



Shire of Cuballing Local Planning Scheme No. 2 Scheme Amendment No. 6

Omnibus amendment

Prepared by Edge Planning & Property for the Shire of Cuballing

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April 2022

RESOLUTION TO PREPARE AMENDMENT TO TOWN PLANNING SCHEME

**SHIRE OF CUBALLING LOCAL PLANNING SCHEME No. 2
AMENDMENT No. 6**

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amends the above Local Planning Scheme by:

1. Deleting Parts 1 (other than clause 1.6), 2, 3 (other than for the Rural Townsite zone), 4, 5 and Schedules Two, Three, Four, Five and Six from the Scheme text and replacing with Parts 1, 2, 3, 4, 5 and 6 from Model Provisions for Local Planning Schemes set out in Schedule 1 of the *Planning and Development (Local Planning Scheme) Regulations 2015 (Model Scheme Text)*.
2. Deleting, modifying and adding definitions from Schedule One, Dictionary of Defined Words and Expressions, as they have been superseded by the definitions set out in the Model Scheme Text.
3. Adding the Model Scheme Text definitions, plus adding other definitions to Part 6.
4. Extending the Aims of the Scheme in clause 1.6 (new clause 9).
5. Deleting the Zoning Table and replacing with a new Zoning Table with new land uses and modified permissibility.
6. Inserting provisions relating to car parking and vehicle access, commercial vehicle parking, signage and advertisements, landscaping, caretaker's dwellings, workforce accommodation, servicing, general appearance of buildings and preservation of amenity, servicing, mining operations and regional facilities.
7. Modifying provisions relating to the Rural Townsite, Rural Residential and General Agriculture Zones.
8. Modifying references of 'General Agriculture' zone to 'Rural' zone.
9. Moving the details in Schedule Four – Special Use Zones to clause 21.
10. Modifying Schedule A – Supplementary Provisions.
11. Adding Schedule 1 – Exempted Signage and Advertisements.
12. Addressing administrative anomalies.
13. Renumbering the scheme provisions and schedules sequentially and updating any cross referencing.
14. Updating the Table of Contents.

15. Modifying the scheme maps through changing 'General Agriculture' zone to 'Rural' zone and changing reserve names to align with Schedule 3 – Legends used in Scheme from the *Planning and Development (Local Planning Scheme) Regulations 2015*.

The amendment is a standard amendment in accordance with part (f) and (g) of the standard amendment definition contained in Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Dated this 26th day of April 2022

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Mr Stan Scott
CHIEF EXECUTIVE OFFICER

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Attachment

1	Shire of Cuballing Local Planning Scheme No. 2 text showing proposed amendments in highlight and strikeout	
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PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

LOCAL GOVERNMENT	Shire of Cuballing
DESCRIPTION OF LOCAL PLANNING SCHEME	Shire of Cuballing Local Planning Scheme No. 2
TYPE OF SCHEME	District Scheme
SERIAL NO. OF AMENDMENT	6
PROPOSAL	Undertake various amendments to the scheme text to address the Model Scheme Text, address emerging planning issues and assist in creating an effective and efficient local planning system. Additionally, to ensure zone and reserve names are consistent with the Regulations.

REPORT BY THE SHIRE OF CUBALLING

1. INTRODUCTION

The purpose of this Amendment is to modify the *Shire of Cuballing Local Planning Scheme No. 2 (LPS2)* to:

- Ensure consistency with the deemed provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the 'Regulations');
- Ensure consistency with Schedule 1 - Model provisions for local planning schemes (Model Scheme Text) in the Regulations;
- Update the Zoning Table;
- Introduce provisions relating to contemporary planning matters;
- Ensure zone and reserve names are consistent with the Regulations; and
- Review opportunities to create an effective and efficient local planning system.

The Amendment is a standard amendment in accordance with part (f) and (g) of the standard amendment definition contained in Regulation 34 of the Regulations.

2. BACKGROUND

LPS2 was gazetted on 20 May 2005. Amendment No. 4 addressed the Regulations via an omnibus amendment. Based on the approved Report of Review, this Amendment seeks to ensure LPS2 is consistent with recent changes to the deemed provisions along with consistency with the Model Scheme Text.

The Regulations were gazetted on 25 August 2015. The Regulations, made under the *Planning and Development Act 2005* (the 'Act'), govern the way in which local planning schemes are prepared and amended.

Schedule 2 of the Regulations titled 'Deemed provisions for local planning schemes' apply to all planning schemes and prevail over schemes including LPS2. The deemed provisions are 'read into' schemes automatically under Section 257B of the Act. Provisions in LPS2, which are inconsistent with the deemed provisions, ceased to apply as of gazettal of the Regulations.

