including boundary setbacks) and the deemed-to-comply requirements of the R-Codes (R12.5) are satisfied, unless the development is located in a place that is:
- (i) within a designated bushfire prone area;

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- (ii) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
- (iii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
- (iv) included on a heritage list prepared in accordance with this Scheme; or
- (v) within an area designated under the Scheme as a heritage area; or
- (vi) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.

61(1)(n)

the erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house if a single house is a permitted ("P") use in the Rural Townsite zone and where the development standards set out in the scheme for the Rural Townsite zone (including boundary setbacks) and the deemed-to-comply requirements of the R-Codes (R12.5) are satisfied, unless the development is located in a place that is:

- (i) within a designated bushfire prone area;
- (ii) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
- (iii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
- (iv) included on a heritage list prepared in accordance with this Scheme; or
- (v) within an area designated under the Scheme as a heritage area; or
- (vi) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29.

Schedule 1 – General development requirements

| Clause | Heading | General Development Requirements |
|--|-------------------|--|
| General development requirements relating to zones | | |
| 1. | Rural Townsite | <ol style="list-style-type: none"> 1. All development within the Rural Townsite zone shall be designed and constructed from materials that complement the existing character and amenity of the townsite as determined by the local government or as outlined in any local government policy. 2. All residential development within the Rural Townsite zone shall comply with the relevant provisions of the R-Codes to a maximum density of R12.5. 3. Where non-residential development is proposed in the Rural Townsite zone on or adjacent to land with an existing residential development, the local government shall have regard to the following when assessing an application for development approval: <ol style="list-style-type: none"> (a) the bulk, scale and height of the proposed building in relation to adjacent buildings; (b) the location of access ways, car parking, storage areas and waste disposal facilities; (c) the location of services including power, water and effluent disposal systems; and (d) the interface between non-residential and residential uses in accordance with State policy and other guidelines. |
| 2. | Rural Residential | <ol style="list-style-type: none"> 1. Prior to subdivision within the Rural Residential zone, approval of a structure plan may be required to demonstrate the acceptability of proposed lot numbers and layout, land use capability, bushfire hazard level assessment and/or any other matters addressed by a structure plan. 2. All buildings and structures in the Rural Residential zone shall be designed and constructed of materials which are sympathetic to the surrounding landscape and characteristics of the Rural Residential zone as outlined in any local government policy. 3. All trees in the Rural Residential Zone shall be retained unless such vegetation is dead or diseased, or where the clearing is required for the purpose of fire control, development within a building envelope and access to the envelope, or for a fence. 4. In considering an application for development approval in the Rural Residential zone, in addition to the matters outlined in Clause 67 of the deemed provisions the local government will have due regard for the following: <ol style="list-style-type: none"> (a) any sensitive or incompatible uses that may require buffer separation from the proposed use, including the potential for spray drift and the need to contain any spray drift within the land the subject of the application; |

| Clause | Heading | General Development Requirements |
|--------|---------|--|
| | | <ul style="list-style-type: none"> (b) any wetland or remnant vegetation or other sensitive feature, and how the application has addressed the protection of the feature; (c) evidence of a sustainable water supply that does not rely on catchment outside the lot, or damming of a stream that will impact on the water availability for another lot or lots; (d) soil conditions, slope, soil type, rock, potential for water logging, foundation stability, and how the application has addressed these site characteristics; and (e) proposals for treatment and disposal of waste products. <p>5. The keeping of livestock or similar animals in the Rural Residential zone requires development approval and they shall be kept within appropriately fenced areas as approved by the local government.</p> |
| 3. | Rural | <p>1. Local government shall have regard to the WAPC Development Control Policy 3.4 Subdivision of Rural Land, in its consideration of applications for subdivision of rural land within the Rural Zone.</p> <p>2. In considering an application for development approval in the Rural zone, in addition to the matters outlined in Clause 67 of the deemed provisions the local government will have due regard for the following:</p> <ul style="list-style-type: none"> (a) any sensitive or incompatible uses and how the application has addressed minimisation of potential environmental and health impacts through separation distances and other measures; (b) any wetland or remnant vegetation or other sensitive feature, and how the application has addressed the protection of the feature; (c) evidence of a sustainable water supply that does not rely on catchment outside the lot, or damming of a stream that will impact on the water availability for another lot or lots; (d) soil conditions, slope, soil type, rock, potential for water logging, foundation stability, and how the application has addressed these site characteristics; and (e) proposals for treatment and disposal of waste products. <p>3. In determining the development of Agriculture - Intensive and Industry - Extractive uses within the Rural zone the local government shall require the following:</p> <ul style="list-style-type: none"> (a) that environmental and landscape qualities of the locality are not detrimentally affected; |

