



# **Shire of Cuballing Town Planning Scheme No. 2 Scheme Amendment No. 3**

## **Omnibus amendment to the Scheme Text**

Prepared by Edge Planning & Property for the Shire of Cuballing

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July 2017

**RESOLUTION TO PREPARE AMENDMENT TO TOWN PLANNING SCHEME**

**SHIRE OF CUBALLING TOWN PLANNING SCHEME No. 2  
AMENDMENT No. 3**

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

1. Deleting the following Parts and Schedules from the Scheme Text, as they have been superseded by the deemed provisions set out in Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*:
  - Part 2 in its entirety;
  - Part 7 in its entirety;
  - Part 8 in its entirety;
  - Part 9 in its entirety;
  - Part 10 in its entirety;
  - Part 11 in its entirety; and
  - Schedules 5, 6, 7, 8 and 9 in their entirety.
  
2. Deleting the following definitions from Schedule 1, Dictionary of Defined Words and Expressions, as they have been superseded by the definitions in the deemed provisions set out in Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*:
  - advertisement;
  - amenity;
  - cultural heritage significance;
  - local government;
  - Local Planning Strategy;
  - owner;
  - premises;
  - region scheme;
  - Residential Design Codes;
  - substantially commenced; and
  - zone.
  
3. Deleting the current definitions of 'plot ratio' and 'Town Planning Act' from Schedule 1 Dictionary of Defined Words and Expressions and replacing with the following definitions:
  - **"plot ratio"** means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;
  - **"Planning Act"** means the *Planning and Development Act 2005*;
  
4. Deleting the following definitions from Schedule 1 Land Use Definitions:
  - abattoir;
  - agroforestry;
  - amusement parlour;

- animal husbandry-intensive;
- aquaculture;
- bed and breakfast;
- betting agency;
- child care premises;
- cinema/theatre;
- consulting rooms;
- corrective institution;
- family day centre;
- funeral parlour;
- home business;
- home occupation;
- home office;
- hospital;
- hotel;
- industry;
- marine filling station;
- motor vehicle wash;
- night club;
- plantation;
- rural home business;
- shop; and
- telecommunications infrastructure.

5. Adding the following definitions to Schedule 1 Land Use Definitions:

- **“abattoir”** means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;
- **“ancillary dwelling”** has the same meaning as in the Residential Design Codes;
- **“animal husbandry — intensive”** means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;
- **“bed and breakfast”** means a dwelling -
  - (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
  - (b) containing not more than 2 guest bedrooms;
- **“child care premises”** means premises where —
  - (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
  - (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;
- **“consulting rooms”** means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;
- **“family day care”** means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;
- **“grouped dwelling”** has the same meaning as in the Residential Design Codes;
- **“holiday accommodation”** means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

- **“holiday house”** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;
- **“home business”** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —
  - (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 50 m<sup>2</sup>; and
  - (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
  - (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
  - (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;
- **“home occupation”** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —
  - (a) does not involve employing a person who is not a member of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 20 m<sup>2</sup>; and
  - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
  - (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (f) does not —
    - (i) require a greater number of parking spaces than normally required for a single dwelling; or
    - (ii) result in an increase in traffic volume in the neighbourhood; and
  - (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
  - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;
- **“home office”** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —
  - (a) is solely within the dwelling; and
  - (b) does not entail clients or customers travelling to and from the dwelling; and
  - (c) does not involve the display of a sign on the premises; and
  - (d) does not require any change to the external appearance of the dwelling;
- **“hotel”** means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

- **“industry”** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —
  - (a) the storage of goods;
  - (b) the work of administration or accounting;
  - (c) the selling of goods by wholesale or retail;
  - (d) the provision of amenities for employees;
  - (e) incidental purposes;
- **“repurposed dwelling”** – a building or structure not previously used as a single house, which has been repurposed for use as a dwelling;
- **“road house”** means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —
  - (a) a full range of automotive repair services;
  - (b) wrecking, panel beating and spray painting services;
  - (c) transport depot facilities;
  - (d) short-term accommodation for guests;
  - (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;
- **“rural home business”** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —
  - (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 200 m<sup>2</sup>; and
  - (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
  - (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;
- **“second-hand dwelling”** a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular or transportable dwelling;
- **“shop”** means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;
- **“single house”** has the same meaning as in the Residential Design Codes;
- **“telecommunications infrastructure”** means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;
- **“transport depot”** means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —
  - (a) any ancillary maintenance or refuelling of those vehicles; and
  - (b) any ancillary storage of goods brought to the premises by those vehicles; and
  - (c) the transfer of goods or persons from one vehicle to another;