The deemed provisions address a range of matters including uniform processes and procedures to schemes, such as structure plan preparation and development assessment. The Regulations are a major part of Western Australia's planning reform agenda.

As a result of recent changes to the Regulations, various parts of LPS2 are now superfluous. This Amendment is now pursued to remove provisions which have been replaced by the deemed provisions.

The local government has audited LPS2 to determine which provisions are now superseded by the Model Scheme Text. Accordingly, the Amendment also seeks consistency with Schedule 1 of the Regulations to address the Model Scheme Text.

Based on the approved Report of Review, the Amendment also updates other sections of the LPS2 text to address emerging planning issues, and to promote an effective and efficient local planning system.

3. PROPOSED AMENDMENTS AND RATIONALE

The following matters have been identified as requiring modification to ensure LPS2 is consistent with the Regulations and to reflect the needs of the local community:

- Modifying planning provisions and the order of provisions in the scheme text to reflect the Model Scheme Text;
- Deleting provisions which are now superfluous due to the Deemed Provisions;
- Adding and modifying general and land use definitions;
- The Regulations (Schedules 1 and 2) include some additions and minor modifications to the wording and structure of a number of general and land use definitions. This has been done for the purpose of clarity and readability;
- Updating the Zoning Table to provide sufficient controls but also to provide flexibility for a range of appropriate uses in the different zones as expected in a non-metropolitan context;
- Adding provisions relating to matters including car parking and vehicle access, commercial vehicle parking, signage and advertisements, landscaping, caretaker's dwellings, workforce accommodation, servicing, general appearance of buildings and preservation of amenity, servicing, mining operations and regional facilities; and
- Ensure zone and reserve names, including on the scheme maps, are consistent with the Regulations.

Attachment 1 outlines proposed modifications to the LPS2 text with new sections highlighted and deleted sections in ~~strikeout~~. The aqua highlighted text are from the WAPC's Model Scheme Text, green highlighted text are proposed new provisions, while white text are retained provisions from LPS2.

4. CONCLUSION

The proposed amendments to the LPS2 text seek to ensure consistency with the Regulations, to address emerging issues and to assist in making LPS2 a more effective and efficient planning tool.

The support of the Western Australian Planning Commission and the approval of the Minister for Planning are respectfully requested.

SHIRE OF CUBALLING

LOCAL PLANNING SCHEME No. 2

AMENDMENT No. 6

That the Shire of Cuballing, under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005*, hereby amends the above Local Planning Scheme by:

1. Deleting Parts 1 (other than clause 1.6), 2, 3 (other than for the Rural Townsite zone), 4 (other than clauses 4.8 to 4.12), 5 and Schedules Two, Three, Four, Five and Six from the Scheme text and replacing with Parts 1, 2, 3, 4, 5 and 6 from Model Provisions for Local Planning Schemes set out in Schedule 1 of the Planning and Development (Local Planning Scheme) Regulations 2015 (Model Scheme Text).
2. Deleting, modifying and adding definitions from Schedule 1, Dictionary of Defined Words and Expressions, as they have been superseded by the definitions set out in the Model Scheme Text.
3. Adding the Model Scheme Text definitions, plus adding other definitions to Part 6 as follows:

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

hotel means premises providing accommodation the subject of a hotel license under the *Liquor Licensing Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;

industry - rural means premises used for an industry that:

- (a) supports and/or is associated with primary production; or
- (b) services plant or equipment used in primary production;

nature based park means premises that are defined in the *Caravan Parks and Camping Grounds Regulations 1997*;

renewable energy facility means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or in connection with, the generation of energy by a renewable resource, where energy is being produced for commercial gain (i.e. solar farms as opposed to solar panels);

residential care facility means a residential facility providing personal and/or nursing care primarily to aged or dependent persons which, as well as accommodation, includes appropriate staffing to meet the nursing and personal care needs of residents; meals and cleaning services; furnishings, furniture and equipment. This may consist of multiple components that include residential respite (short-term) care, aged or dependent persons' dwellings and a retirement village, but does not include a hospital, rehabilitation or psychiatric facility;

retirement village means a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and land uses

incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility;

road house, adding '(f)' as follows:

(f) dump points for the disposal of black and/or grey water from recreational vehicles;

