



**13 SEPTEMBER 2024**

**Shire of Esperance**

**ORDINARY COUNCIL MEETING**

**24 SEPTEMBER 2024**

**ATTACHMENTS EXCLUDED FROM AGENDA**





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**SHIRE OF ESPERANCE**

**LOCAL PLANNING SCHEME NO. 24**

**AMENDMENT NO. 10**

Item:  
12.1.1

Attachment A.: Local Planning Scheme No. 24 - Amendment No. 10

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. 10**

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 Clause 17, Table 4 – Zoning and Land Use table by replacing the 'P' with 'D' for 'Holiday House' in the 'Tourism' zone.
2. Amending Schedule 1 by replacing clause 34 subclause (a) as follows:
  - (a) Management of stormwater on all developments should be in accordance with current best practice as per the Stormwater Management Manual for Western Australia (DWER, 2004) (as amended).
  - (b) Where development is in the 'Commercial', 'Light Industry', 'General Industry', 'Local Centre', 'Mixed Use' or 'Tourism' zone is proposed that cannot be adequately serviced by Shire stormwater infrastructure (if available), stormwater management will be required as a condition of development approval demonstrating the ability to retain all stormwater to site in accordance with a 1:100 year rainfall event using a 72 hour model and in accordance with current best practice as per the Stormwater Management Manual for Western Australia (DWER, 2004) (or its replacement).
  - (c) Alternative stormwater arrangements may be permitted where an adopted stormwater management plan provides for an alternative stormwater arrangement.
3. Amending Schedule 1 by deleting Clause 39 and renumbering accordingly.
4. Amending Schedule 2 Clause 4.(f)(iii) by replacing 'the requirements of Statement of Planning Policy No. 2.7, Public Drinking Water Source Policy' with 'the State policy governing the Public Drinking Water Source'
5. Amending Schedule 2 Clause 10.(c)(ii) by inserting 'Renewable Energy Facility' as a 'D' use.
6. Amending Schedule 2 Clause 10.(c)(ii) by inserting 'Industry' as a 'D' use.
7. Amending Schedule 2 Clause 10.(c) by deleting (iii) and renumber the clause accordingly
8. Amending Schedule 2 by inserting a new Clause 12 as follows:
  - '12. SCA 12 – Mosquito Borne Disease Risk and Nuisance Special Control Area
    - (a) The purpose of SCA 12 is to identify a Mosquito Borne Disease Risk and Nuisance Area.
      - (i) The mosquito borne disease and 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) Objectives
      - The objectives of SCA 12 are to –
        - (i) Identify land that has been designated as a Mosquito Borne Disease Risk and Nuisance Area;
        - (ii) Implement Scheme controls that are designed to notify of the

presence of the Mosquito Borne Disease Risk and Nuisance Area.

- (c) Application Requirements
    - (i) Where development approval is required by any other part of the Scheme Clause (d)(ii) will apply.
  - (d) Development Requirements
    - (i) At the subdivision stage the Western Australian Planning Commission will 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.
    - (ii) The local government will 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."
9. Amending Schedule 3 A25 by replacing the base zone column from 'Rural Residential' with 'Rural Smallholdings'
10. Amending Schedule 3 and the Scheme Map by deleting A32.
11. 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
A33	Lots 345 & 346 Goldfields Road, Castletown	Residential	As a 'D' use <ul style="list-style-type: none"> <li>• Holiday Accommodation</li> </ul>	As determined by the local government.

12. 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
A34	Lot 3 Fisheries Road, Myrup	Tourism	As a 'D' use <ul style="list-style-type: none"> <li>• Workforce Accommodation</li> </ul>	As determined by the local government.

13. Amending Schedule 4 R2 by replacing within the Description of Land column by replacing 'Lot 2' with 'Lot 24'.
14. Amending Schedule 4 R2 by deleting 'As an 'I' use and place 'office' under the 'As a 'D' use:' and add a new point in the related conditions as follows: '3. Where an 'Office' is developed it must be incidental to the 'Warehouse/Storage' land use.'
15. Amending Schedule 4 by inserting a new restricted use and amending the Scheme Map accordingly as follows:

No.	Description of land	Restricted use	Conditions
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R4	Residential zoned portions of Lot 290 Tribune Parade, Lot 9002 Goldfields Road, Lots 20, 9003 Daw Drive, Bandy Creek	All uses shall have the permissibility assigned by Table 4 excepting: <ul style="list-style-type: none"> <li>• Holiday house; and</li> <li>• Serviced apartment;</li> </ul> which shall be deemed 'X' uses.	1. All development is to comply with the provisions of SCA2
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16. Amending Schedule 5 SU7 by deleting as 'As an 'I' use and place 'Educational Establishment'; 'Restaurant/Café', 'Reception Centre; and 'Holiday House' under 'As a 'D' use:' and sort the uses alphabetically.
17. Amending Schedule 5 and the Scheme Map as depicted on the Scheme Amendment Map by adding a Special Use with the following:

No.	Description of land	Special use	Conditions
SU8	Portion Lot 1740 Merivale Road. Merivale	<p>As a 'P' use</p> <ul style="list-style-type: none"> <li>• Single House</li> <li>• Holiday House</li> <li>• Ancillary Dwelling</li> </ul> <p>As a 'A' use</p> <ul style="list-style-type: none"> <li>• Animal Establishment</li> <li>• Brewery</li> <li>• Caravan Park</li> <li>• Educational Establishment</li> <li>• Holiday Accommodation</li> <li>• Liquor Store – Small</li> <li>• Private Recreation</li> <li>• Reception Centre</li> <li>• Restaurant/Café</li> <li>• Shop</li> <li>• Tavern</li> </ul> <p>Other complimentary or non-defined uses considered appropriate by the local government.</p>	<p>1. The purpose of this zone is to provide for the development of a brewery, caravan park and ancillary land uses. Conditions applicable to the site area:</p> <p>a) Any subdivision will require the preparation and adoption of a structure plan in accordance with Part 4 of the Deemed Provisions.</p> <p>b) All development within SU8 shall require development approval.</p> <p>c) Parking requirements are to be in accordance with Schedule 7.</p> <p>d) The shop is not to have a Net Floor Area in excess of 150m<sup>2</sup>.</p>



			<p>e) All development shall be setback a minimum of 10m from all boundaries.</p> <p>f) A BAL Rating of BAL 29 or less is to be achieved for all development.</p> <p>2. Any application for development approval is to be accompanied with an associated fire management plan.</p> <p>3. All development is to be provided a supply of potable water adequate to the needs of the development.</p> <p>4. All development is to be connected to an appropriate and approved effluent disposal system.</p>
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18. Amending Schedule 7 by replacing the word 'site' with 'sites' within the Minimum Car Spaces column for the land use of 'Park Home Park'.
19. Amending the last row of Schedule 10 by deleting 'In the instance of Circus Signs this is limited to the event venue.'
20. Amending the Scheme Map by amending the portion of Lot 24 Cascade Road zoned 'Rural' to 'General Industry' and Restricted Use 'R2' as depicted on the Scheme Map.
21. Amending the Scheme Map by amending the portion of Lot 27 in Deposited Plan 425431 from 'Education' to 'Civic and Community'; as depicted on the Scheme Amendment Map.
22. Amending Schedule 9 RS2 by replacing 'Lot 4 – 8 Stearne Road' with Lots 4 – 6, 8, 15 Stearne Road' and deleting RS3 from a portion of Lot 15 Stearne Road as depicted on the Scheme Amendment Map.
23. Amending the Scheme Map by amending the portion of Lot 47 on Plan 47393 from 'Infrastructure Services' to 'Residential' with a density of R12.5 as depicted on the Scheme Amendment Map.
24. Amending the Scheme Map by reclassifying Reserve 41141 from 'Infrastructure Services' to 'Public Open Space' as depicted on the Scheme Amendment Map.
25. Amending the Scheme Map by removing the R30 coding and applying R20 over all of Lot 300 on Plan 416251 as depicted on the Scheme Amendment Map.
26. Amending the Scheme Map by amending the portion of Lot 100 Gilpin Street from 'Local Road' to "General Industry' as depicted on the Scheme Amendment Map.

27. Amending the Scheme map by amending Lot 325 Nugent Street from 'Light Industry' to 'Residential' with a density of R20 as depicted on the Scheme Amendment Map.
28. Amending the Scheme Map by amending the density of Lots 12, 13, 23, 25, 81, 400, 401, 501, 522 and 528 Windich Street, Lots 7, 24, 80, 502, 521. 525 and 526 Eyre Street, Esperance from R12.5 to R40 as depicted on the Scheme Amendment Map

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.....2024

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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 relating to industrial land uses.

This amendment seeks to introduce new controls for industrial development in ‘Rural’ areas

This amendment seeks to introduce new provisions relating to the management of stormwater.

This amendment adds new ‘additional uses’ to take into account existing uses and replaces an ‘Additional Use’ with a new ‘Special Use’

This amendment seeks to create a new Special Control Area to replace the existing ‘Mosquito Nuisance Notification’ and amend the Scheme Map accordingly.

Increased densities are also proposed across the R20 area with higher densities proposed in the Additional Use 6 area and the area adjacent to the west of this on the opposite side of Dempster Street.

Adding a new restricted use to restrict ‘Holiday House’ and ‘Serviced Apartment’ throughout the undeveloped areas of the Flinders Residential Development that is in Shire of Esperance ownership.

This amendment proposes several modifications to the Scheme Map to take into account subdivision and changes to reserves and roads.

The specific details of this amendment are specified below.

### **2. AMENDMENT PROPOSAL**

#### **2.1 Amend Clause 17, Table 4 – Zoning and Land Use table by replacing the ‘P’ with ‘D’ for ‘Holiday House’ in the ‘Tourism’ zone.**

This amendment seeks to replace the ‘P’ use for ‘Holiday house’ by dealing with it as a ‘D’ use within the ‘Tourism’ zone.

#### **2.2 Amend Schedule 1 by replacing Clause 34 subclause (a)**

This modification proposes to replace the current stormwater provisions with a new provision. Specifically, the amendment states that management of stormwater on all developments should be in accordance with current best practice as per the Stormwater Management Manual for Western Australia (DWER, 2004) (or its







































































