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Tim Leishman



Shire of
Esperance
We make it happen!

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7

Resolved that the local government, in pursuance of Section 75 of the *Planning and Development Act, 2005* amend the above local planning scheme by;

1. Amending Table No. 4 Zoning and Land Use Table by making 'Animal Establishment' a 'D' use in the Rural Smallholdings zone.
2. Amending Table No. 4 Zoning and Land Use Table by making 'Commercial Vehicle Parking' an 'A' use in the Residential and Rural Townsite zone.
3. Amending Table No. 4 Zoning and Land Use Table by making 'Repurposed Dwelling' a 'D' use in the Rural Residential zone.
4. Amending Table No. 4 Zoning and Land Use Table by making 'Telecommunications Infrastructure' a 'P' use in all zones.
5. Amending Table No. 4 Zoning and Land Use Table by making 'Grouped Dwelling' a 'D' use in the Rural zone.
6. Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by deleting point 2 in conditions for AR3 and renumbering the clause accordingly.
7. Amending Clause 26.(4) replacing it with:

'26. (4) In the established 'Residential' zone along Castletown Quays and Twilight Beach Road to the West of Walker Street the minimum front setback shall be 7.5 metres unless considered in accordance with clause 64 of the deemed provisions or otherwise provided by Special Control Area provisions of this Scheme.'

8. Amending Schedule A Clause 61.(u) by deleting 'residential; and inserting 'in the Residential zone' after 'outbuildings'.
9. Amending Schedule 1 Clause 8 by replacing it with:

'8. Rural Zone Additional Dwelling Provisions

- (a) The local government may grant approval for an additional dwelling in the Rural zone in accordance with the following:
 - (i) the total number of dwellings on the lot with an area between 40ha and 100ha (excluding any ancillary dwelling) will not exceed two;
 - (ii) the total number of dwellings on the lot with an area greater than 100ha (excluding any ancillary dwelling) will not exceed three;
 - (iii) the local government is satisfied that adequate provision can be made for the supply of domestic water and for the disposal of sewage from the additional dwelling/s;
 - (iv) the additional dwelling/s will not adversely affect the rural landscape or conflict with agricultural production on the subject lot or on adjoining land;
- (b) The approval of more than one (1) dwelling on any lot zoned Rural should not be construed as support for the subdivision of the lot. Subdivision of Rural land shall be in accordance with State planning policy and the Local Planning Strategy.'

10. Amending Schedule 1 Clause 18 by inserting a new subclause as (e) as follows:

'(e) The height limit of a Renewable energy facility is only limited by the provisions of Schedule 2 – Special Control Area No. 8.'

11. Amending Schedule 1 Clause 18 by inserting a new subclause as (f) by moving Schedule 1 Clause 35(b) to subclause (f) and renumber the subclauses in Schedule 1 Clause 35 taking note of the deletion.
12. Amending Schedule 2 by inserting a new Clause 11 as follows:

‘11. SCA 11 – Modified Sewerage Sensitive Areas Special Control Area

- (a) The purpose of SCA 11 is to provide guidance for land use and development within the modified Sewerage Sensitive Area as identified in The Analysis of Surficial Ground Water Landscapes and Hydrological Pathways linking the Ramsar Listed Lake Warden Wetlands by Tilo Massenbauer and as shown on the Scheme Map.

- (b) Objectives

The objectives of SCA 11 are to –

- (i) identify land that has been designated as a sewerage sensitive area;
- (ii) ensure that the development and use of land does not detrimentally impact on a sewerage sensitive area; and
- (iii) implement Scheme controls that are designed to mitigate any adverse effects on a sewerage sensitive area.

- (c) Application Requirements

- (i) Despite any other provision of the Scheme development approval is required for all land use and development not connected to a reticulated sewerage system.

- (d) Development Requirements

- (i) Compliance with the Government Sewerage Policy.
- (ii) Where a lot is also located within SCA 4 – Public Drinking Water Source Protection Areas the requirements of SCA 4 will apply in addition to the requirements of SCA 11.

Note: The report referenced in clause 11.(a) can be found in the Shire's Electronic document and records management system – Ref: D18/20641.’

13. Amending the Scheme Map by inserting SCA 11 as depicted on the Scheme Amendment Map.
14. Amending Schedule 3 by deleting A3 and delete A3 from Lot 83 Lalor Drive, Windabout as depicted on the Scheme Amendment Map.
15. Amending Schedule 3 by deleting A8 and delete A8 from Lot 5 Downes Street, Pink Lake as depicted on the Scheme Amendment Map.
16. Amending Schedule 3 by inserting ‘Consulting Rooms’ as a ‘D’ use in the column ‘Additional Use(s)’ of A6.
17. Amending Schedule 3 by replacing ‘Portion Lot 9002 Eleven Mile Beach Road, Pink Lake’ with ‘Portion of Lot 770 Spencer Road, Pink Lake’ in A16 and amend the Scheme Map as depicted on the Scheme Amendment Map.
18. Amending Schedule 3 and the Scheme Map as depicted on the Scheme Amendment Map by adding an Additional Use with the following:

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A23	Lot 2 Pink	Rural	As a ‘D’ use:	As determined by the Local

	Lake Road, Pink Lake	Residential	• Home Store	Government.
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19. Amending Schedule 3 and the Scheme Map as depicted on the Scheme Amendment Map by adding an Additional Use with the following:

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A24	Lot 12 and 13 Warden Road, Chadwick	Rural Residential	As an 'A' use: • Community Purpose	As determined by the Local Government.

20. Amending Schedule 5 by replacing 15.3.4 within SU4 with 'Measures may be implemented as part of the Noise Management Plan to avoid flights over residential areas.'
21. Amending Schedule 5 by deleting SU6 and delete SU6 from a Portion of Reserve 27318 and Reserve 32048 by reclassifying Reserve 27318 as 'Public Open Space' and Reserve 32048 as 'Private Community Purposes' as depicted on the Scheme Amendment Map.
22. Amending Schedule 5 by replacing 'Part Lot 63 on DP80539' with 'Lot 66 on Plan 415322' in the Description of land and deleting point (a) and deleting 'further' and 'greater than outlined in condition (a)' in (b) in the conditions of SU7.
23. Amending the Scheme Map by reclassifying Reserve 34788 and a portion of Reserve 23527 from 'Public Open Space' to 'Environmental Conservation' as depicted on the Scheme Amendment Map.
24. Amending the Scheme Map by reclassifying Reserve 4182 from 'Public Open Space' to 'Environmental Conservation' as depicted on the Scheme Amendment Map.
25. Amending the Scheme Map by rezoning a portion of Lot 300 Kalgoorlie Street, Lots 2, 24, 25, 26, 628, 629, 1 Sims Street and Lot 134 on Plan 226439 from 'Public Open Space' to 'Industrial Development' as depicted on the Scheme Amendment Map.
26. Amending the Scheme Map by rezoning a portion of Lot 204 on DP 416486 from 'Local Road' to 'Rural Townsite' as depicted on the Scheme Amendment Map.
27. Amending the Scheme Map by rezoning both portions of Lot 55 on Plan 12843 from 'Residential' to 'Local Road' as depicted on the Scheme Amendment Map.
28. Amending the Scheme Map by amending Lot 202 on Plan 39677 Fisheries Road, Bandy Creek from 'Public Open Space' to 'Private Community Purposes' as depicted on the Scheme Amendment Map.
29. Amending the Scheme Map by rezoning Lot 75 Woods Street, Chadwick from 'General Industry' to 'Light Industry' as depicted on the Scheme Amendment Map.
30. Amending the Scheme by renumbering the clauses and any referenced clauses within the Scheme caused by either deletion, insertion or movement of a clause or subclause through this or any earlier amendment.

The amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (g) any other amendment that is not a complex or basic amendment.

Dated this...²³.....day
of...MARCH.....2021


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CHIEF EXECUTIVE OFFICER

SCHEME AMENDMENT REPORT

1. Introduction

Notice of Final Approval of the Shire of Esperance Local Planning Scheme No. 24 ('the Scheme') was published in the Government Gazette on 2 August 2017.

A review of land use permissibilities has been undertaken.

This amendment seeks to introduce height limits for Renewable energy facilities.

This amendment seeks to introduce specific Scheme requirements for the Sewerage Sensitive Area as established by the Government Sewerage Policy. Specifically the amendment introduces an amended boundary of the Sewerage Sensitive Area as contained in The Analysis of Surficial Ground Water Landscapes and Hydrological Pathways linking the Ramsar Listed Lake Warden Wetlands by Tilo Massenbauer.

Modifications are proposed to existing Additional Use provision and two new Additional Uses are include in the Scheme.

Schedule 5 is proposed to be amended to remove SU6.

Lot 202 Fisheries Road, Bandy Creek which is occupied by the Esperance Bay Turf Club. The current classification of the site as 'Public Open Space' reserve does not take into account the range of uses that are present on the site or give any consideration to the freehold title for the land.

Lot 75 Woods Street, Chadwick which is occupied by Esperance Nyungar Aboriginal Corporation (ENAC) is proposed to be rezoned to 'Light Industry' to better accommodate the range of uses on the site.

A number of amendments are made to the Scheme Map to ensure it reflects changes from the amendment as well as ensuring accurate reservations for Shire managed reserves.

The specific details of this amendment are specified below.

2. AMENDMENT PROPOSAL

2.1 Amend the Zoning and Land Use Table by making 'Animal Establishment' a 'D' use in the Rural Smallholdings zone

'Animal Establishment' is currently an 'A' use in the 'Rural Smallholdings' zone. Given the prevailing lot sizes in this zone it is considered that the land use can be changed to a 'D' as advertising is of little benefit as neighbours are not impacted on by the uses.

It should also be noted that where the a development is also located within SCA5 it will be referred to the Department of Water and Environmental Regulation and the Department of Biodiversity Conservation and Attractions.

2.2 Amend the Zoning and Land Use Table by making 'Commercial Vehicle Parking' an 'A' use in the Residential and Rural Townsite zones.