| Clause | Heading | General Development Requirements |
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| | | <p>(b) that adequate provision is made for any intensive use of rural roads;</p> <p>(c) that there is sufficient capacity within the existing services, facilities and infrastructure to support the proposed activities;</p> <p>(d) that there is no conflict with existing rural activities and adjacent land uses operating in the area;</p> <p>(e) a management plan to manage the impact of the development.</p> <p>4. Development of more than one dwelling or for short-term accommodation purposes in the Rural zone may only be permitted where it is incidental to the agricultural use of the land.</p> |
| 4. | General Industry | <p>1. The local government shall not grant development approval in the General Industry zone, unless the proponent can adequately demonstrate to the satisfaction of the local government that there will be no adverse impacts on sensitive land uses from noise, dust, odour, risk, or gaseous emissions.</p> <p>2. In determining an application for development approval in the General Industry zone, the local government may impose conditions to control emissions including, but not limited to, industrial liquid, solid or gaseous wastes in accordance with Environmental Protection Authority's guidelines and advice from the Department of Water and Environmental Regulation.</p> <p>3. Land uses within the General Industry zone that are not required to be housed in buildings shall be designed and laid out on the land so as not to detract from the visual amenity of the area and where open storage of goods and materials is proposed on the land they shall, at the discretion of the local government, be screened from view from the street and/or other public viewpoints.</p> <p>4. All buildings within the General Industry zone shall be located, designed and constructed so that the external appearance arising from height, bulk, method of construction, materials used, colour texture of the external appearance do not have an adverse impact on the locality.</p> <p>5. Security fences along street boundaries in the General Industry zone shall be setback a distance of 1.5 metres from the boundary and landscaping shall be established and maintained between these lines by the owner to the satisfaction of local government.</p> |
| General development requirements relating to all land | | |
| 5. | Site development requirements | 1. Unless otherwise provided by the Scheme, development on all lots is subject to the setbacks, |

| Clause | Heading | General Development Requirements |
|--------|-----------------|--|
| | | <p>plot ratio and site coverage as outlined in Schedule 2.</p> <p>2. Where development is proposed on a lot which has more than one street frontage the local government shall decide which street (if any) is the primary street frontage for the purposes of Schedule 2 and the other provisions of the Scheme.</p> <p>3. Within the Residential zone the land between the street alignment and the front building setback shall not be used except for one or more of the following purposes:</p> <ul style="list-style-type: none"> (a) gardens and other landscaping including pools/pergolas etc.; (b) access driveways; and (c) parking of motor cars, commercial vehicles or caravans for periods of not more than eight hours consecutively. |
| 6. | Landscaping | <p>1. The landscaping requirement referred to in Schedule 2 means an open area designed, developed and maintained as garden planting and areas for pedestrian use. At the discretion of the local government, natural bushland, swimming pools and areas under covered ways may be included within the landscaped area.</p> |
| 7. | Building height | <p>1. The maximum height limit for buildings and structures above natural ground level irrespective of whether or not development approval is required is 10m.</p> <p>2. Notwithstanding clause 7.1, the local government may, after following the advertising procedures set out at clause 64 of the deemed provisions, permit the construction of buildings or structures in excess of the height limit specified where it is satisfied:</p> <ul style="list-style-type: none"> (a) site constraints are such as to prevent the construction of a building or structure within height limits; or (b) additional height is critical to the function and operation of the proposed building or structure; and (c) the building or structure will be in harmony with the general character of buildings in the locality; and (d) the building or structure will not adversely affect the beauty, character, quality of environment or the townscape generally; and (e) the building or structure will maintain a satisfactory relationship to the boundaries of the lot on which it is to be constructed and |

