17 JANUARY 2020

Shire of Esperance

ORDINARY COUNCIL MEETING

28 JANUARY 2020

ATTACHMENTS EXCLUDED FROM AGENDA
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5
SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 5
Form 2A

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO. 24

AMENDMENT NO. 5

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 'Repurposed Dwelling' a 'D' use in the Rural Residential zone.
3. Amending Table No. 4 Zoning and Land Use Table by making 'Telecommunications Infrastructure' a 'P' use in all zones.
4. Amending Table No. 4 Zoning and Land Use Table by making 'Waste Disposal Facility' an 'A' use in the Rural zone.
5. Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by deleting the 2 point in conditions for AR3 and renumbering the clause accordingly.
6. Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by inserting a new AR10 as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Additional use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>AR10</td>
<td>Reserve 32048</td>
<td>Club Premises</td>
<td>1. As determined by the Local Government</td>
</tr>
</tbody>
</table>

7. Amending Clause 26 (4) by inserting after 'Twilight Beach Road' the following 'to the west of the intersection with Walker Street'.
8. 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.'
9. 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: D18/20541.’

10. Amending Schedule 3 by deleting A3.
13. 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.
15. 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.
16. Amending Schedule 5 by inserting SU8 with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Special use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>SU8</td>
<td>Ocean Grown Abalone</td>
<td>As a ‘D’ use:</td>
<td>a) The portion of Lot 50 on DP 414486 subject to SU8 and the adjacent area reserved Public Open Space may be subdivided from the parent lot.</td>
</tr>
<tr>
<td></td>
<td>Portion Lot 50 on DP 411486 Wylie Bay Road, Bandy Creek</td>
<td>• Agriculture – Intensive</td>
<td>b) Development is to be in accordance with Schedules 6 and 7 of the Scheme.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Educational Establishment</td>
<td>c) Development of pipework and incidental pumps and other service is permitted within the portion of the lot reserved as public open space.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Restaurant/café</td>
<td>d) All signage is to be in accordance with an adopted signs Local Planning Policy or otherwise be exempted by Schedule 10.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Renewable energy facility</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>As an ‘I’ use:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Office</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Industry – Light</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other complimentary or non-defined uses considered appropriate by the local government.</td>
<td></td>
</tr>
</tbody>
</table>
17. Amending the Scheme Map by deleting A3 from Lot 83 Latar Drive, Windabout as depicted on the Scheme Amendment Map.
18. Amending the Scheme Map by deleting A8 from Lot 5 Downes Street, Pink Lake as depicted on the Scheme Amendment Map.
19. Amending the Scheme Map by moving A16 from Portion Lot 9002 Eleven Mile Beach Road, Pink Lake to Portion of Lot 770 Spencer Road, Pink Lake as depicted on the Scheme Amendment Map.
20. Amending the Scheme Map by deleting SU6 from a Portion of Reserve 27318 and Reserve 32048 by reclassifying Reserve 27318 as ‘Public Open Space’ and Reserve 32048 as ‘Recreational’ and ‘AR10’ as depicted on the Scheme Amendment Map.
21. Amending the Scheme Map by rezoning a Portion of Lot 50 on DP 411486 from ‘Rural’ to ‘SU8’ and ‘Public Open Space’ as depicted on the Scheme Amendment Map.
22. Amending the Scheme Map by inserting SCA 11 as depicted on the Scheme Amendment Map.
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 amending a portion of Lot 300 Kalgooerie Street, Lots 2, 24, 25, 26, 628, 629, 1 Sims Street and Lot 134 on Plan 226493 from ‘Public Open Space’ to ‘Industrial Development’ as depicted on the Scheme Amendment Map.
26. Amending the Scheme Map by amending 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 amending both portions of Lot 55 on Plan 12843 from ‘Residential’ to ‘Local Road’ as depicted on the Scheme Amendment Map.
28. 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 .......... day of ................. 2020

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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 the Additional Use and Special Use including the introduction of a new Special Use for the proposed development by Ocean Grown Abalone.

A number of amendments are made to the Scheme Map to ensure it reflects changes from the amendment as well as ensuring the Reservation manages 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 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 ‘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 a Scheme controls already in place it is considered superfluous to advertise a ‘Repurposed Dwelling’ as such it is proposed to back the land use a ‘D’ use in the zone.

23 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.