'Commercial Vehicle Parking' is currently a 'D' use in the 'Residential' and 'Rural Townsite' zones. Given the potential impact on amenity by the land use it is considered more appropriate to have it as an 'A' use. This would not impact on the level of 'Commercial Vehicle Parking' that is currently exempted by Schedule 1 Clause 16.(a) of the Scheme.

2.3 Amend the Zoning and Land Use Table by making 'Repurposed Dwelling' a 'D' use in the Rural Residential zone

'Repurposed Dwelling' is currently an 'A' use in the 'Rural Residential' zone. Given the nature of the development and Scheme controls already in place it is considered superfluous to advertise a 'Repurposed Dwelling' as such it is proposed to make the land use a 'D' use in the zone.

2.4 Amend the Zoning and Land Use Table by making 'Telecommunications Infrastructure' a 'P' use in all zones

State Planning Policy 5.2-Telecommunications Infrastructure (SPP5.2) applies across the State and aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas.

It should also be noted that SPP 5.2 make the following comments regarding Electromagnetic Emissions (EME):

"The use of mobile telephones has raised public concern about possible health issues associated with exposure to electromagnetic emissions. However, telecommunications carriers must comply with the Australian Communications and Media Authority (ACMA) *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003*. These licence conditions make mandatory the limits in the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Radiofrequency (RF) Standard which sets limits for human exposure to RF electromagnetic fields from all sources, including telecommunications infrastructure. ARPANSA is the primary Commonwealth agency responsible for protecting the health and safety of people and the environment from the harmful effects of radiation.

Measurement surveys undertaken by ARPANSA demonstrate that environmental radiofrequency levels near base stations for the mobile telephone network are extremely low. The ARPANSA surveys reported that typical exposures to radiofrequency fields were well below one per cent of the Standard's public

exposure limits. It concluded that "given the very low levels recorded and the relatively low power of these types of transmitters, it is unlikely that the radiofrequency radiation from base stations would cause any adverse health effects, based on current medical research".

Standards set by ARPANSA incorporate substantial safety margins to address human health and safety matters; therefore it is not within the scope of this Policy to address health and safety matters. Based on ARPANSA's findings, setback distances for telecommunications infrastructure are not to be set out in local planning schemes or local planning policies to address health or safety standards for human exposure to electromagnetic emissions."

Section 6 the implementation section of SPP5.2 states at Clause 6.1(b) that Telecommunications infrastructure is not designated as a 'use not permitted' (X) by the scheme in any zone in the zoning table. Clause 6.1(c) also states that: 'In zones where the location of telecommunications infrastructure is supported, telecommunications infrastructure is designated as a permitted use (P) in the zoning table;'.

To be consistent with SPP 5.2 it is proposed to make 'Telecommunications Infrastructure' a 'P' use in all zones.

2.5 Amend the Zoning and Land Use Table by making 'Grouped Dwelling' a 'D' use in the Rural zone.

A modification is proposed to amend the permissibility of a 'Grouped Dwelling' in the Rural zone. This land use is currently listed as 'X' in Table 4 – Zoning and Land Use Table.

This land use classification is in conflict with Schedule 1 Clause 8 which allows two single houses on a Rural zoned lot with an area greater than 40 hectares (which is effectively a 'Grouped Dwelling'. To resolve this conflict it is recommend that the permissibility of a 'Grouped Dwelling' be modified.

2.6 Amend Table No. 2 Specified additional uses for land in local reserves in Scheme area by deleting point 2 in conditions for AR3 and renumbering the clause accordingly

This amendment proposed to remove the restriction that limits the 'Restaurant/Café' use to only being permitted if it is mobile. Controls are retained that limits development to within designated lease areas only.

2.7 Amend by replacing Clause 26.(4) to apply the standard to Twilight Beach Road to the west of the intersection with Walker Street and allowing variations subject to Clause 64 of the deemed provisions

This amendment refines the area where a 7.5m setback is established by a provision modifying the R-Codes. Development in the excluded area will still be required to comply with the prevailing R-Code setbacks.

A modification is also proposed that provides the power to vary the 7.5m setback subject to advertising under Clause 64. of the deemed provisions.

2.8 Amend Schedule A Clause 61.(u) by deleting 'residential; and inserting 'in the Residential zone' after 'outbuildings'.

This amendment clarifies the area in which a 'residential outbuilding' can be considered exempted development to those areas that are zoned Residential.

2.9 Amend Schedule 1 Clause 8

This amendment modifies the Rural Zone Second Dwelling provision of the Scheme by replacing it with a new provision that maintains the existing arrangement of being able to have a second dwelling on a Rural zoned lot greater in area than 40ha and expanding it to a third dwelling on Rural zoned lots greater in area than 100ha.

2.10 Amend Schedule 1 Clause 18 by inserting a new subclause as (e)

This amendment modifies the building height permissions for a Renewable energy facility so it is only limited by the provisions of Schedule 2 – Special Control Area No. 8.

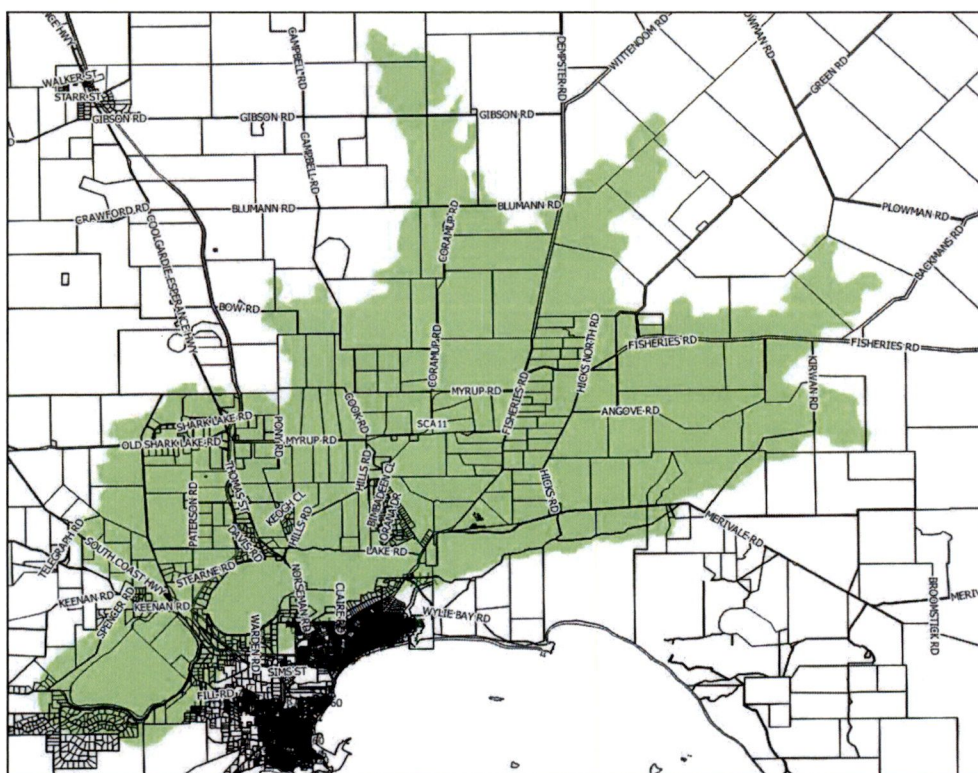
2.11 Amend Schedule 1 Clause 18 by inserting a new subclause as (f)

This amendment relocates the height clause from Schedule 1 Clause 35(b) for telecommunications infrastructure to a new subclause in Schedule 1 Clause 18. Schedule 1 Clause 35 is also renumbered to take note of the removal of subclause (b).

2.12 Amend Schedule 2 by inserting a new Clause 11

The amendment introduces Special Control Area No. 11 which provides guidance for land use and development within the modified Sewerage Sensitive Area as identified in The Analysis of Surficial Ground Water Landscapes and Hydrological Pathways linking the Ramsar Listed Lake Warden Wetlands by Tilo Massenbauer and as shown on the Scheme Map.

The revised area that is impacted on by a Sewerage Sensitive Area is to the North of Esperance buffering the lake systems as well as the groundwater dependent threatened and priority ecological communities within Pink Lake.



It should be noted that Special Control Area No. 11 works in parallel with the Government Sewerage Policy and only amends the area it applies based on a more detailed study that

has been undertaken for the Esperance lakes.

2.13 Amend the Scheme Map by inserting SCA 11

This modification relates to the amendment detailed in Section 2.12 of this report by showing the new Special Control Area on the Scheme Map.

2.14 Amend Schedule 3 by deleting A3 and reflect the change on the Scheme Map

This modification is proposed as the additional use that was first introduced into Town Planning Scheme No. 22 by Amendment No. 30 which was Gazetted on the 12 January 2001 was never developed. It is proposed to remove the additional use from the Scheme.

2.15 Amend Schedule 3 by deleting A8 and reflect the change on the Scheme Map

This modification proposes to delete additional use A8 that was introduced into Local Planning Scheme No. 24 by a submission during the advertising of the Scheme and as such was not referred to Statutory Agencies.

The additional use permitted by A8 is a 'Reception Centre' which creates issues due to the location of the lot in SCA4-P2 and SCA4-WHPZ. The use of 'Reception Centre' is incompatible in Priority 2 protection areas under Water Quality Protection Note 25 (WQPN 25) and as such cannot be approved and should be removed.

2.16 Amend Schedule 3 by inserting 'Consulting Rooms' as a 'D' use in the column 'Additional Use(s)' of A6

This modification is proposed as 'Consulting Rooms' is an appropriate land use within Additional Use A6 and the range of uses that are already permitted as a 'D' use. This represents a relaxation of the permissibility of the use as it is an 'A' use in the base 'Residential' zone.