4. Extending the Aims of the Scheme in clause 1.6 (new clause 9) as follows:

Aims of Scheme

The aims of this Scheme are —

- (a) to encourage the sustainable development and expansion of the Cuballing and Popanyinning townsites to improve service viability while conserving or enhancing a strong sense of community;
- (b) to ensure that future subdivision and development within and near the Cuballing and Popanyinning townsites provide a broad range of housing and lifestyle choices that enhance the environment and character of the townsites;
- (c) to provide opportunities for planned, contained and sustainable rural residential and rural smallholding development with access to services and infrastructure within and abutting the existing town sites;
- (d) to assist employment and economic growth by facilitating the timely provision of suitable land for commercial, industrial and tourist development, as well as providing opportunities for home-based employment;
- (e) to encourage economic growth in rural areas by facilitating the more intensive and diversified use of rural land in appropriate areas for high value products which are compatible with surrounding farm practices and encouraging processing and value adding industries to be located within the Shire;
- (f) to protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes;
- (g) to promote the sustainable management of natural resources including energy, water, land, minerals and basic raw materials by preventing land degradation and integrating land and catchment management with land use planning;
- (h) to protect the natural environment and biodiversity whilst ensuring appropriate development opportunities within the Shire are realised;
- (i) to manage the use and development of land by means of zoning and development controls to achieve compatibility between land uses, and the preservation, and where possible the enhancement of visual amenity of urban and rural uses;
- (j) to safeguard and enhance the character and amenity of the built and natural environment of the Scheme Area; and
- (k) to protect the existing local heritage by encouraging compatible development which will aid the restoration and retention of the property.

5. Deleting the Zoning Table and replacing with a new Zoning Table (Table 2) with new land uses and modified permissibility as follows:

LAND USE	Rural Townsite	Rural Residential	Rural
Abattoir	X	X	A
Agriculture – extensive	X	X	P
Agriculture – intensive	X	A	D
Ancillary dwelling	P	D	D
Animal establishment	X	A	D
Animal husbandry – intensive	X	X	A
Art gallery	D	A	D
Bed and breakfast	A	A	D
Betting agency	A	X	X
Brewery	A	A	A
Bulky goods showroom	D	X	X
Caravan park	A	A	X
Caretaker's dwelling	D	X	D
Car park	A	A	X
Child care premises	D	A	X
Cinema/theatre	D	X	X
Civic use	D	D	D
Club premises	D	D	D
Commercial vehicle parking	D	D	P
Community purpose	D	D	D
Consulting rooms	A	A	X
Convenience store	A	X	X
Corrective institution	X	X	A
Educational establishment	A	A	A
Exhibition centre	D	D	D
Family day care	A	A	D
Fast food outlet/lunch bar	D	X	X
Fuel depot	D	X	D
Funeral parlour	A	X	X
Garden centre	A	A	D
Grouped dwelling	D	X	D
Holiday accommodation	A	A	A
Holiday house	A	A	A
Home business	A	A	P
Home occupation	P	P	P
Home office	P	P	P
Home store	A	X	X
Hospital	A	X	X
Hotel	A	X	X
Industry	A	X	A
Industry – cottage	D	D	D
Industry – extractive	X	X	A
Industry – light	D	X	A
Industry - rural	X	X	D
Industry – service	D	X	A
Liquor store - small	D	X	X
Market	D	X	D
Medical centre	A	X	X
Mining operations	D	D	D
Motel	A	X	X

LAND USE	Rural Townsite	Rural Residential	Rural
Motor vehicle, boat or caravan sales	D	X	X
Motor vehicle repair	A	A	D
Motor vehicle wash	A	X	X
Nature based park	X	X	D
Office	D	X	X
Park home park	A	X	A
Place of worship	A	A	A
Reception centre	A	A	A
Recreation – private	D	D	D
Renewable energy facility	X	X	A
Repurposed dwelling	D	D	D
Residential building	D	D	D
Residential care facility	A	X	X
Resource recovery centre	A	X	D
Restaurant/cafe	D	A	A
Restricted premises	A	X	X
Retirement village	D	X	X
Road house	A	X	A
Rural home business	X	D	D
Rural pursuit/hobby farm	P	P	P
Second hand dwelling	D	D	D
Service station	A	X	X
Shop	D	X	X
Single house	P	P	P
Small bar	D	X	X
Tavern	A	X	X
Telecommunications infrastructure	D	D	D
Tourist development	A	X	A
Trade display	D	X	D
Trade supplies	A	X	A
Transport depot	X	X	A
Tree farm	X	X	A
Veterinary centre	A	A	A
Warehouse/storage	A	X	D
Waste disposal facility	X	X	A
Waste storage facility	A	X	D
Winery	A	A	A
Workforce accommodation	A	X	A

6. Inserting provisions relating to car parking and vehicle access, commercial vehicle parking, signage and advertisements, landscaping, caretaker's dwellings, workforce accommodation, servicing, general appearance of buildings and preservation of amenity, servicing, mining operations and regional facilities as follows:

34. Car parking and vehicle access requirements

- (1) Car parking shall be provided, in accordance with Table 5 and in accordance with the standards and requirements, including parking space layouts and dimensions, as set out in the relevant Australian Standard.
- (2) The local government may require the provision of spaces for cycle racks and vehicles for the disabled as considered necessary.