| Clause | Heading | General Development Requirements |
|--------|---------------------------|---|
| | | <p>relates generally to the siting, design and aspect of buildings on other nearby lots;</p> <p>(f) the building or structure will not impair the amenity or development of adjoining lots.</p> <p>3. For the purpose of clause 7.1, a building or structure does not include reference to a chimney, mast, satellite dish (not exceeding a diameter of 4 metres), pole, wind turbine or signal receiving or transmitting tower provided that the structure or facility is designed, sited and/or treated so as not to detract from the visual amenity of the locality.</p> |
| 8. | Car parking and servicing | <p>1. Car parking for land uses is to be provided in accordance with the rates and standards set out in Schedule 3.</p> <p>2. Where land is proposed to be developed as a use not listed in Schedule 3, the number of parking spaces required is to be determined by the local government having due regard to:</p> <ul style="list-style-type: none"> (a) the nature of the proposed development; (b) the number of employees or others likely to be employed or engaged in the use of the land; (c) the anticipated demand for visitor parking; and (d) the orderly, proper and sustainable planning of the area. <p>3. If there are multiple land uses on any lot that operate at different times to each other, the local government, upon being satisfied that the operating times will be permanent, may approve a reduced number of parking spaces to that specified in Schedule 3 or otherwise agreed to by the local government, on a reciprocal use basis.</p> <p>4. When considering a development application, the local government may approve a reduced number of parking spaces from that specified in Schedule 3 having due regard to (a) to (d) outlined in clause 8.2 above when considering the total number of bays required.</p> <p>5. Where the minimum car parking requirements cannot be met on site, the local government may decide to accept cash payments in lieu of the provision of car parking spaces subject to:</p> <ul style="list-style-type: none"> (a) the cash-in-lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking spaces required by the scheme plus the value, as estimated by the local government of that area of the land which |

| Clause | Heading | General Development Requirements |
|--------|--|--|
| | | <p>would have been occupied by the parking spaces; and</p> <p>(b) payments under this clause shall be paid into a parking fund to be used for the provision of public car parking facilities anywhere within reasonable proximity to the subject land in respect of which a cash-in-lieu arrangement is made.</p> <p>6. Where a land use or development involves the delivery or dispatch of goods of any kind, a loading and unloading area will be required to be provided clear of the street or right-of-way as appropriate and the local government will seek to ensure that, where such an area is provided, vehicles using the area must, unless otherwise approved by the local government, be able to enter the street in a forward direction.</p> |
| 9. | Caretakers dwellings | <p>1. Caretaker's dwellings:</p> <p>(a) are limited to one caretaker's dwelling per lot; and</p> <p>(b) shall be limited in internal floor area to a maximum of 100 square metres.</p> <p>2. Development approval for a caretaker's dwelling shall not be granted until the predominant use requiring a supervisor has been constructed and/or is operational.</p> <p>3. The use of a caravan as a caretaker's dwelling is not permitted except in the conjunction with an approved caravan park.</p> <p>4. A caretaker's dwelling shall be occupied by the owner, manager or an employee of the use that is established on the land.</p> <p>5. The local government will not support the caretaker's dwelling to be sold separately from the predominant use of the land.</p> |
| 10. | Repurposed dwellings and second-hand dwellings | <p>1. The standards of finish of Repurposed Dwellings and/or Second-Hand Dwellings shall be agreed on between the applicant and the local government prior to the issue of development approval and must be consistent with those prevailing in the locality in which the building is to be located or any policy adopted by local government.</p> <p>2. Local government may permit the erection or placement of a Repurposed Dwelling and/or Second-Hand Dwelling on a lot providing that the design of the building is to the satisfaction of the local government and:</p> <p>(a) is in a satisfactory condition;</p> <p>(b) will not detrimentally affect the amenity of the area;</p> |