- **“tree farm”** means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;
  - **“workforce accommodation”** means premises, which may include modular or relocatable buildings, used —
    - (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
    - (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.
6. Deleting reference to the terms ‘planning approval’ and ‘single dwelling’ throughout the Scheme and replacing them with the corresponding terms ‘development approval’ and ‘single house’ throughout the Scheme.
  7. Deleting the preamble.
  8. Inserting the following provisions into Schedule A – Supplemental Provisions:

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

Clause 61 (1) (k) - the erection or extension of a single house on a lot if a single house is a permitted (‘P’) use in the zone where the R-Codes do not apply except where the proposal:

- (i) requires the exercise of a discretion by the local government under the scheme to vary the setback provisions of a specific zone;
- (ii) is outside an approved building envelope or within a building exclusion area;
- (iii) is located on land which is zoned Rural Residential and where a building envelope has not been formally identified for the lot;
- (iv) is located in a local policy area declared by Council; or
- (v) is on a lot or location which does not have access to a dedicated and/or constructed road.

Clause 61 (1) (l) - the erection or extension of an outbuilding, in a zone where the R-Codes do not apply except where the proposal:

- (i) requires the exercise of a discretion by the local government under the scheme to vary the setback provisions of a specific zone;
- (ii) is outside an approved building envelope or within a building exclusion area;
- (iii) is located on land which is zoned Rural Residential and where a building envelope has not been formally identified for the lot;
- (iv) is located in a local policy area declared by Council;
- (v) is on a lot or location which does not have a single house;
- (vi) is on a lot or location which does not have access to a dedicated and/or constructed road; or
- (vii) is inconsistent with an adopted Outbuildings Local Planning Policy.

Clause 61 (1) (m) - the construction, replacement, maintenance or repair by a Government agency or statutory undertaking, of any equipment necessary to provide and maintain a public service.

Clause 61 (1) (n) - the development on land within any zone by the local government or Government agency for the purposes of roads, stormwater drainage, recreation areas, landscaping, gardening, bushfire hazard reduction, parking, amenities building, river bank stabilisation or beach rehabilitation. This includes the carrying out of development for the purpose of roads includes a reference to the winning of extractive material by the local government for the purpose of public road construction.

Clause 61 (1) (o) - the carrying out of any development by the local government in connection with the construction, reconstruction, improvement, maintenance, repair or widening (where the local government has acquired the land) of any road except the realignment or relocation of the road.

Clause 61 (1) (p) - incidental structures which include:

- (i) a dog house, domestic animal enclosure, bird enclosure or a cubby house which does not exceed 3.0 metres in height above natural ground level and does not have any part of its structure located within 1.0 metre of the boundary with an adjacent lot;
- (ii) a tree house which as a structure that does not exceed 3.0 metres in height, does not have a floor area greater than 4.0m<sup>2</sup> and is constructed in a tree on a lot used for residential purposes;
- (iii) a flag pole which does not exceed 6.0 metres in height above natural ground level;
- (iv) any pole, tower or device used solely for the purpose of providing outdoor lighting which is constructed on a lot used for residential purposes and no more than 6.0 metres in height above natural ground level;
- (v) swimming pools;
- (vi) landscaping;
- (viii) letter boxes;
- (ix) clothes lines;
- (ix) unless the building is within a Heritage Area or included within the Heritage List of the Scheme, the installation of solar panels where such structures do not protrude above the surface of the roof by more than 500mm or above the ridge of the roof of any building.

Clause 61 (1) (q) - the erection of a boundary fence except where otherwise required by the Scheme and where the fence is consistent with Local Planning Policies.

Clause 61 (1) (r) - the carrying out of works urgently required for public safety or for the safety or security of plant or equipment used in the provision of essential services.

Clause 61 (1) (s) - 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.

Clause 61 (1) (t) - except for development to which the Residential Design Codes apply, the minor filling, excavation or re-contouring of land provided

there is no more than 0.9 metres change to the natural ground level, it is not within flood risk land or except where otherwise required by the Scheme.

Clause 61 (1) (u) - except for development to which the Residential Design Codes apply, retaining walls less than 0.9 metres in height unless the site is located in or referred to in a Local Planning Policy which specifically addresses requirements for retaining walls.

Clause 61 (1) (v) - rainwater tanks.