2.4 Amend the Zoning and Land Use Table by making ‘Waste Disposal Facility’ a ‘A’ use in the Rural zone.

A modification is proposed to amend the permissibility of a ‘Waste disposal facility’ as a land use in Table 4 – Zoning and Land Use Table.

The current permissibility (‘X’ in all zones) has caused the anomaly of making an existing composting facility a non-conforming use and preventing the establishment of any new composting facilities which could be an issue with any introduction of a third bin.

Introducing the land use within the ‘Rural’ zone will enable the above mentioned development to be approved subject to advertising. Development will also under any Special Control Area which applies to the land. This gives the capacity to control the development both in terms of permissibility (approve or refuse) and the conditions that can be placed on a specific development.

2.5 Amend Table No. 2 Specified additional uses for land in local reserves in Scheme area by deleting the 2 point 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.

2.6 Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by inserting a new AR10.

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.

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Additional use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>AR10</td>
<td>Reserve 32048</td>
<td>Club Premises</td>
<td>1. As determined by the Local Government</td>
</tr>
</tbody>
</table>

2.7 Amend Clause 26.(4) by inserting after ‘Twilight Beach Road’ the following ‘to the west of the intersection with Walker Street’.

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.

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

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

2.9 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.

2.10 Amend Schedule 3 by deleting A3.

This modification is proposed as the additional use that was first introduced into Town Planning Scheme No. 2 by Amendment No. 30 is no longer required as the use has ceased.

2.11 Amend Schedule 3 by deleting A8.

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.

2.12 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.

2.13 **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.**

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 compatible with WQPN 25.

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

2.14 **Amending Schedule 5 by deleting SU6.**

Special Use SU6 was introduced into the Scheme as a result of the Town Centre Revitalisation Plan. Since this time the skate park has been partially developed within the area as well as the Scout Hall continuing to be utilised by the Scouts.

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.

2.15 **Amending Schedule 5 SU7**

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 DP803539’ 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).

2.16 **Amending Schedule 5 by inserting SU8**

Ocean Grown Abalone are currently seeking to establish an aquaculture facility on the southern portion of Lot 50 on DP 411486 Wylie Bay Road.

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Special use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>SU8</td>
<td>Ocean Grown Abalone Portion Lot 50</td>
<td>As a ‘D’ use: • Agriculture – Intensive</td>
<td>a) The portion of Lot 50 on DP 411486 subject to SU8 and the adjacent area reserved Public Open Space may be</td>
</tr>
</tbody>
</table>
on DP 411486
Wylie Bay
Road, Bandy
Creek

- Educational
  Establishment
- Restaurant/ 
café
- Renewable 
  energy
  facility

As an ‘I’ use:
- Office
- Industry – 
  Light

Other 
complimentary or 
non-defined uses 
considered 
appropriate by the 
local government.

subdivided from the parent lot.
b) Development is to be in 
accordance with Schedules 6 
and 7 of the Scheme.
c) Development of pipework and 
incidental pumps and other 
service is permitted within the 
portion of the lot reserved as 
public open space.
d) All signage is to be in 
accordance with an adopted 
signs Local Planning Policy or 
otherwise be exempted by 
Schedule 10.
e) Unless exempted 
by subclause c) all development 
within SU8 shall require 
development approval.

The proposal is consistent with the Bandy Creek District Structure Plan which identified aquaculture as a land use within the vicinity of the proposed site.

A level 1 flora survey was undertaken at Lot 50 Wylie bay Road, Bandy creek during June 2019 in accordance with the Environmental Protection Authority (EPA) schedule 51, Guidance for the Assessment of Environmental Factors (the Environmental Protection Act 1986) Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in Western Australia.
The site had 29 species of flora identified during the flora survey. All species identified are considered to be common to the area.