2.17 Amend Schedule 3 by replacing 'Portion Lot 9002 Eleven Mile Beach Road, Pink Lake' with 'Portion of Lot 770 Spencer Road, Pink Lake' in A16 and reflect the change on the Scheme Map

A modification is required to re-site Additional Use A16 as the uses that were introduced are not compatible with Water Quality Protection Note 25 (WQPN 25) and as such cannot be approved in their current location by the Shire without Department of Water and Environmental Regulation considering the application to be incompatible with WQPN 25.

The proposed site for A16 is outside of Special Control Area No. 4 and therefore not subject to WQPN 25.

2.18 Amend Schedule 3 by inserting a new additional use A23 and reflect the change on the Scheme Map

This modification is proposed to recognise the potential for the establishment of a 'Home Store' on Lot 2 Pink Lake Road, Pink Lake.

home store means a shop attached to a dwelling that –

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

The development currently has an approval for a 'Home Business' which allows for sale by means of the internet.

2.19 Amend Schedule 3 by inserting a new additional use A24 and reflect the change on the Scheme Map

This modification is proposed to recognise the potential for the establishment of a 'Community Purpose' on Lots 12 and 13 Warden Road, Chadwick.

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;

The additional use is proposed to be added as an 'A' use so that the application can be advertised when it is lodged and the comments of adjoining properties can be considered in the assessment process.

2.20 Amend Schedule 5 by replacing 15.3.4 within SU4

Clause 14.1 for SU4 (Myrup Fly-in Estate) states:

14.1 The airfield facility and activities shall comply with all relevant regulations and guidelines of any Statutory Authority with regards to aviation operations and safety procedures.

This condition is contradicted by Clause 15.3.4 which states:

15.3.4 Runway 04 shall maintain special procedures for right hand circuits. Additional measures may be implemented as part of the Noise Management Plan to avoid flights over residential areas.

The Myrup Fly-in Estate has not able to gain approval for this special procedures referenced in Clause 15.3.4 from CASA.

In order to comply with Clause 14.1 it is proposed to replace the clause 15.3.4 with the following:

15.3.4 Measures may be implemented as part of the Noise Management Plan to avoid flights over residential areas.

This modification will remove the conflict between Clauses 14.1 and 15.3.4.

2.21 Amend Schedule 5 by deleting SU6 and reflect the change on the Scheme Map

Special Use SU6 was introduced into the Scheme as a result of the Town Centre Revitalisation Plan.

Reserve 32048 is a Shire managed reserve that has a purpose of Hall, Boy Scouts and Girl Guides and is currently lease to the Scouts. The current inclusion of the reserve in SU6 is incompatible with the use so the revised modification takes into account the development that has occurred.

The skate park has been partially developed within the SU6 area on a portion of Reserve 27318.

The residual area of SU6 will be reclassified as 'Public Open Space' and 'AR3' consistent with the surrounding classification of Reserve 27318.

The Special Use zone is also contrary to State Planning Policy 2.6 as it represents a significant intensification of land use within the coastal inundation and erosion area.

For these reasons it is proposed to delete SU6 from the Scheme.

2.22 Amend Schedule 5 SU7 and reflect the change on the Scheme Map

A modification is required to correctly identify the land within SU7 as the lot has now been subdivided. To this end it is proposed to replacing 'Part Lot 63 on DP80539' with 'Lot 66 on Plan 415322' in the Description of land.

It is also proposed to delete point (a) as it is now superfluous given that subdivision has been completed. Point (b) is amended to take into account the deletion of point (a).

2.23 Amend the Scheme Map by reclassifying Reserve 34788 and a portion of Reserve 23527 from 'Public Open Space' to 'Environmental Conservation'

These reserves are proposed to be reclassified from 'Public Open Space' to 'Environmental Conservation'. A portion of Reserve 23527 will remain reserved for 'Public Open Space' consistent with the footprint of the development Helms Arboretum.

The Department of Biodiversity, Conservations and Attractions Parks and Wildlife Service have been consulted under Section 83 of the Planning and Development Act 2005 and have expressed no objections to the proposed amendment.

2.24 Amend the Scheme Map by reclassifying Reserve 4182 from 'Public Open Space' to 'Environmental Conservation'

This reserve is proposed to be reclassified from 'Public Open Space' to 'Environmental Conservation'.

The Department of Biodiversity, Conservations and Attractions Parks and Wildlife Service have been consulted under Section 83 of the *Planning and Development Act 2005* and have expressed no objections to the proposed amendment.

2.25 Amend the Scheme Map by amending a portion of Lot 300 Kalgoorlie Street, Lots 2, 24, 25, 26, 628, 629, 1 Sims Street and Lot 134 on Plan 226439 from 'Public Open Space' to 'Industrial Development'

The Scheme currently shows a 'Public Open Space' strip adjacent to the rail corridor subject to this amendment. Given the majority of land is zoned 'Industrial Development' a buffer is considered superfluous, restricts the future development of the land and effectively restricts access to the rail corridor. Based on this it is proposed to show the entire lots subject of this amendment point to be zoned 'Industrial Development'.

2.26 Amend the Scheme Map by rezoning a portion of Lot 204 on DP 416486 from 'Local Road' to 'Rural Townsite'

This modification relates to a road closure and reflects the extent to the road that is being incorporated in the adjoining lot.

2.27 Amend the Scheme Map by rezoning both portions of Lot 55 on Plan 12843 from 'Residential' to 'Local Road'

This modification relates to two parcels of land that are on one title and are used as pedestrian access ways. The classification of the subject lot as 'Local Road' is consistent

with the objective for a 'Local Road' as contained in Table No. 1 – Reserve objectives.

Reserve name	Objectives
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.• To set aside land for use as a pedestrian access way.

This is consistent with the approach taken for all other pedestrian access ways within the Scheme Area.

2.28 Amend the Scheme Map by rezoning Lot 202 on Plan 39677 Fisheries Road, Bandy Creek from 'Public Open Space' to 'Private Community Purposes'

This modification relates to Lot 202 Fisheries Road, Bandy Creek which is occupied by the Esperance Bay Turf Club. The current classification of the site as 'Public Open Space' reserve does not take into account the range of uses that are present on the site or give any consideration to the freehold title for the land.

It is proposed to rezone Lot 202 Fisheries Road to 'Private Community Purposes' as this zone better accommodates the uses on the site.

Zone name	Objectives
Private Community Purposes	<ul style="list-style-type: none">• To provide sites for privately owned and operated recreation, institutions and places of worship.• To integrate private recreation areas with public recreation areas wherever possible.• To separate potentially noisy engine sports from incompatible uses.• To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development.• To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.

2.29 Amend the Scheme Map by rezoning Lot 75 Woods Street, Chadwick from 'General Industry' to 'Light Industry'

This modification relates to Lot 75 Woods Street, Chadwick which is occupied by Esperance Nyungar Aboriginal Corporation (ENAC).

The current zone of the site 'General Industry' does not fully reflect the usage of the site and given the lot is adjacent to the 'Light Industry' zone it is considered appropriate to rezone Lot 75 Woods Street to 'Light Industry'.

2.30 Renumbering the clauses and any referenced clauses within the Scheme caused by either deletion, insertion or movement of a clause or subclause through this or any earlier amendment.

This modification ensures that all the numbering within the Scheme is internally consistent taking into account any deletion, insertion or movement of clauses or subclauses through this or any earlier amendment.

3. LOCAL PLANNING STRATEGY

The proposed amendments are consistent with the Local Planning Strategy.

4. CONCLUSION

This omnibus amendment details numerous modifications to the Scheme text. The modifications fall into broad categories as follows:

- Review of land use permissibilities;
- Amendment of Additional Use reserves;
- Modifying the Modification of R-Codes to clarify area of application;
- Stipulation of a Height Limit for a Renewable energy facility;
- Deletion of Additional Uses that are not applicable or contrary to other scheme provision;
- Modify Additional Uses to address uses and location;
- Inclusion of a new Additional Use;
- Deletion of Special Use SU6 and modification of SU4 and SU7;
- Inclusion of a new Special Control Area to reflect more detailed mapping and assessment of the sewerage sensitive area;
- Map modification to reflect the changes above and based on Reserve Management Orders;
- Rezoning to reflect land use; and
- General renumbering of clauses and subclauses.

The proposed provisions are consistent with the Local Planning Strategy.

PLANNING AND DEVELOPMENT ACT

2005 SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7

The Shire of Esperance under and by virtue of the power conferred upon it in that behalf by the *Planning and Development Act, 2005*, hereby amends the above local planning scheme by:

1. Amending Table No. 4 Zoning and Land Use Table by making 'Animal Establishment' a 'D' use in the Rural Smallholdings zone.
2. Amending Table No. 4 Zoning and Land Use Table by making 'Commercial Vehicle Parking' an 'A' use in the Residential and Rural Townsite zone.
3. Amending Table No. 4 Zoning and Land Use Table by making 'Repurposed Dwelling' a 'D' use in the Rural Residential zone.
4. Amending Table No. 4 Zoning and Land Use Table by making 'Telecommunications Infrastructure' a 'P' use in all zones.
5. Amending Table No. 4 Zoning and Land Use Table by making 'Grouped Dwelling' a 'D' use in the Rural zone.
6. Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by deleting point 2 in conditions for AR3 and renumbering the clause accordingly.
7. Amending Clause 26.(4) replacing it with:
'26. (4) Buildings on lots within the Residential zone fronting Castletown Quays and the portion of Twilight Beach Road west of Walker Street shall have a minimum primary street setback of 7.5 metres, unless considered in accordance with clause 64 of the deemed provisions or otherwise provided by Special Control Area provisions of this Scheme.'
8. Amending Schedule A Clause 61.(u) by inserting 'in areas subject to the R-Codes' after 'residential outbuilding'.
9. Amending Schedule 1 Clause 8 by replacing it with:

'8. Rural Zone Additional Dwelling Provisions

- (a) The local government may only grant approval for an additional dwelling in the Rural zone in accordance with the following:
 - (i) the total number of dwellings on the lot with an area between 40ha and 100ha (excluding any ancillary dwelling) will not exceed two;
 - (ii) the total number of dwellings on the lot with an area greater than 100ha (excluding any ancillary dwelling) will not exceed three;
 - (iii) the local government is satisfied that adequate provision can be made for the supply of domestic water and for the disposal of sewage from the additional dwelling/s;
 - (iv) the additional dwelling/s will not adversely affect the rural landscape or conflict with agricultural production on the subject lot or on adjoining land;
 - (b) The approval of more than one (1) dwelling on any lot zoned Rural should not be construed as support for the subdivision of the lot. The subdivision of land within the Rural zone shall be in accordance with State planning policy and the Local Planning Strategy.'
10. Amending Schedule 1 Clause 18 by inserting a new subclause as (e) as follows:
- (e) The height limit of a Renewable energy facility is only limited by the

provisions of Schedule 2 – Special Control Area No. 8.’