| Clause | Heading | General Development Requirements |
|--------|-----------------------------------|--|
| | | <p>(c) is permanently affixed to the ground; and</p> <p>(d) is finished to a high standard.</p> |
| 11. | Workforce accommodation | <p>1. The local government may only grant development approval for Workforce Accommodation where –</p> <p>(a) it is satisfied that the Workforce Accommodation can be adequately serviced with water, power and effluent disposal;</p> <p>(b) an operation is proposed and not yet operational, it can be adequately demonstrated that the operation will proceed prior to the approval for permanent Workforce Accommodation being issued;</p> <p>(c) a management plan is prepared and submitted with the development application that outlines how the Workforce accommodation will be decommissioned should it no longer be required; and</p> <p>(d) proposed within the Residential and Rural Townsite zones it is to be setback from boundaries in accordance with Part 5 of the R-Codes Volume 1 to the satisfaction of the local government.</p> |
| 12. | Telecommunications infrastructure | <p>1. Development applications for telecommunications infrastructure will be considered in relation to the following:</p> <p>(a) consistency of the proposed development with the objective and purpose of the zone or reserve;</p> <p>(b) social and economic benefits of the proposal;</p> <p>(c) the impact of the proposal on the landscape, heritage, environmental and rural character values of the locality;</p> <p>(d) coordination with other services; and</p> <p>(e) any relevant policy adopted by the local government.</p> |
| 13. | Amenity | <p>1. No lot, building or appliance shall be used in such a manner as to permit the escape of smoke, dust, fumes, odour, noise, vibration or waste products in such quantity or extend in such manner as to create or to be a nuisance to any inhabitant of the surrounding neighbourhood or to traffic or persons using roads in the vicinity.</p> |
| 14. | Vehicles | <p>1. Where located within the Residential zone, caravans, trailers and boats are to be stored behind the front building setback line as set out in Schedule 2.</p> |

OFFICIAL

| Clause | Heading | General Development Requirements |
|--------|---|---|
| 15. | Development of land abutting an unconstructed road | <p>1. In considering any development application for the development of land abutting an unconstructed road reserve, the local government shall either:</p> <ul style="list-style-type: none"> (a) refuse the application until the road has been constructed or direct access to a constructed road is provided; or (b) grant approval subject to a condition requiring the applicant to contribute to the full or partial cost of constructing the road as determined by the local government and impose any other conditions it considers necessary; or (c) require other legal arrangements to be made for permanent legal access to the satisfaction of the local government. |
| 16. | Development within proximity to watercourses | <p>1. The local government shall not permit the erection of any habitable building or effluent disposal system on any land within 100 metres of the nearest definable bank of any permanent watercourse, river or estuary, or within 30 metres of the nearest definable bank of any seasonally flowing watercourse.</p> |
| 17. | Development on land subject to dampness or flooding | <p>1. Where a development is proposed on a site such that, in the opinion of local government, development may be impacted upon by flooding and/or inundation, the local government shall require the applicant to provide technical advice from an appropriately qualified person to demonstrate that the development and surrounding areas will not be adversely impacted on by flooding and/or inundation.</p> |

Schedule 2 – Site development requirements

| Zone | Coverage (max. %) | Setbacks (min. m) | | | Landscaping (min. %) | Special Conditions |
|---|----------------------|---------------------------------------|------|--------------|-------------------------|---|
| | | Front | Rear | Side | | |
| | | Front | Rear | Side | | |
| Residential | | As per the R-Codes | | | | |
| Rural Townsite – Residential Uses | | As per the R-Codes | | | | |
| Rural Townsite – Non- Residential Uses | 75 | Nil | Nil* | Nil* | 10 | *Where non-residential development is adjacent to residential development the setback shall be determined as appropriate by local government. |
| Rural Residential | N/A | 15 | 5 | 5 | 10 | |
| Rural | | 30 | 20 | 20 | N/A | |
| Tourism | | At the discretion of local government | | | 10 | |
| General Industry | | 10 | 3 | Nil or 3* | 10 | Where development is to abut the boundary it shall have a nil setback. Where development does not sit on the boundary it shall have a minimum 3m setback. |
| Special Use | | At the discretion of local government | | | 10 | |