Species identified during site visit

<table>
<thead>
<tr>
<th>Genus</th>
<th>Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asteraceae</td>
<td>* Arctotheca populifolia</td>
</tr>
<tr>
<td></td>
<td>Olea axillaris Coast Daisy Bush</td>
</tr>
<tr>
<td></td>
<td>Senecio pinnatifolius</td>
</tr>
<tr>
<td>Aizoaceae</td>
<td>Carpobrotus virescens</td>
</tr>
<tr>
<td>Brassicaceae</td>
<td>* Cakile maritima Sea rocket</td>
</tr>
<tr>
<td>Chenopodiaceae</td>
<td>Rhagodia bacata Berry saltbush</td>
</tr>
<tr>
<td>Cupressaceae</td>
<td>Callitris preissii Rotnest Island Pine</td>
</tr>
<tr>
<td>Cyperaceae</td>
<td>Ficinia nodosa, Knotted Club Rush</td>
</tr>
<tr>
<td></td>
<td>Lepidosperma gladiatum Coastal Sword Sedge</td>
</tr>
<tr>
<td>Euphorbiaceae</td>
<td>Adriana quadripertite Coast Bitter Bush</td>
</tr>
<tr>
<td></td>
<td>* Euphorbia paralias Sea spurge</td>
</tr>
<tr>
<td>Ericaceae</td>
<td>Leucopogon parviflorus Coast Beard Heath</td>
</tr>
<tr>
<td>Fabaceae</td>
<td>Acacia cochlearis</td>
</tr>
<tr>
<td></td>
<td>Acacia cyclops</td>
</tr>
<tr>
<td></td>
<td>Acacia saligna</td>
</tr>
<tr>
<td></td>
<td>Templetonia retusa Cockies Tounge</td>
</tr>
<tr>
<td>Geraniaceae</td>
<td>* Pelargonium capitatum Rose Pelargonium</td>
</tr>
<tr>
<td>Goodeniaceae</td>
<td>Scaevola crassifolia Thick Leaved fan flower</td>
</tr>
<tr>
<td>Lauraceae</td>
<td>Cassytha racemosa Dodder Laurel</td>
</tr>
<tr>
<td>Myrtaceae</td>
<td>Eucalyptus platypus Moort</td>
</tr>
<tr>
<td></td>
<td>Melaleuca lanceolata Rotnest Teatree</td>
</tr>
<tr>
<td></td>
<td>Melaleuca pentagona</td>
</tr>
<tr>
<td>Pittosporaceae</td>
<td>Billardiera fuseiformis Australian Bluebell</td>
</tr>
<tr>
<td>Poaceae</td>
<td>Spinifex hirsuta Hairy Spinifex</td>
</tr>
<tr>
<td>Polygonaceae</td>
<td>Muehlenbeckia adpressa Climbing Lignum</td>
</tr>
<tr>
<td>Scrophulariaceae</td>
<td>Myoporium insulare Blueberry Tree</td>
</tr>
<tr>
<td>Ranunculaceae</td>
<td>Clematis linearifolia Old Man's Beard</td>
</tr>
<tr>
<td>Rhamnaceae</td>
<td>Spiridium globolosum Basket Bush</td>
</tr>
</tbody>
</table>

Upon inspection it was noted that no threatened ecological communities (TEC) indicator species were present and the vegetation type did not match Proteaceae Dominated Kwongan shrublands.

2.17 Amend the Scheme Map by deleting A3 from Lot 83 Lalor Drive, Windabout.

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

2.18 Amend the Scheme Map by deleting A8 from Lot 5 Downes Street, Pink Lake

This modification relates to amendment point 2.11 and reflects the change on the Scheme Map.
2.19 Amend the Scheme Map by moving A16 from Portion Lot 9002 Eleven Mile Beach Road, Pink Lake to Portion of Lot 770 Spencer Road, Pink Lake.

This modification relates to amendment point 2.12 and reflects the change on the Scheme Map.

2.20 Amend the Scheme Map by deleting SU6 from a Portion of Reserve 27318 and Reserve 32048 by reclassifying Reserve 27318 as ‘Public Open Space’ and Reserve 32048 as AR10.

This modification relates to amendment points 2.5 and 2.6 and reflects the change on the Scheme Map.

2.21 Amend the Scheme Map by rezoning a Portion of Lot 50 on DP 411486 from ‘Rural’ to ‘SU8’ and ‘Public Open Space’

This modification relates to amendment point 2.15 and reflects the change on the Scheme Map.

The proposed area of the Site proposed to be reserved as ‘Public Open Space’ is consistent with the provisions of State Planning Policy 2.6 – State Coastal Planning Policy which is incorporated by reference into the Scheme.

2.22 Amend the Scheme Map by inserting SCA 11

This modification relates to the amendment detailed in Section 2.8 of this report by showing the new Special Control Area on the Scheme Map.

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, Conservation 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, Conservation 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.
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 amending 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 amending 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.