11. Amending Schedule 1 Clause 18 by inserting a new subclause as (f) by moving Schedule 1 Clause 35(b) to subclause (f) and renumber the subclauses in Schedule 1 Clause 35 taking note of the deletion.
12. Amending Schedule 2 by inserting a new Clause 11 as follows:

‘11. SCA 11 – Modified Sewerage Sensitive Areas Special Control Area

- (a) The purpose of SCA 11 is to identify a Sewage Sensitive Area, consistent with the Analysis of Surficial Ground Water Landscapes and Hydrological Pathways linking the Ramsar Listed Lake Warden Wetlands (24 August 2018) by Tilo Massenbauer and as shown on the Scheme Map, that is in addition to the Sewage Sensitive Areas defined by State Policy.

- (b) Objectives

The objectives of SCA 11 are to –

- (i) identify land that has been designated as a Sewage Sensitive Area;
- (ii) ensure that the development and use of land does not detrimentally impact on a Sewage Sensitive Area; and
- (iii) implement Scheme controls that are designed to mitigate any adverse effects on a Sewage Sensitive Area.

- (c) Application Requirements

- (i) Despite any other provision of the Scheme development approval is required for all land use and development where on-site effluent disposal is proposed and connection to a reticulated sewerage system is not required.

- (d) Development Requirements

- (i) Compliance with the State policy governing the provision of sewerage infrastructure and on-site sewage disposal as it relates to land use planning for Sewage Sensitive Areas.

Note: Government Sewerage Policy will be superseded by updated State Planning Policy 2.9 - Planning for Water

- (ii) Where a lot is also located within SCA 4 – Public Drinking Water Source Protection Areas the requirements of SCA 4 will apply in addition to the requirements of SCA 11.

Note: The report referenced in clause 11.(a) can be found in the Shire’s Electronic document and records management system – Ref: D18/20641.’

13. Amending the Scheme Map by inserting SCA 11 as depicted on the Scheme Amendment Map.
14. Amending Schedule 3 by deleting A3 and delete A3 from Lot 83 Lalor Drive, Windabout as depicted on the Scheme Amendment Map.
15. Amending Schedule 3 by deleting A8 and delete A8 from Lot 5 Downes Street, Pink Lake as depicted on the Scheme Amendment Map.
16. Amending Schedule 3 by inserting ‘Consulting Rooms’ as a ‘D’ use in the column ‘Additional Use(s)’ of A6.
17. Amending Schedule 3 by replacing ‘Portion Lot 9002 Eleven Mile Beach Road, Pink Lake’ with ‘Portion of Lot 770 Spencer Road, Pink Lake’ in A16 and amend the Scheme Map as depicted on the Scheme Amendment Map.

18. Amending Schedule 3 and the Scheme Map as depicted on the Scheme Amendment Map by adding an Additional Use with the following:

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A23	Lot 2 Pink Lake Road, Pink Lake	Rural Residential	As a 'D' use: • Home Store	As determined by the Local Government.

19. Amending Schedule 3 and the Scheme Map as depicted on the Scheme Amendment Map by adding an Additional Use with the following:

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A24	Lot 12 and 13 Warden Road, Chadwick	Rural Residential	As an 'A' use: • Community Purpose	As determined by the Local Government.

20. Amending Schedule 5 by replacing 15.3.4 within SU4 with 'Measures may be implemented as part of the Noise Management Plan to avoid flights over residential areas.'
21. Amending Schedule 5 by deleting SU6 and delete SU6 from a Portion of Reserve 27318 and Reserve 32048 by reclassifying Reserve 27318 as 'Public Open Space' and Reserve 32048 as 'Private Community Purposes' as depicted on the Scheme Amendment Map.
22. Amending Schedule 5 by replacing 'Part Lot 63 on DP80539' with 'Lot 66 on Plan 415322' in the Description of land and deleting point (a) and deleting 'further' and 'greater than outlined in condition (a)' in (b) in the conditions of SU7.
23. Amending the Scheme Map by reclassifying Reserve 34788 and a portion of Reserve 23527 from 'Public Open Space' to 'Environmental Conservation' as depicted on the Scheme Amendment Map.
24. Amending the Scheme Map by reclassifying Reserve 4182 from 'Public Open Space' to 'Environmental Conservation' as depicted on the Scheme Amendment Map.
25. Amending the Scheme Map by rezoning a portion of Lot 300 Kalgoorlie Street, Lots 2, 24, 25, 26, 628, 629, 1 Sims Street and Lot 134 on Plan 226439 from 'Public Open Space' to 'Industrial Development' as depicted on the Scheme Amendment Map.
26. Amending the Scheme Map by rezoning a portion of Lot 204 on DP 416486 from 'Local Road' to 'Rural Townsite' as depicted on the Scheme Amendment Map.
27. Amending the Scheme Map by rezoning both portions of Lot 55 on Plan 12843 from 'Residential' to 'Local Road' as depicted on the Scheme Amendment Map.
28. Amending the Scheme Map by amending Lot 202 on Plan 39677 Fisheries Road, Bandy Creek from 'Public Open Space' to 'Private clubs, institutions and places of worship' as depicted on the Scheme Amendment Map.
29. Amending the Scheme by inserting a new clause in Schedule 1 as follows:

'39. Mosquito Nuisance Notification.

- (a) The mosquito nuisance area is defined as all land within 5km of the Lake Warden Wetland System as defined in the Lake Warden Wetland System (LWWS), Esperance Initial Environmental Impact Assessment by the then Department of Environment and Conservation 1 July 2008.
- (b) At the subdivision stage the Western Australian Planning Commission may impose a condition requiring the subdivider to make arrangements with the Commission for a notification in accordance with Section 165 of the *Planning and Development Act 2005* to be placed on the certificate(s) of title which will inform lot owners and prospective purchasers of the potential mosquito risk.
- (c) The local government may impose a condition on its development approval for any habitable building as defined in Clause 78A of the

Deemed Provisions requiring a Section 70A notification under the *Transfer of Land Act 1893* stating "The subject land occasionally experiences considerable problems with nuisance and disease carrying mosquitoes. These mosquitoes are known carriers of Ross River (RRV) and Barmah Forest (BFV) viruses. Human cases of RRV and BFV diseases occur in some years in this general locality."

30. Amending Schedule 3 and the Scheme Map as depicted on the Scheme Amendment Map by adding an Additional Use with the following:

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A25	Lots 1, 27 29, 41 - 44 and 63 Shark Lake Road, Monjingup	Rural Residential	On Lot 63 Shark Lake Road only, as a D' use: <ul style="list-style-type: none"> Grouped dwelling On all lots as an 'A' use. <ul style="list-style-type: none"> Workforce accommodation 	The number of Grouped Dwellings on Lot 63 Shark Lake Road shall not exceed two (excluding an ancillary dwelling).

31. Amending the Scheme throughout, by replacing all references to the zone name "Private Community Purposes" with 'Private clubs, institutions and places of worship' and amend scheme map titles accordingly
32. Review and where necessary modify the amendment to address any editorial matters to correct formatting, numbering, administrative errors and include any changes necessary to reflect consistency with Schedules 1 and 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and necessary modifications to the Scheme Amendment Maps