Clause 61 (1) (w) - aquaculture proposals involving the use of existing dams where no structural works are proposed.

Clause 61 (1) (x) - effluent disposal systems where they comply with Scheme requirements and relevant legislation, air conditioning systems and LPG gas tanks for domestic purposes where they comply with relevant legislation.

Clause 61 (1) (y) - satellite dishes and other domestic telecommunication installation unless it does not comply with any relevant adopted standards outlined in a Local Planning Policy or is located within a Heritage Area.

Clause 61 (1) (z) - telecommunication infrastructure which is listed as low impact in the *Telecommunications Low Impact Facilities Determination 1997* and subsequent amendments to that Determination.

Clause 61 (1) (za) - "agriculture – extensive" and " agriculture – intensive" in the General Agriculture zone.

Clause 61 (1) (zb) - "rural pursuit" in the Rural Residential and General Agriculture zones.

Clause 61 (1) (zc) - the construction of a dam.

Clause 61 (1) (zd) - the erection of placement of a temporary sea container where the structure is consistent with the provisions of a Local Planning Policy.'

9. Amending the following clauses by removing the cross reference to the clause deleted by the amendment and replacing them with cross reference to deemed provisions set out in Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* in Clauses 3.4.1(b), 3.4.2(a), 4.3.2, 4.3.3(d) Note 3, 4.4.2(b), 4.8(c), 4.9.2, 5.4.2, 5.6.2, 5.6.3 and 5.12.7 of the Scheme text.
10. Replacing 'planning application' with 'development application' in Clause 1.5(e).
11. Deleting 'First Schedule to the Town' in Clause 1.5(g).
12. Deleting the 'Note' in Clauses 4.8 and 4.11.
13. Changing references of 'Town' Planning Scheme to 'Local' Planning Scheme throughout the Scheme Text.



14. Removing the following Use Classes and associated permissibility levels from the Zoning Table in Clause 4.3:

- Agroforestry;
- Amusement parlour;
- Aquaculture;
- Betting agency;
- Cinema/theatre;
- Corrective institution;
- Dwelling;
- Funeral parlour;
- Hospital;
- Marine filling station;
- Motor vehicle wash;
- Nightclub; and
- Plantation.

15. Adding the following uses to the Zoning Table:

- Ancillary dwelling;
- Grouped dwelling;
- Holiday accommodation;
- Holiday house;
- Motor vehicle repair;
- Repurposed dwelling;
- Roadhouse;
- Second-hand dwelling;
- Single house;
- Transport depot;
- Tree farm; and
- Workforce accommodation.

16. Deleting the Zoning Table and replacing it with the Zoning Table as set out below including modified permissibility levels and adding permissibility levels to new uses:

<b>LAND USE</b>	<b>Rural Townsite</b>	<b>Rural Residential</b>	<b>General Agriculture</b>
Abattoir	X	X	A
Agriculture – extensive	X	X	P
Agriculture – intensive	X	A	P
Ancillary dwelling	D	D	D
Animal establishment	X	A	D
Animal husbandry – intensive	X	X	A
Bed and breakfast	P	P	P
Caravan park	A	A	A
Caretaker’s dwelling	D	X	D
Carpark	A	A	X
Childcare premises	D	A	X
Civic use	P	P	P
Club premises	D	D	D
Community purpose	D	D	D
Consulting rooms	D	A	A
Convenience store	D	X	X
Educational establishment	A	A	A

Exhibition centre	D	D	D
Family day care	D	D	A
Fast food outlet	A	X	X
Fuel depot	D	X	D
Grouped dwelling	D	D	X
Holiday accommodation	A	A	A
Holiday house	A	A	A
Home business	D	D	P
Home occupation	P	P	P
Home office	P	P	P
Home store	D	X	X
Hotel	A	X	X
Industry – cottage	D	D	D
Industry – extractive	X	X	A
Industry – general	A	X	A
Industry – light	D	X	A
Industry – mining	X	X	A
Industry – rural	X	X	D
Industry – service	D	X	A
Lunch bar	D	X	X
Market	A	X	A
Medical centre	D	X	X
Motel	D	X	X
Motor vehicle, boat or caravan sales	D	X	X
Motor vehicle repair	A	A	D
Office	D	X	X
Park home park	A	X	A
Place of worship	D	A	A
Public Utility	A	A	A
Reception centre	D	A	A
Recreation – private	D	D	D
Repurposed dwelling	D	D	D
Residential building	P	P	P
Restaurant	D	A	A
Restricted premises	A	X	X
Roadhouse	D	A	A
Rural Home Business	X	D	D
Rural pursuit	D	P	P
Second-hand dwelling	D	D	D
Service station	D	A	X
Shop	P	X	X
Showroom	D	X	A
Single house	P	P	P
Storage	D	X	D
Tavern	D	X	X
Telecommunications infrastructure	D	D	D
Trade display	D	X	X
Transport depot	X	A	A
Tree farm	X	X	A
Veterinary centre	D	A	A
Warehouse	D	X	A
Winery	A	A	A
Workforce accommodation	A	X	A