<table>
<thead>
<tr>
<th>Reserve name</th>
<th>Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Road</td>
<td>• To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.</td>
</tr>
<tr>
<td></td>
<td>• To set aside land for use as a pedestrian access way.</td>
</tr>
</tbody>
</table>

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

2.28 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 ten 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;
- Deletion of Special Use SU6 and modification of SU7;
- Insertion of SU8 to reflect the proposed development by Ocean Grown Abalone;
- Map modification to reflect the changes above and based on Reserve Management Orders; 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. 5

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 ‘Repurposed Dwelling’ a ‘D’ use in the Rural Residential zone.
3. Amending Table No. 4 Zoning and Land Use Table by making ‘Telecommunications Infrastructure’ a ‘P’ use in all zones.
4. Amending Table No. 4 Zoning and Land Use Table by making ‘Waste Disposal Facility’ an ‘A’ use in the Rural zone.
5. Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by deleting the 2 point in conditions for AR3 and renumbering the clause accordingly.
6. Amending Table No. 2 Specified additional uses for land in local reserves in Scheme area by inserting a new AR10 as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Additional use</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>AR10</td>
<td>Reserve 32048</td>
<td>Club Premises</td>
<td>1. As determined by the Local Government</td>
</tr>
</tbody>
</table>

7. Amending Clause 26.(4) by inserting after ‘Twilight Beach Road’ the following ‘to the west of the intersection with Walker Street’.
8. 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.’

9. 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 11.1 can be found in the Shire’s Electronic document and records management system – Ref: D18/20541."

10. Amending Schedule 3 by deleting A3.
13. Amending Schedule 3 by replacing ‘Portion Lot 9002 Eleven Mile Beach Road, Pink Lake’ with ‘Portion of Lot 770 Spencer Road, Pink Lake’ in A18.
15. 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.
16. Amending Schedule 5 by inserting SU8 with the following:

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of land</th>
<th>Special use</th>
<th>Conditions</th>
</tr>
</thead>
</table>
| SU8 | Ocean Grown Abalone Portion Lot 50 on DP 411486 Wylie Bay Road, Bandy Creek | As a ‘D’ use:  
• Agriculture – Intensive  
• Educational Establishment  
• Restaurant/café  
• Renewable energy facility  
As an ‘I’ use:  
• Office  
• Industry – Light  
Other complimentary or non-defined uses considered appropriate by the local government. | a) The portion of Lot 50 on DP 411486 subject to SU8 and the adjacent area reserved Public Open Space may be subdivided from the parent lot.  
b) Development is to be in accordance with Schedules 6 and 7 of the Scheme.  
c) Development of pipework and incidental pumps and other service is permitted within the portion of the lot reserved as public open space.  
d) All signage is to be in accordance with an adopted signs Local Planning Policy or otherwise be exempted by Schedule 10.  
e) Unless exempted by subclause c) all development within SU8 shall require development approval. |

17. Amending the Scheme Map by deleting A3 from Lot 83 Lalor Drive, Windabout as depicted on the Scheme Amendment Map.
18. Amending the Scheme Map by deleting A8 from Lot 5 Downes Street, Pink Lake as depicted on the Scheme Amendment Map.
19. Amending the Scheme Map by moving A16 from Portion Lot 9002 Eleven Mile Beach Road, Pink Lake to Portion of Lot 770 Spencer Road, Pink Lake as depicted on the Scheme Amendment Map.

20. Amending the Scheme Map by deleting SU8 from a Portion of Reserve 27318 and Reserve 32048 by reclassifying Reserve 27318 as ‘Public Open Space’ and Reserve 32048 as ‘Recreational’ and ‘AR10’ as depicted on the Scheme Amendment Map.

21. Amending the Scheme Map by rezoning a Portion of Lot 50 on DP 411488 from ‘Rural’ to ‘SU8’ and ‘Public Open Space’ as depicted on the Scheme Amendment Map.

22. Amending the Scheme Map by inserting SCA 11 as depicted on the Scheme Amendment Map.

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 amending a portion of Lot 300 Kalgoorlie Street, Lots 2, 24, 26, 28, 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 amending 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 amending both portions of Lot 55 on Plan 12843 from ‘Residential’ to ‘Local Road’ as depicted on the Scheme Amendment Map.

28. 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.
COUNCIL ADOPTION

This Basic Amendment was adopted by resolution of the Council of the Shire of Esperance at the Ordinary Meeting of the Council held on the __ day of _____, 2020

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SHIRE PRESIDENT

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CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

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

DATE..........................................................

APPROVAL GRANTED

..............................................................
MINISTER FOR PLANNING

DATE..........................................................