Current Zoning



Proposed Zoning

LEGEND

Others

Additional Uses



A1 See Scheme Text

Amendment Point

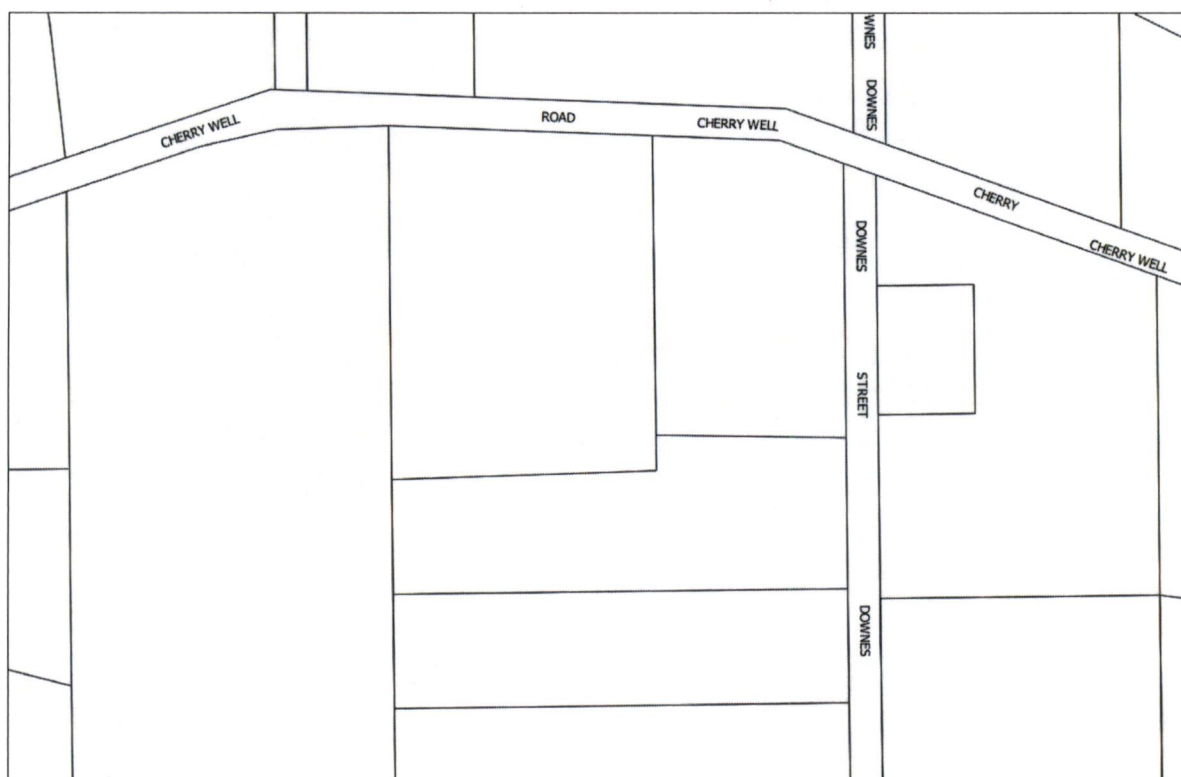
14

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

LEGEND

Others

Additional Uses



A1 See Scheme Text

Amendment Point

15

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

LEGEND

Others

Additional Uses

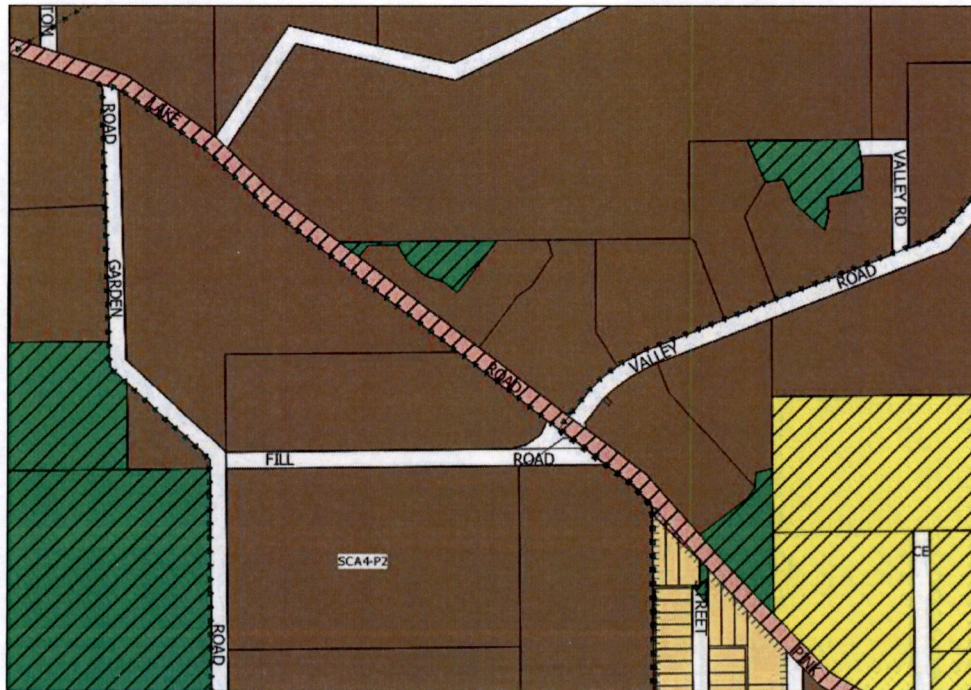
 A1 See Scheme Text

Amendment Point

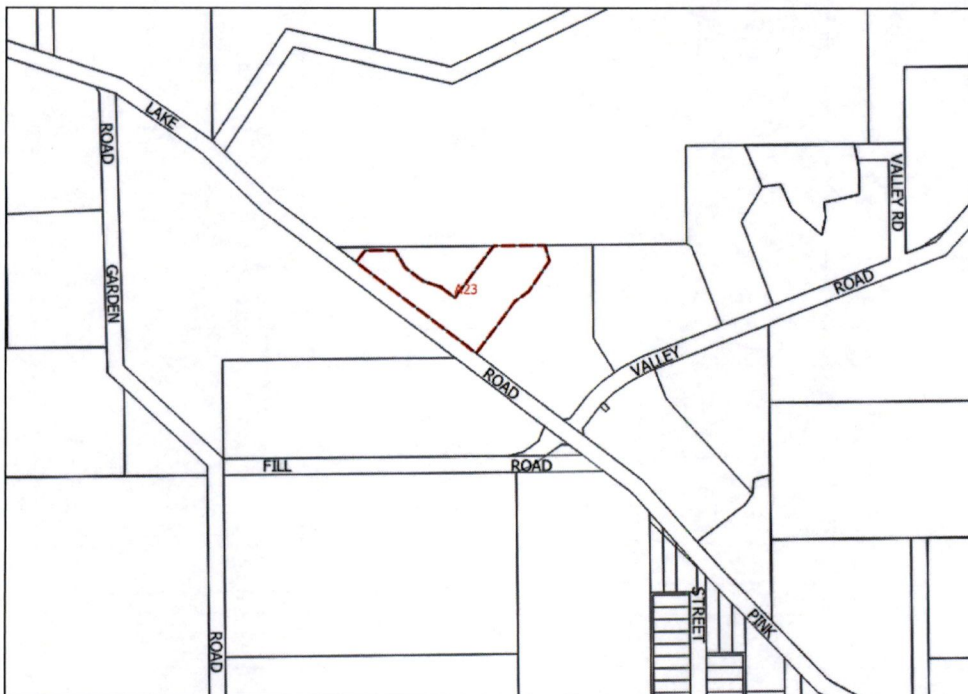
17

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7





Current Zoning



Proposed Zoning

LEGEND




Zones

-  Residential
-  Rural residential

Reserves

-  Local Road
-  Local Distributor Road
-  Public Open Space
-  CE - Cemetery

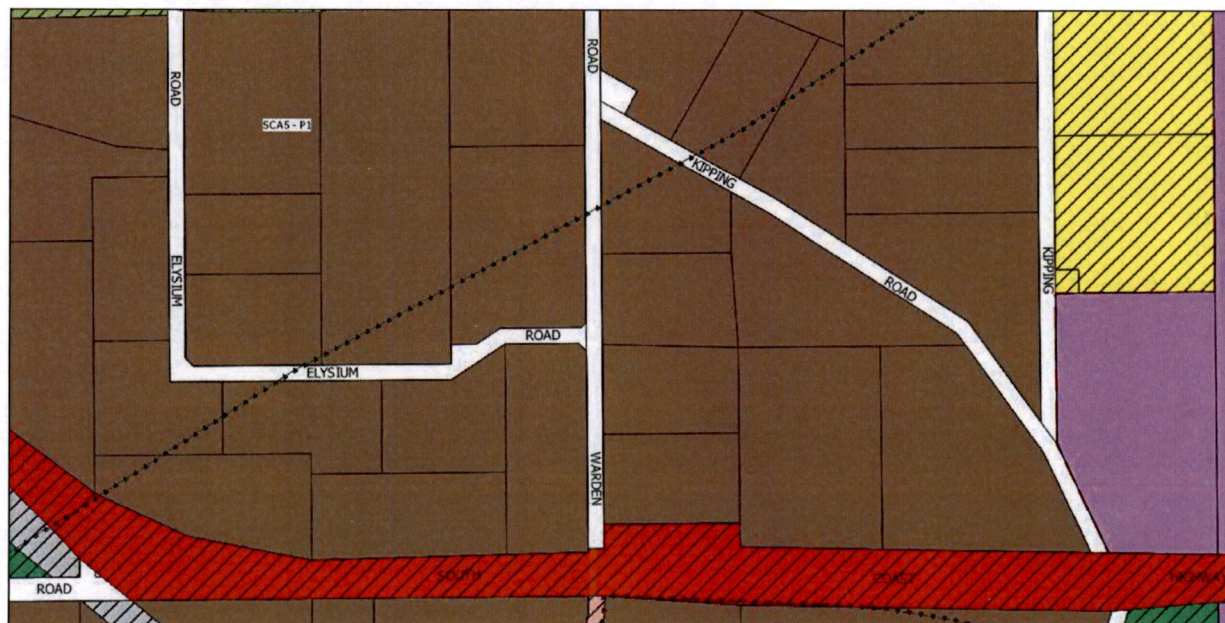
Others

-  Special control area
-  R-Codes
- Additional Uses**
-  A1 See Scheme Text

Amendment Point
18

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

LEGEND

Zones

- Rural residential
- General Industry

Reserves

- Local Road
- Local Distributor Road
- Primary Distributor Road
- Railways
- Public Open Space
- Environmental Conservation
- E - Education

Others

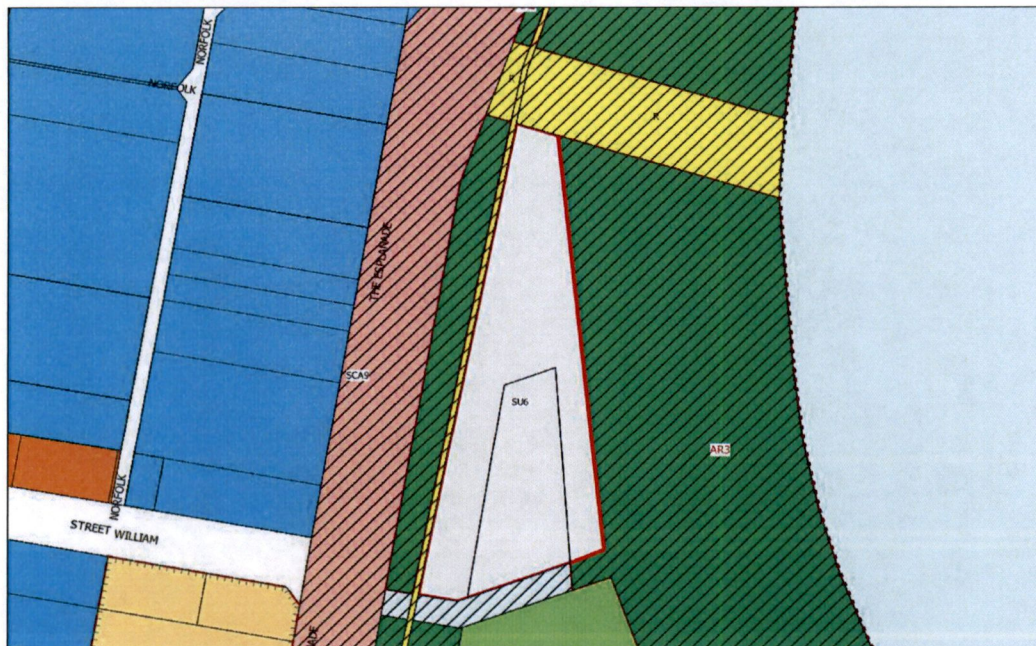
- Special control area
- Special control area - Environment
- Additional Uses**
- A1 See Scheme Text