17. Modifying Development Table - General as follows:

- in the Rural Townsite zone, for the commercial, shop, office and place of public worship uses, change the side setback from '2m' to '3m';
- in the Rural Townsite zone, for the commercial and office uses, change the minimum car parking spaces from '20' to '30'm<sup>2</sup> of gross leasable floor area;
- in the Rural Townsite zone, for the shop use, change the minimum car parking spaces from '10' to '20'm<sup>2</sup> of gross leasable floor area;
- in the Rural Townsite zone, delete the 'Eating House' row;
- in the Rural Townsite zone, for the service station use, delete '1500 (Roadhouse 2000' and replace '25' with '40' for the minimum effective frontage;
- in the Rural Townsite zone, add the following row:

Roadhouse	4000	75	20	7.5	5	30	As determined by Council	Boundary setbacks apply to Pumps, Canopy, Buildings	
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- in the Rural Townsite zone, for the light/service industry use, change the minimum front setback from '11' metres to '10' metres;
- delete the 'Rural Residential' row and replace with the following:

All other Permitted Uses	1ha	50	15	10	10	As determined by Council	As determined by Council	As determined by Council
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18. Modifying the heading in sub-clause 5.10.1 through deleting 'Relocated Second hand buildings' and replacing with 'Repurposed dwelling and second-hand dwelling'.
19. Deleting 'transported' in sub-clause 5.10.1 and replacing with 'repurposed dwelling or second-hand'.
20. Replacing 'an Outline Development' to 'a Structure' in sub-clause 5.12.3, replacing 'An Outline Development' to 'A Structure' in sub-clause 5.12.4 and replacing 'Outline Development' to 'Structure' in sub-clause 5.12.5.
21. Renumbering the remaining scheme provisions and schedules sequentially and update any cross referencing to the new clause numbers as required.
22. Updating the Table of Contents and the List of Schedules.

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 ..... day of ..... 20.....

.....  
CHIEF EXECUTIVE OFFICER

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<b>Attachment</b>		
1	<i>Shire of Cuballing Town Planning Scheme No. 2</i> text showing proposed amendments in highlight and strikeout	

## PROPOSAL TO AMEND A TOWN PLANNING SCHEME

LOCAL GOVERNMENT	Shire of Cuballing
DESCRIPTION OF TOWN PLANNING SCHEME	Shire of Cuballing Town Planning Scheme No. 2
TYPE OF SCHEME	District Scheme
SERIAL NO. OF AMENDMENT	3
PROPOSAL	Undertake various amendments to the Scheme Text as set out in this report.

## REPORT BY THE SHIRE OF CUBALLING

### 1. INTRODUCTION

The purpose of this Amendment is to modify the *Shire of Cuballing Town Planning Scheme No. 2 (TPS2)* text to:

- ensure consistency with the 'deemed provisions' in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the 'Regulations');
- delete superfluous definitions and land uses;
- introduce new definitions and land uses;
- introduce Schedule A – Supplemental Provisions;
- update the Zoning Table;
- modify Development Table – General; and
- undertake minor administrative changes.

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

TPS2 was gazetted on 20 May 2005. Since then, there have been no amendments to the scheme text or maps.

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 strategies, local planning schemes (previously called 'town planning schemes') and structure plans 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 TPS2. The deemed provisions are 'read into' schemes automatically under Section 257B of the Act. Provisions in TPS2, 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 the development

assessment. The deemed provisions apply automatically to all schemes when the Regulations come into operation and cannot be altered, varied or excluded.

Section 73(2A) of the Act allows for a scheme to include supplemental provisions, provided those supplemental provisions are consistent with or not already covered by the Regulations.

The local government has audited TPS2 to determine which provisions are now superseded by the deemed provisions. This amendment is now pursued to remove provisions which have been replaced by the deemed provisions.

The Amendment also updates other sections of the TPS2 text to reflect realistic types of development anticipated in the district.