Schedule 3 – Car parking

- (1) For the purpose of clause 8.1 in Schedule 1, car parking rates shall be in accordance with the following -

| Land Use | Car parking rate | Additional requirements or conditions |
|---------------------------|---|---------------------------------------|
| All Residential uses | As per R-Codes | |
| Bed and breakfast | 1 space per lettable room | |
| Betting agency | 1 space per 30 m ² NLA | |
| Bulky goods showroom | 1 space per 50 m ² NLA up to 200 m ² plus 1 space per 100 m ² above 200 m ² . | |
| Child care premises | 1 space per 5 children | |
| Civic use | 1 space for every 5 persons accommodated | |
| Club premises | 1 space for every 5 persons accommodated | |
| Community purpose | 1 space for every 5 persons accommodated | |
| Consulting rooms | 1 space per 30 m ² NLA and an additional 1 space per employee | |
| Convenience store | 1 space per 30 m ² NLA | |
| Educational establishment | 1 space for every 5 persons accommodated | |
| Exhibition centre | 1 space for every 5 persons accommodated | |
| Family day care | 1 space per 5 children | |
| Garden centre | 1 space per 50 m ² NLA | |
| Hotel | 1 space per room and an additional 1 space for 4 m ² bar/lounge area | |
| Industry | 1 space per 50 m ² NLA | |
| Liquor store | 1 space per 30 m ² NLA | |
| Medical Centre | 1 space per 30 m ² NLA and an additional 1 space per employee | |
| Motel | 1 space per unit plus and an additional 1 space for every 4 units | |
| Motor vehicle repair | 4 spaces per working bay and an additional 1 space per employee | |
| Motor vehicle wash | 2 spaces per wash bay | |
| Office | 1 space per 50 m ² NLA | |
| Place of worship | 1 space for every 5 persons accommodated | |

OFFICIAL

| Land Use | Car parking rate | Additional requirements or conditions |
|-------------------------|---|--|
| Reception centre | 1 space for every 5 persons accommodated | |
| Restaurant/cafe | 1 space for every 4 seats | |
| Road house | 2 spaces per pump and an additional 1 space per 20 m ² NLA | |
| Service station | 2 spaces per pump and an additional 1 space per 20 m ² NLA | |
| Shop | 1 space per 30 m ² NLA | |
| Supermarket | 1 space per 30 m ² NLA | |
| Tavern | 1 space per 6 m ² public area | |
| Tourist development | At the discretion of local government | |
| Trade display | 1 space per 50 m ² NLA up to 200 m ² plus 1 space per 100 m ² above 200 m ² . | |
| Trade supplies | 1 space per 50 m ² NLA up to 200 m ² plus 1 space per 100 m ² above 200 m ² . | |
| Veterinary centre | 1 space per 30 m ² NLA and an additional 1 space per employee | |
| Warehouse/storage | 1 space per 50 m ² NLA up to 200 m ² plus 1 space per 100 m ² above 200 m ² . | |
| Workforce accommodation | At the discretion of local government | |

(2) For the purpose of clause 8.1 in Schedule 1, car parking shall be developed in accordance with the following standards -

| Parking angle | Width (m) | Length (m) | Separation / Aisle (m) |
|----------------------|--|-------------------|-------------------------------|
| 45 degree | 3.5 | 5.2 | 3.7 |
| 60 degree | 2.8 | 5.6 | 5 |
| 90 degree | 2.5 | 5.5 | 6.5 |
| Paving | All parking spaces shall be paved to the satisfaction of the local government (unless otherwise agreed with the local government). | | |
| Landscaping | Landscaping shall be undertaken at a rate of 1 tree per every 10 bays being proposed. | | |

COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME

Adopted by resolution of the Council of the **Shire of Mingenew** at the Ordinary Council Meeting of Council held on the 21st February 2018.

NILS HAY

CHIEF EXECUTIVE OFFICER

H NEWTON

PRESIDENT

COUNCIL RESOLUTION TO SUPPORT SCHEME FOR APPROVAL

Council resolved to **support** approval of the draft Scheme of the **Shire of Mingenew** at the Ordinary Council Meeting of Council held on the 17th April 2019.

The Common Seal of the **Shire of Mingenew** was

hereunto affixed by authority of a resolution of the Council in the presence of:

NILS HAY

CHIEF EXECUTIVE OFFICER

H NEWTON

PRESIDENT

WAPC Recommended for Approval

**Delegated under S.16 of the Planning
and Development Act, 2005**

MICHAEL DAYMOND

Date: 29TH November 2019

Approval Granted

Rita Saffioti

MINISTER FOR PLANNING

Date: 19 Dec 19