Amendment Point

19

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

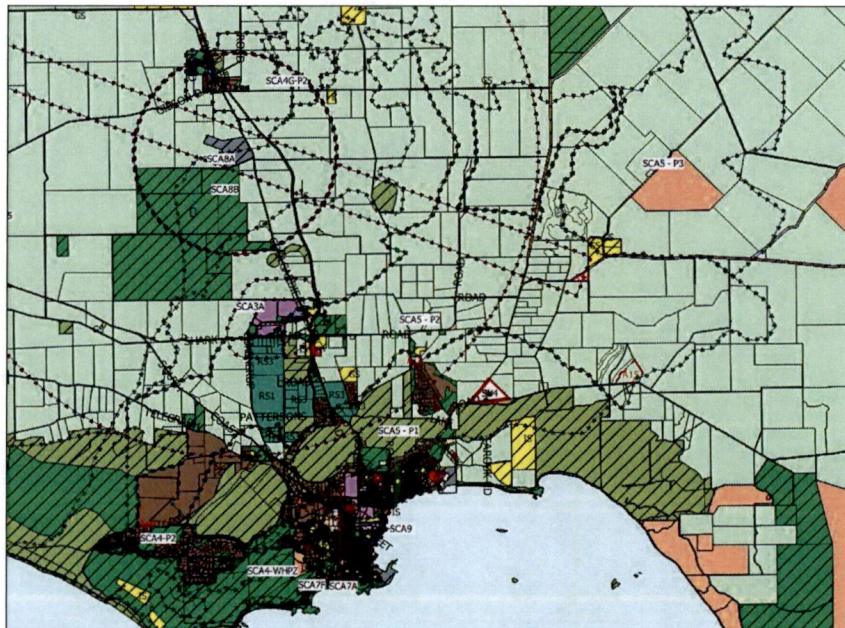
LEGEND		
Zones	Reserves	Others
Residential	Local Road	Special control area
Commercial	Local Distributor Road	Additional Uses Reserves
Private Clubs, Institutions and Place of Worship	Environmental Conservation	AR1 - See Scheme Text
Tourism	Public Open Space	Special Uses
	R - Recreational	SU1 - See Scheme Text
	IS - Infrastructure Services	Oceans/Waterways
		R-Codes

Amendment Point

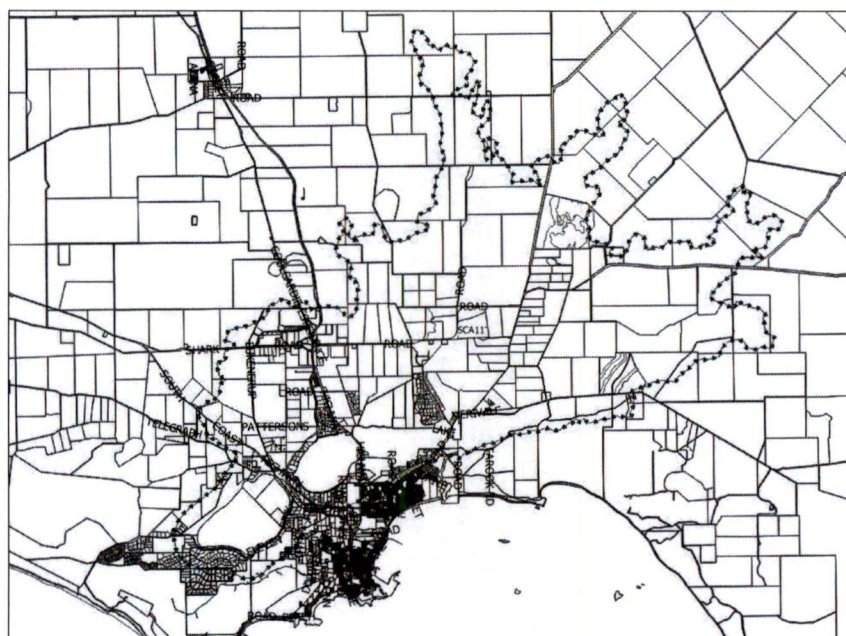
21

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

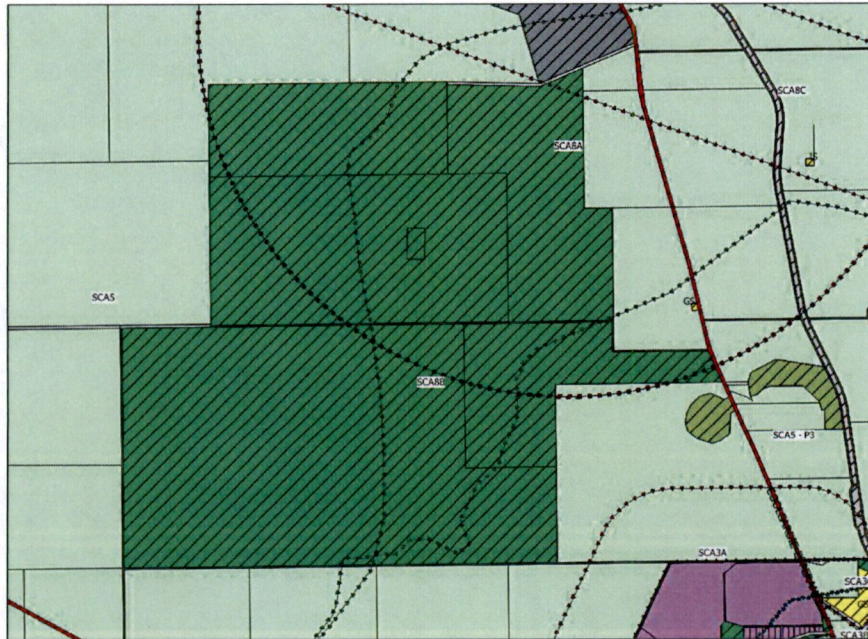
LEGEND		
Zones	Reserves	Others
Residential	Local Road	Special Uses
Urban Development	Local Distributor Road	SU1 - See Scheme Text
Rural	Primary Distributor Road	Additional Uses
Rural residential	Railways	A1 - See Scheme Text
Rural Smallholdings	Public Open Space	Additional Uses Reserves
Cultural and Natural Resource	Environmental Conservation	AR1 - See Scheme Text
Light Industry	IS - Infrastructure Services	Special control area - Environment
General Industry	ES - Emergency Services	Special control area
Local Centre	GS - Government Services	Oceans/Waterways
Commercial	E - Education	

Amendment Point

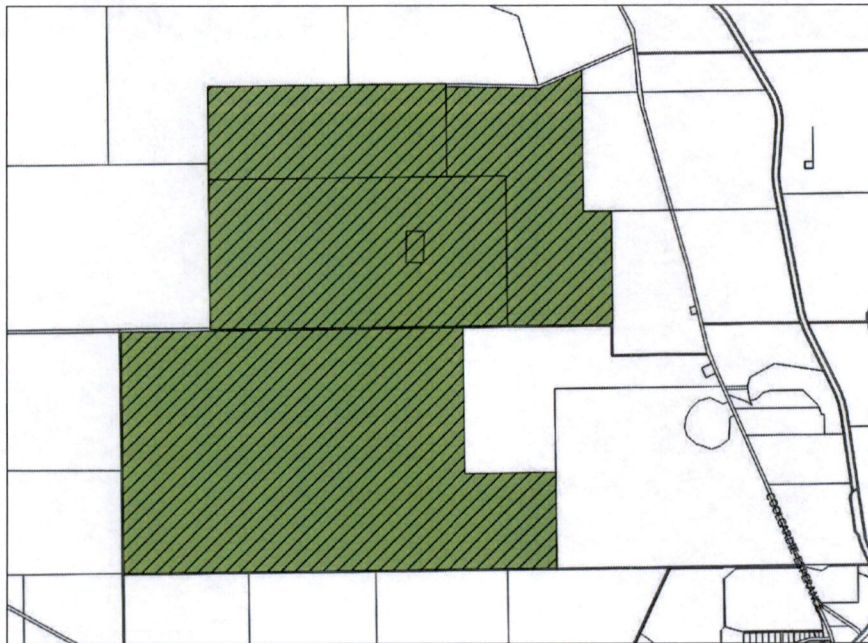
13

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

LEGEND		
Zones	Reserves	Others
Rural	Local Road	Special control area - Environment
General Industry	Railways	Special control area
	Primary Distributor Road	
	Public Open Space	
	Environmental Conservation	
	IS - Infrastructure Services	
	GS - Government Services	
	Strategic Infrastructure	