- (3) Where land is to be developed or used for purposes not mentioned in Table 5, or where a standard or requirement is not specified in the Scheme, the local government shall determine in each case the number of spaces to be provided on the land having due regard to the -
- (a) nature of the proposed development;
 - (b) number of employees or others likely to be employed or engaged in the use of the land;
 - (c) anticipated demand for visitor parking; and
 - (d) orderly, proper and sustainable planning of the area.
- (4) Car parking requirements shall be provided on the site the subject of the proposed development or land use, or in the immediate vicinity thereof provided that arrangements for the permanent retention of that parking can be set in place to the satisfaction of the local government.
- (5) The size of car parking spaces and the vehicular driveways providing entry to, or exit from, a parking area shall meet the minimum requirements set out in Table 6.
- (6) Where an applicant can demonstrate to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in Table 5, or that other off-street parking facilities are available and that these facilities can be shared with a nearby land use, the local government may vary parking requirements specified in Table 5.
- (7) All parking, loading and access areas shall be constructed prior to occupation of the development or at such time as may be agreed in writing between the local government and the proponent. Such areas shall be maintained by the landowner to the satisfaction of the local government.
- (8) Where the local government is satisfied that an application for development approval cannot provide the minimum car parking requirements on site, the local government may accept a cash payment in lieu of the provision of car parking spaces, subject to requirements specified by a local planning policy.

Table 5: Car parking requirements

Use	Minimum Number of Parking Spaces to be Provided
Bed and Breakfast	1 per bedroom
Caravan Park	1.25 per unit, bay or tent site
Civic Use	1 per 40m ² Gross Floor Area (GFA)
Club Premises	1 per 50m ² GFA, or where licensed: 1 per 5m ² and other activity area
Consulting Rooms / Medical Centre	4 per practitioner for the first practitioner and 2 bays for each practitioner thereafter
Family Day Care	1 per staff member + 2 extra spaces for the picking up and setting down of persons
Fast Food Outlet/Lunch Bar	1 per 4 seated patrons
Recreation - private	1 per 40m ² GFA
Hotel	1 per 5m ² public area + 1 per bedroom
Industry	1 per 100m ² GFA
Light & Service Industry	1 per 50m ² GFA
Liquor Store	1 per 40m ² GFA
Motel	1 per unit + 1 per 25m ² service area
Office	1 per 40m ² GFA

Cinema / theatre	1 per 4 seats provided
Place of Worship	1 per 4 seats provided
Residential	As per the Residential Design Codes
Restaurant/cafe	1 per 4 patrons
Service Station	1 per 200m ² gross site area
Shop	1 per 40m ² GFA
Bulky goods showroom	1 per 50m ² GFA
Tourist Development	1 per unit or dwelling + 1 space per staff member
Tavern	1 per 5m ² public area
Veterinary Centre	4 per practitioner
Warehouse / storage	1 per 100m ² GFA
Other Uses Not Listed	Determined by the local government after consideration of the parking need generated by the use and/or outlined in a Local Planning Policy.

Table 6 - Parking dimensions

Parking angle	Width of bay (m)	Length of bay (m)	Depth of bay (m)	Minimum manoeuvring depth (m)	Minimum total depth (m)
(a) One-way access					
90°	2.6	5.5	5.0	5.9	11.4
75°	2.6	5.5	6.0	5.3	11.3
60°	2.6	5.5	6.1	5.0	11.1
45°	2.6	5.5	6.1	3.6	9.7
30°	2.6	5.5	4.8	3.3	8.1
00° (parallel parking)	3.0	6.7	3.0	3.0	6.0
(b) Two-way access					
90°	2.6	5.5	5.5	6.0	11.5
75°	2.6	5.5	6.0	6.0	12.0
60°	2.6	5.5	6.1	6.0	12.1
45°	2.6	5.5	6.1	6.0	12.1
30°	2.6	5.5	4.4	6.0	10.4
00° (parallel parking)	3.0	6.7	3.0	6.0	9.0

35. Commercial vehicle parking

For lots containing and/or adjacent a dwelling in the Rural Townsite zone and within the Rural Residential zone, commercial vehicles shall comply with the following -

- (a) the commercial vehicle is located on freehold land;
- (b) the vehicle forms an essential part of the lawful occupation of the occupant of the single house or grouped dwelling and that occupation, if carried on upon the site, does not contravene the provisions of this Scheme;
- (c) the vehicle is not brought or taken from the lot between the hours of midnight and 6:00am; and
- (d) the vehicle is not carrying any residue hazardous or noxious material.