Amendment Point

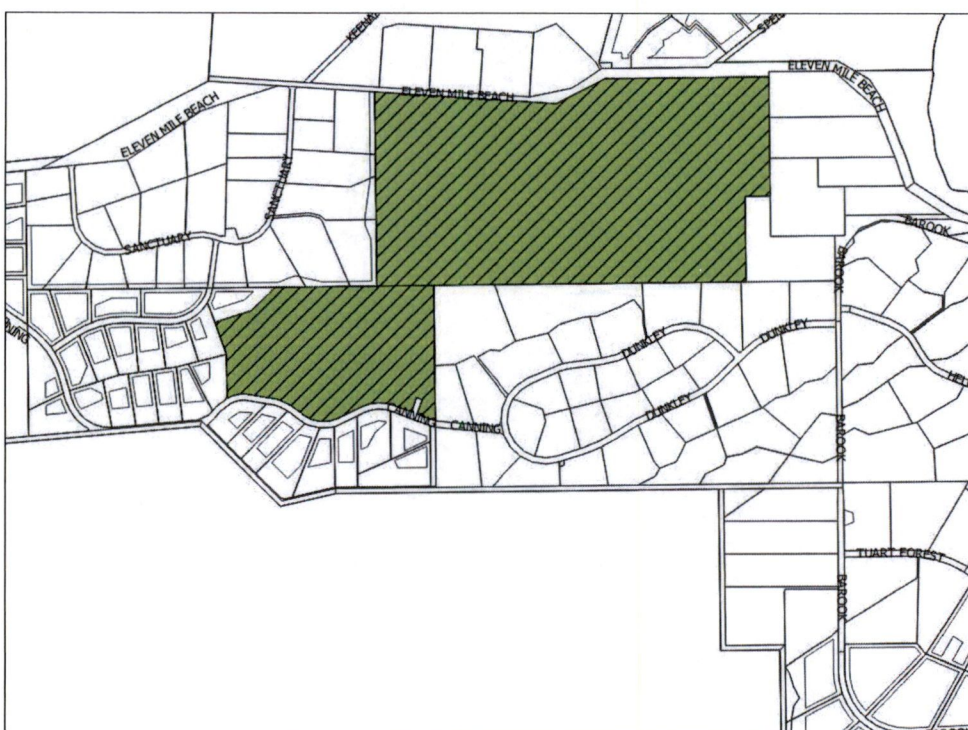
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SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

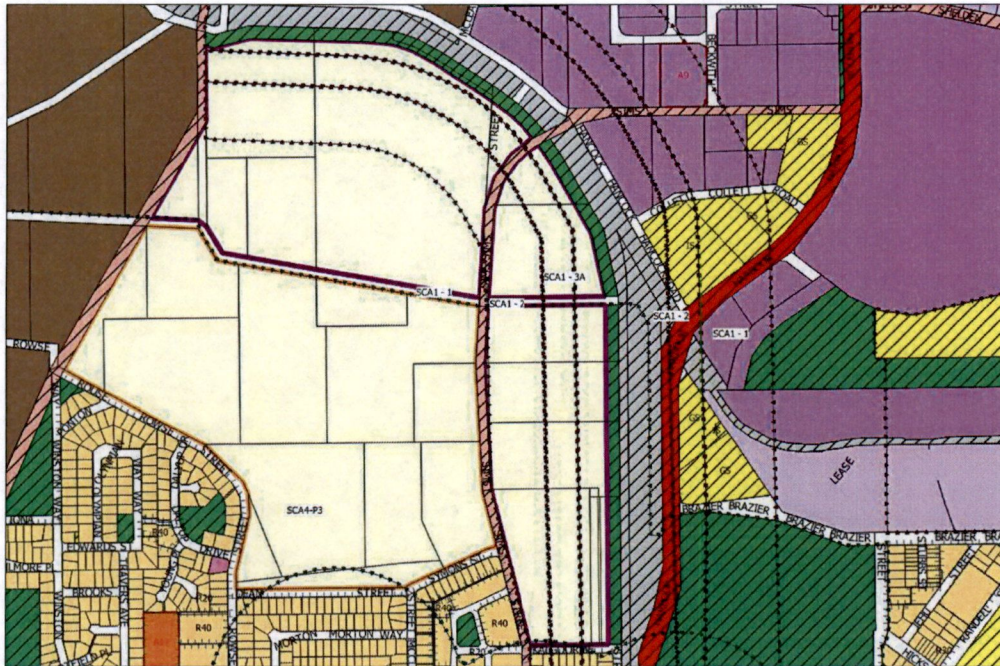
LEGEND		
Zones	Reserves	Others
Rural residential	Local Road	Special control area - Environment
	Local Distributor Road	Additional Uses
	Public Open Space	A1 See Scheme Text
	Environmental Conservation	

Amendment Point

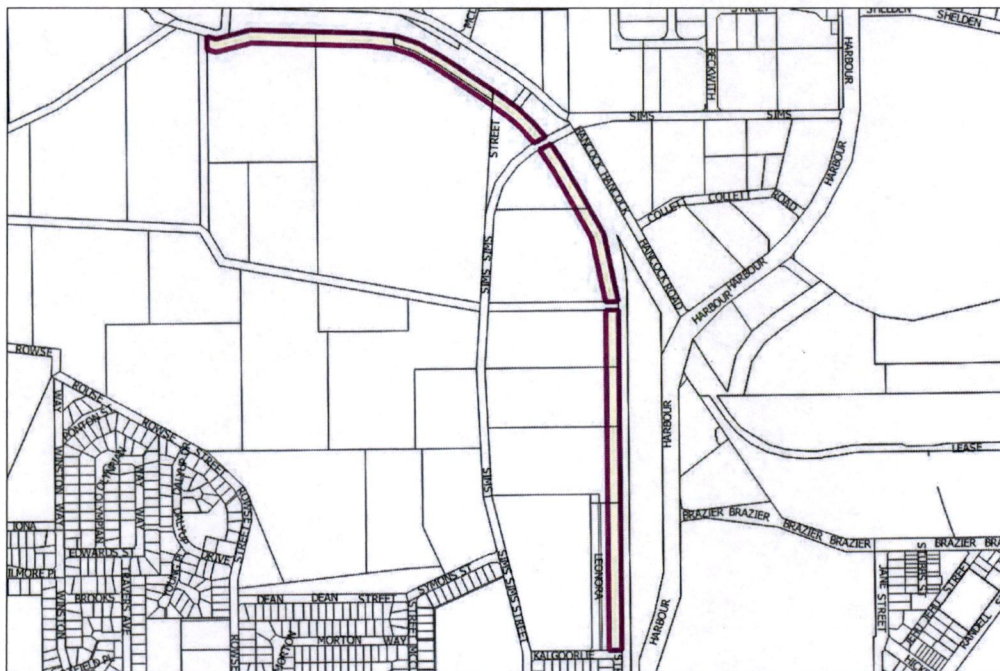
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SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

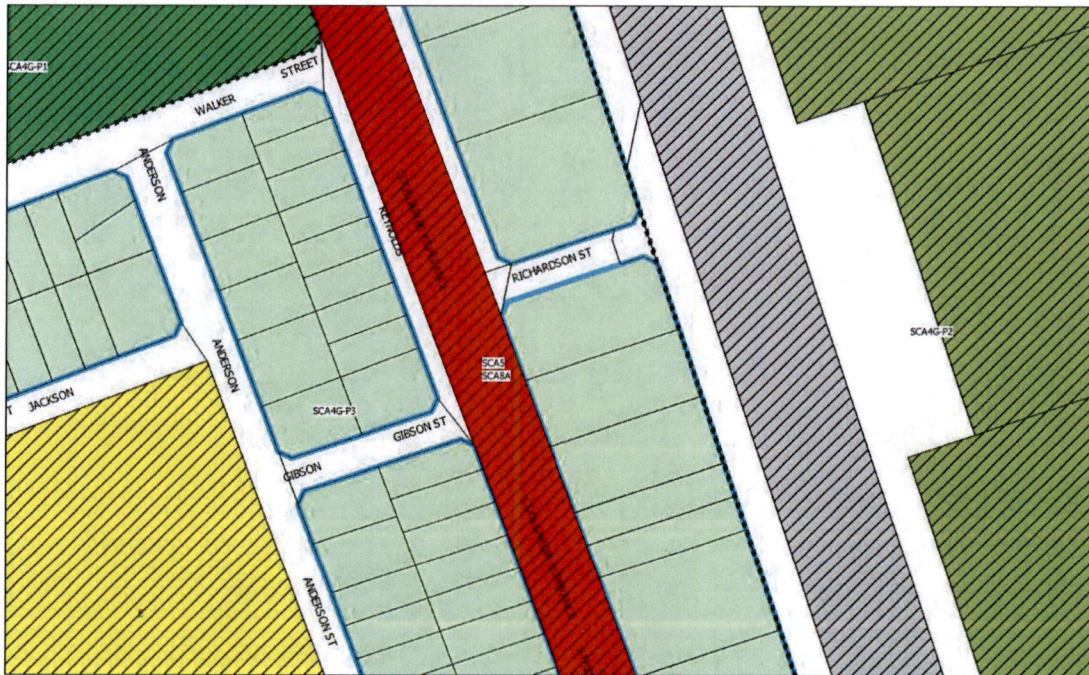
LEGEND		
Zones	Reserves	Others
Residential	Local Road	Special control area
Tourism	Local Distributor Road	Special control area - Environment
Mixed Use	Primary Distributor Road	Additional Uses
Rural residential	Public Open Space	A1 See Scheme Text
Urban Development	Railways	R-Codes
Industrial Development	IS - Infrastructure Services	
Light Industry	GS - Government Services	
General Industry	M - Medical Services	