36. Development of land without constructed/dedicated road frontage or access

- (1) In considering a development application for any development on land abutting an un-constructed road or a lot or location which does not have frontage to a constructed road/dedicated road, the local government may -
 - (a) place conditions to require access by means of a dedicated or constructed road or require road construction;
 - (b) where dedicated road access is available, grant development approval subject to a condition requiring the applicant to pay a sum of money in or towards the cost of constructing the road or part thereof and any other condition it considers appropriate; or
 - (c) require other legal arrangements are made for permanent legal access, to the satisfaction of the local government.
- (2) The responsible authority shall be satisfied arrangements for vehicle access are acceptable including the location of access points and construction, with regard to the impact of the proposed land use and expected traffic volume and composition on traffic flow and safety, the character and function of the road, the volume and the width of the carriageway and visibility; and the ultimate volume and type of traffic generated by the development.

37. Signage and advertisements

- (1) Advertisements that advertise goods or services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, but excluding political signage during elections, are prohibited.
- (2) Despite subclause (1), the local government will consider applications for development approval for advertisements on 'third party land' for a temporary period. The local government will have regard to the relevant Local Planning Policy.

38. Landscaping

- (1) Where landscaping is required under this Scheme or pursuant to a development approval, it shall be -
 - (a) provided in a location and standard to the satisfaction of the local government; and
 - (b) carried out at the time of the development or at such other time as may be agreed in writing between the proponent and the local government and shall thereafter be maintained to the satisfaction of the local government.
- (2) At the discretion of the local government, the landscaping requirement may include areas of natural bushland, and areas under covered ways and access driveways between a street alignment and any buildings, however garbage collection and handling spaces, other open storage areas and other driveways and parking areas shall not be included.
- (3) In order to improve the environmental amenity of areas that local government considers deficient in tree cover, local government may require as a condition of any development approval, the planting of such trees and/or groups of trees and species as specified by the local government which may include native vegetation re-establishment and/or drainage measures where considered

necessary by the relevant public agency or local government.

39. General appearance of buildings and preservation of amenity

The local government may place conditions on any development approval granted to ensure the development will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality which may address matters including -

- (a) design and appearance of the development including screening of areas used for servicing, storage and waste management;
- (b) the colour or type of materials to be used on exposed surfaces;
- (c) and the height, bulk and massing of any building;
- (d) managing and controlling impacts of development; and
- (e) the condition of a repurposed dwelling or second-hand dwelling so that it does not adversely affect the amenity of the locality.

40. Ancillary dwellings

An ancillary dwelling on land which the R-Codes do not apply must be no greater than 100m², be co-located with the single house, must allow for the continued use of the lot for rural purposes on a rural lot and shall be constructed to a standard that ensures the visual amenity of the area is not adversely impacted.

41. Caretaker's dwellings

Caretaker's dwellings shall be -

- (a) limited to one (1) dwelling per lot;
- (b) a maximum plot ratio area of 100m²; and
- (c) incidental to the predominant use of the site.

42. Workforce accommodation

Applications for development approval for workforce accommodation shall address the following to the satisfaction of the local government -

- (a) the demonstrated need for workers accommodation necessary for the continued operation of an industry;
- (b) the suitability of the site to be developed for the proposed use;
- (c) the suitable siting of the land use in the context of surrounding existing and proposed land uses to avoid landscape impacts and land use conflicts;
- (d) all services to the dwellings from the lot boundary (including access and egress by vehicles and pedestrians) are to be shared, where applicable;
- (e) be located to minimise any amenity impacts from noise, dust, odour and light spill from the predominant land use;
- (f) maintain the amenity of the locality;
- (g) comply with the development standards of this Scheme or any R-code standards applicable; and
- (h) appropriate facility design and use including provision and/or access to recreation, entertainment and community services.

43. Dwellings without reticulated mains water supply

- (1) Where any dwelling is proposed to be constructed on a lot which cannot be

connected to a reticulated mains water supply, that dwelling shall be provided with sufficient roof catchment or other methods acceptable to the local government and the provision of a rain water tank with a minimum capacity of 135,000 litres prior to occupation unless alternative arrangements are made to the satisfaction of the local government for a supply of potable water.

- (2) Where additional water supplies are required for fire-fighting purposes, the capacity of the rainwater tank shall be a minimum of 10,000 litres in addition to the minimum tank size specified in clause xx along with sufficient roof catchment or other methods of water capture acceptable to the local government.

44. Servicing

Development is to be serviced with power, water supply and wastewater and effluent disposal to a level commensurate with the intended land use, with arrangements in place to the satisfaction of the responsible authority and relevant agencies and in accordance with the below subclauses.

45. Waterway resource management and protection

- (1) In considering a development application which may have an impact on any water resources including waterways such as rivers, creeks, drainage lines, swamps and other wetlands, the local government shall have regard to -
 - (a) managing water balance;
 - (b) maintaining and where possible enhancing water quality;
 - (c) encouraging water conservation;
 - (d) maintaining and where possible enhancing water related environmental values, recreational and cultural values; and
 - (e) advice from relevant government agencies.
- (2) The local government may require proponents to -
 - (a) prepare a foreshore management plan, drainage strategy or other document to manage impacts of proposed development and subdivision and will require the proponent, or other agreed party, to appropriately implement the plan or strategy to the satisfaction of the local government;
 - (b) undertake appropriate pre-development and post development monitoring and undertake measures deemed appropriate by the local government to address water management and protection issues.

46. Development adjoining a main road or railway

Development of noise-sensitive land uses adjoining a main road or railway may require assessment against State Planning Policy 5.4 - Road and Rail Noise to determine the likely impact of transport noise, and any required noise mitigation measures required.

47. Mining operations

In considering proposals to commercially extract minerals, the local government may, in keeping with s120 of the *Mining Act 1978*, exercise its discretion to inform the Minister for Mines and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of the Scheme and the Local Planning Strategy.

48. Regional facilities

Where there are proposals including scheme amendment or development applications for a regional facility such as waste facilities and resource recovery facilities, the following shall be demonstrated -

- (a) facilities shall be located on a main road or on a road that is of a suitable standard and treatment, to accommodate significant increase in traffic volumes and freight tasks which may be generated by the proposal;
- (b) facilities shall contain or satisfactorily manage potential environmental (including water resources), noise, amenity and air quality impacts on the landholding without affecting nearby rural land uses;
- (c) facilities shall not be visually dominant within key viewsheds, and should be visually compatible with surrounding land uses and development; and
- (d) facilities shall be provided with essential services commensurate with the intended land use.

7. Modifying provisions relating to the Rural Townsite, Rural Residential and General Agriculture Zones as follows:

49. Development in the Rural Townsite zone

Non-residential development in the Rural Townsite zone shall meet the following site requirements -

Maximum Ratio	Plot	Minimum Setback (metres)			Minimum Landscaping % of site
		Front	Side	Rear	
0.5		15	5	7.5	10%

50. Development in the Rural Residential Zone

- (1) The local government may require a Structure Plan to be prepared by the proponent and approved in the Rural Residential Zone prior to subdivision being approved where detailed planning is required to ensure coordinated development and address matters such as access, servicing, land use, environmental impact and bushfire risk.
- (2) All development in the Rural Residential zone must be located within any building envelope or outside of any building exclusion area approved (as may be shown on an approved Structure Plan, Local Development Plan or approved building envelope plan), except for -
 - (a) provision of a suitable access way to the building envelope;
 - (b) rainwater tanks;
 - (c) provision of suitable boundary fencing; and
 - (d) implementation of an approved bushfire management plan or any other general bushfire requirements.
- (3) The local government may grant development approval for variation to subclause 3 under clause 32 where -
 - (a) the objectives of the zone are not compromised;
 - (b) the visual amenity and rural character of the locality;

- (c) development within the proposed new building envelope will not increase bushfire risk; and
 - (d) the proposed size and location of the envelope can accommodate future development, including on-site sewerage disposal systems and water supply tanks, and not have a detrimental effect on the environment.
- (4) Building envelopes and building exclusion areas in the Rural Residential Zone, shall be defined for maximum flexibility for building location, but subject to -
- (a) avoidance of impacts to significant landscape and environmental elements;
 - (b) avoidance of impacts to areas where ground or soil conditions may prejudice the structural integrity of buildings or result in potential for pollution, erosion or flooding;
 - (c) building setback requirements of the Scheme unless appropriately justified by the proponent to the satisfaction of the local government; and
 - (d) where possible, positioning any building envelope to maximise the separation distance to adjoining agricultural land and to address bushfire risk.
- (5) Unless otherwise specified by an approved structure plan, local development plan or approved building envelope plan, the building setbacks from lot boundaries in the Rural Residential Zone shall be a minimum of -
- (a) 15 metres from primary street boundaries; and
 - (b) 10 metres from other boundaries.
- (6) A reduction of the setbacks requirements may be permitted in the Rural Residential Zone where, in the opinion of the local government, the topography, soil conditions, location or shape of the lot are such as to make adherence to the setback impractical, and the proposal otherwise meets the requirements of the Scheme.
- (7) Boundary fencing within the Rural Residential zone shall be post and minimum four strand wire, 1.0 to 1.3 metres high, or post and ring lock or similar approved by the local government. Solid fencing such as super six or pickets shall not be permitted on boundaries and shall only be permitted in proximity to buildings where the local government determines that it will not adversely affect the amenity of the area.
- (8) In the Rural Residential zone in order to conserve the rural environment of features of natural beauty all native trees shall be retained unless their removal is authorised by local government and relevant public agencies and is associated with approved works, vehicle access or required bushfire mitigation measures or the trees are dead, diseased or dangerous.