Amendment Point

25

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

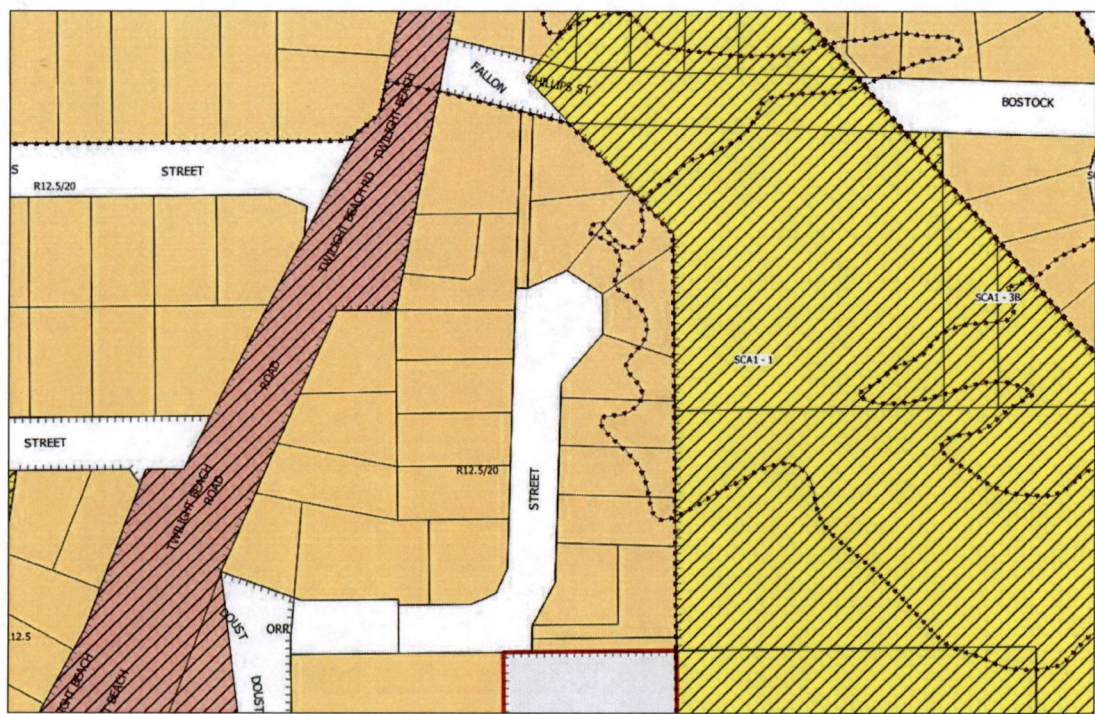
LEGEND		
Zones	Reserves	Others
Rural Townsite	Local Road	Special control area
	Primary Distributor Road	Special control area - Environment
	Public Open Space	
	Environmental Conservation	
	E - Education	
	Railways	

Amendment Point

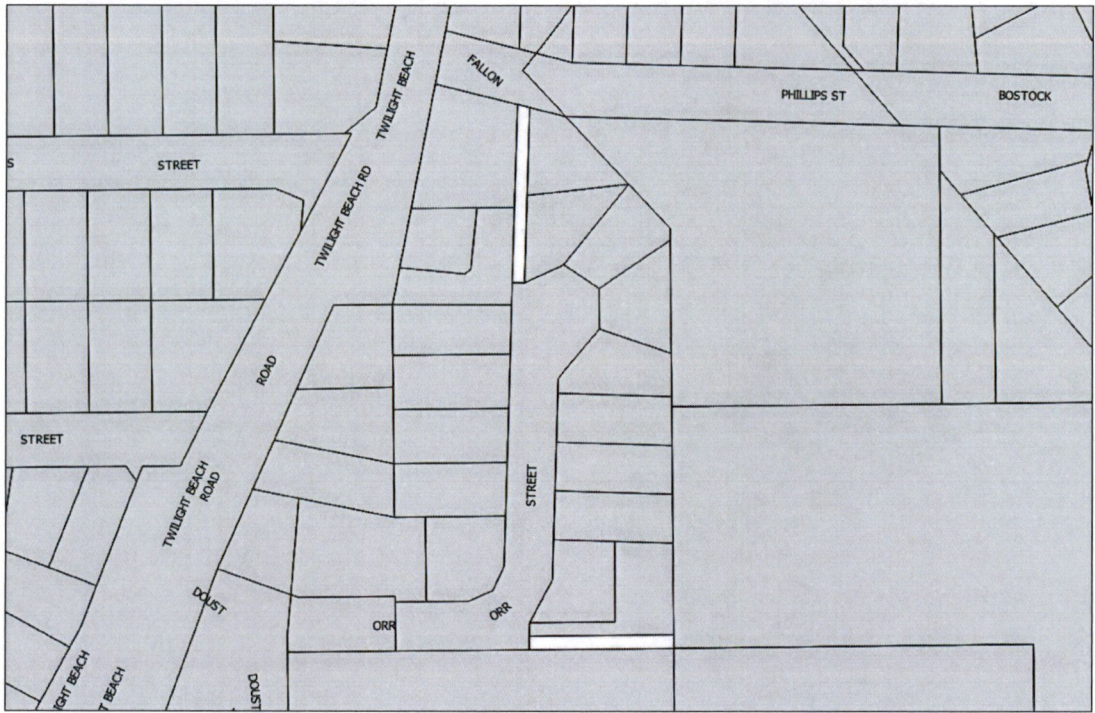
26

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 7



Current Zoning



Proposed Zoning

LEGEND

Zones

Residential

Reserves

Local Road

Local Distributor Road

Public Open Space

E - Education

IS - Infrastructure Services

Others

Special control area

Special Uses

SU1 - See Scheme Text

R-Codes

Amendment Point
27



Current Zoning



Proposed Zoning

LEGEND

Zones

- Residential
- Rural residential
- Private Clubs, Institutions and Place of Worship

Reserves

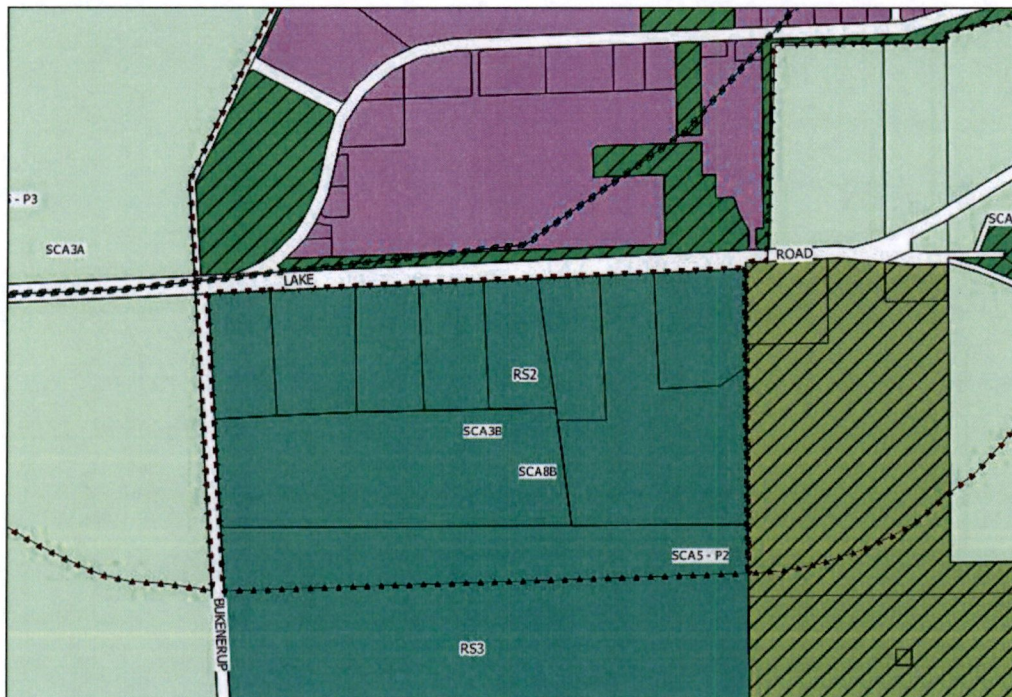
- Local Road
- Local Distributor Road
- Public Open Space
- Environmental Conservation

Others

- Special control area - Environment
- Special Uses**
- SU1 - See Scheme Text

Amendment Point

28



Current Zoning



Proposed Zoning

LEGEND		
Zones	Reserves	Others
Rural	Local Road	Additional Uses
General Industry	Environmental Conservation	A1 See Scheme Text
Rural Smallholdings	Public Open Space	Special control area
		Special control area

Amendment Point

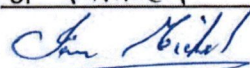
30

SHIRE OF ESPERANCE LOCAL PLANNING SCHEME NO. 24


AMENDMENT NO. 7

COUNCIL ADOPTION

This Standard Amendment was adopted by resolution of the Council of the Shire of Esperance at the Ordinary Meeting of the Council held on the 23 day of MARCH, 2021.



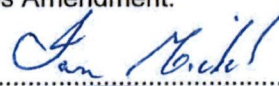
SHIRE PRESIDENT



CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the Shire of Esperance at the Ordinary Meeting of the Council held on the 23 day of MARCH, 2021, proceed to advertise this Amendment.



SHIRE PRESIDENT



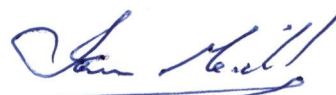
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for approval by resolution of the Shire of Esperance at the Ordinary Meeting of the Council held on the 24 day of AUGUST, 2021 and the Common Seal of the Shire of Esperance was hereunto affixed by the authority of a resolution of the Council in the presence of:



24 November
2021



SHIRE PRESIDENT



CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)


DELEGATED UNDER S.16 OF
THE P&D ACT 2005

DATE 7 December 2021

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

DATE.....

It is hereby certified that this is a true copy of the
Scheme Amendment, final approval to which was
endorsed by the Minister for Planning on 21/12/2021

Certified by 

Officer of the Commission Duty authorised pursuant
to Section 24 of the Planning and Development Act
2005 and Regulation 32(3) Scheme and Regulation
63(3) (Amendment) of the Planning and Development
(Local Planning Scheme) Regulations 2015.

REPORT OF THE COMMISSIONER OF THE
GENERAL LAND OFFICE
TO THE HOUSE OF REPRESENTATIVES
IN SENATE AND HOUSE OF REPRESENTATIVES
OF THE UNITED STATES
FOR THE YEAR 1892

WASHINGTON:
GOVERNMENT PRINTING OFFICE:
1893.