51. Development in the Rural Zone

- (1) Development in the Rural zone shall conform to the following setback requirements -
- (a) 30 metres from road boundaries;

- (b) 20 metres from other boundaries; and
 - (c) 50 metres from a boundary with State Forest, or reserved land managed for conservation purposes.
- (2) A reduction of the setbacks requirements may be permitted in the Rural zone where, in the opinion of the local government, the topography, soil conditions, location or shape of the lot are such as to make adherence to the setback impractical, and the proposal otherwise meets the requirements of the Scheme.
 - (3) The local government may grant development approval of up to two dwellings regardless of the dwelling type (e.g. grouped dwellings, caretakers dwellings, repurposed dwellings, second-hand dwelling or combinations thereof) on any lot in the Rural zone, where the land is managed for agricultural production, tourism, or education purposes and where the occupants are employed in those specified predominant land uses or activities. This clause does not apply to ancillary dwellings which can be approved in addition to the two dwellings.
 - (4) Notwithstanding sub-clause (3), the local government may consider, if appropriately justified by the applicant, a third dwelling (regardless of the dwelling type) on a lot in the Rural Zone where one of the existing dwellings forms part of a heritage protected place and where there is a suitable agreement, to the satisfaction of the local government (in consultation if appropriate with the Heritage Council), to conserve and appropriately maintain the heritage significance of the dwelling.
 - (5) When considering an application for more than one dwelling in accordance with sub clause 3 and 4 and regardless of the dwelling type in the Rural zone, the local government will have regard to -
 - (a) the size of the subject land and its capacity to operate as a farm where used for agricultural production;
 - (b) bushfire risks;
 - (c) compatibility with adjoining and nearby uses;
 - (d) the additional dwelling(s) will not adversely detract from the rural character and amenity of the area or conflict with primary production on the subject lot or adjoining land;
 - (e) the landscape values of the area and any impact of the proposal upon these values;
 - (f) access to the existing road network is to be provided for any additional dwelling(s) and shared with any existing dwelling(s) where practicable; and
 - (g) the existence of more than one (1) dwelling on a lot in the Rural zone shall not be considered by itself to be sufficient grounds for subdivision.
 - (6) The above provisions do not preclude the local government from considering proposals for workforce accommodation in the Rural zone.
8. Modifying references of 'General Agriculture' zone to 'Rural' zone.
 9. Moving the details in Schedule Four – Special Use Zones to clause 21.
 10. Modifying Schedule A – Supplementary Provisions through replacing with the following:

Schedule A - Supplemental provisions to the deemed provisions

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

61. Development approval is not required for works if –

- (a) the works are of a class specified in Column 1 of an item in the Table; and
- (b) if conditions are set out in Column 2 of the Table opposite that item – all of those conditions are satisfied in relation to the works.

Table

	Column 1 – Works	Column 2 – Conditions
22	The erection or extension of a single house on a lot .	(a) a single house is a permitted ('P') use in the zone (where the R-Codes do not apply) in which that lot is located; (b) the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied; and (c) the works are not in a heritage-protected place or lot or location which does not have access to a dedicated and/or constructed road.
23	The erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, deck, garage or carport on the same lot as a single house.	(a) a single house is a permitted ('P') use in the zone (where the R-Codes do not apply) in which that lot is located; (b) the development standards set out in the scheme for that particular zone (including boundary setbacks) are satisfied; and (c) the works are not in a heritage-protected place.
24	The erection or installation of landscaping; letter boxes; or clothes lines where on the same lot as a single house or a grouped dwelling.	Where compliant with all relevant provisions in this Scheme
25	The erection or installation of advertisements.	Where exempt in Schedule 1 except in respect of a sign that is to be erected or installed in heritage protected place.
26	The minor filling, excavation or re-contouring of land.	(a) The Residential Design Codes do not apply (b) There is no more than 0.9 metres change to the natural ground level; (c) the works are not within a flood risk area; and (d) there are no other relevant scheme requirements
27	Retaining walls.	(a) The Residential Design Codes do not apply; and (b) There is no more than 0.9 metres change to the natural ground level.
28	Satellite dishes and other domestic telecommunication installation.	(a) The works comply with any relevant adopted standards outlined in a local planning policy; and (b) The works are not located in a heritage protected place.

29	The erection or placement of a sea container.	The works are in place for a maximum period of 3 months, unless it is associated with storing building materials to support building works approved by the local government.
30	Outbuildings.	(a) The Residential Design Codes do not apply; and (b) The works comply with any relevant adopted standards outlined in a local planning policy.
31	A dam.	(a) It is located in the Rural or Rural Residential zone for the purposes of water collection, storage, and use that is directly associated with a lawful land use, (b) It is not within 10 metres of a lot boundary or natural waterway; (c) It does not alter or affect waterways or water table; and (d) It does not direct runoff to areas other than the watercourse on site and/or impacts adjoining properties.

Clause 61(2)(i) Commercial vehicle parking involving one commercial vehicle per lot in the Rural Townsite or Rural Residential zones where it complies with the relevant development standards set out by the Scheme;

Clause 61(2)(j) the use of land in a reserve, where such land is vested in the local government or vested in a public authority:

- (i) for the purpose for which the land is reserved under the Scheme; or
- (ii) in the case of land vested in a public authority, for any purpose for which land may be lawfully used by that authority.

11. Adding Schedule 1 – Exempted Signage and Advertisements.

Schedule 1 - Exempted Signage and Advertisements

Land use/works	Exempted sign type and number (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	Maximum area of exempted sign
Dwellings	One professional name-plate as appropriate.	0.2m ²
Bed and Breakfast, Home Occupation, Holiday House, Family Day Care, Industry-Cottage, and other business operating from a dwelling	One advertisement describing the nature of the business operating from a dwelling.	0.2m ²
Community Purpose, Place of Worship and community related use	One advertisement detailing the function and/or the activities of the use/institution concerned.	0.2m ²

Exhibition Centre	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ²
Bulky Goods Showroom, Shop, Convenience Store and other commercial uses	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 2.5 metres from the ground level of the building subject to compliance with Local Planning Policy	N/A
Industrial and Warehouse/Storage premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements shall not exceed 15m ² . Maximum permissible total area shall not exceed 10m ² and individual advertisement signs shall not exceed 6m ² .
Public Places and Reserves	a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government a public authority or the local government of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body;	N/A
	b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the local government of a municipality; and	N/A
	c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single house	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m ²
Temporary Signs	b) Advertising signs associated with traffic management for events provided signs are – (i) not placed on the road reserve (with the exception of directional signs); (ii) displayed for a period not exceeding 8 weeks; (iii) located to promote the safety of motorists, pedestrians and cyclists.	N/A

	b) Advertising signs associated with traffic management for works on roads.	
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows):		
(i) Dwellings and grouped dwellings	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m ²
Property Transactions Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows. (a) Dwellings	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.	Each sign shall not exceed an area of 2m ² .
Shop	All advertisements affixed to the building below the top of the awning, or in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building.	N/A

12. Addressing administrative anomalies.
13. Renumbering the scheme provisions and schedules sequentially and updating any cross referencing.
14. Updating the Table of Contents.
15. Modifying the scheme maps through changing 'General Agriculture' zone to 'Rural' zone and changing reserve names to align with Schedule 3 – Legends used in Scheme from the *Planning and Development (Local Planning Scheme) Regulations 2015*.

COUNCIL ADOPTION FOR ADVERTISING

Adopted for advertising by resolution of the Council of the Shire of Cuballing at the Ordinary Meeting of the Council held on the 20 April 2022

.....
Cr Eliza Dowling
SHIRE PRESIDENT

.....
Mr Stan Scott
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDED/SUBMITTED FOR APPROVAL

Supported for submission to the Minister for Planning for approval by resolution of the Shire of Cuballing at the Ordinary Meeting of the Council held on the and the Common Seal of the Shire of Cuballing was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDED/SUBMITTED FOR APPROVAL

.....
DELEGATED UNDER S.16 OF THE
PLANNING AND DEVELOPMENT ACT 2005

DATE.....

APPROVAL GRANTED

.....
MINISTER FOR PLANNING
S.87 OF THE PLANNING AND DEVELOPMENT ACT 2005

DATE.....

ATTACHMENT 1