### **3. PURPOSE OF AMENDMENT**

The proposed Amendment seeks to address various matters in the TPS2 text including to:

- ensure consistency with the deemed provisions in the Regulations;
- delete superfluous definitions from the interpretations and land uses from the Zoning Table;
- introduce new definitions and land uses to reflect realistic types of development anticipated in the district including repurposed dwelling and second-hand dwelling. Where new definitions are introduced, they are based on the Model provisions for local planning schemes from Schedule 1 of the Regulations or refer to the *Residential Design Codes of Western Australia*;
- introduce Schedule A – Supplemental Provisions - to extensively reduce the requirement for a development application for a range of low-key and low-risk development/uses;
- update the Zoning Table to reflect expected permissibility for development in small country towns and in a rural district;
- modify Development Table – General to address standards appropriate for a rural district; and
- undertake minor administrative changes.

Attachment 1 outlines proposed modifications to the TPS2 text with new sections highlighted and deleted sections in strikeout.

### **4. CONCLUSION**

The proposed amendments to the TPS2 text are considered appropriate and once gazetted, will assist in making TPS2 more effective and overall more efficient to administer. The proposed amendments to the TPS2 text also address Schedule 2 of the Regulations.

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

**SHIRE OF CUBALLING**

**TOWN PLANNING SCHEME No. 2**

**AMENDMENT No. 3**

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 Town Planning Scheme by:

1. Deleting the following Parts and Schedules from the Scheme Text, as they have been superseded by the deemed provisions set out in Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*:
  - Part 2 in its entirety;
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  - Schedules 5, 6, 7, 8 and 9 in their entirety.
  
2. Deleting the following definitions from Schedule 1, Dictionary of Defined Words and Expressions, as they have been superseded by the definitions in the deemed provisions set out in Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015*:
  - advertisement;
  - amenity;
  - cultural heritage significance;
  - local government;
  - Local Planning Strategy;
  - owner;
  - premises;
  - region scheme;
  - Residential Design Codes;
  - substantially commenced; and
  - zone.
  
3. Deleting the current definitions of 'plot ratio' and 'Town Planning Act' from Schedule 1 Dictionary of Defined Words and Expressions and replacing with the following definitions:
  - **"plot ratio"** means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;
  - **"Planning Act"** means the *Planning and Development Act 2005*;
  
4. Deleting the following definitions from Schedule 1 Land Use Definitions:
  - abattoir;
  - agroforestry;

- amusement parlour;
- animal husbandry-intensive;
- aquaculture;
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- betting agency;
- child care premises;
- cinema/theatre;
- consulting rooms;
- corrective institution;
- family day centre;
- funeral parlour;
- home business;
- home occupation;
- home office;
- hospital;
- hotel;
- industry;
- marine filling station;
- motor vehicle wash;
- night club;
- plantation;
- rural home business;
- shop; and
- telecommunications infrastructure.

5. Adding the following definitions to Schedule 1 Land Use Definitions:

- **“abattoir”** means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;
- **“ancillary dwelling”** has the same meaning as in the Residential Design Codes;
- **“animal husbandry — intensive”** means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;
- **“bed and breakfast”** means a dwelling -
  - (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
  - (b) containing not more than 2 guest bedrooms;
- **“child care premises”** means premises where —
  - (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
  - (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;
- **“consulting rooms”** means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;
- **“family day care”** means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;
- **“grouped dwelling”** has the same meaning as in the Residential Design Codes;
- **“holiday accommodation”** means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;



- **“holiday house”** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;
- **“home business”** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —
  - (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 50 m<sup>2</sup>; and
  - (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
  - (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
  - (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;
- **“home occupation”** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —
  - (a) does not involve employing a person who is not a member of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 20 m<sup>2</sup>; and
  - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
  - (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (f) does not —
    - (i) require a greater number of parking spaces than normally required for a single dwelling; or
    - (ii) result in an increase in traffic volume in the neighbourhood; and
  - (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
  - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;
- **“home office”** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —
  - (a) is solely within the dwelling; and
  - (b) does not entail clients or customers travelling to and from the dwelling; and
  - (c) does not involve the display of a sign on the premises; and
  - (d) does not require any change to the external appearance of the dwelling;
- **“hotel”** means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

- **“industry”** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —
  - (a) the storage of goods;
  - (b) the work of administration or accounting;
  - (c) the selling of goods by wholesale or retail;
  - (d) the provision of amenities for employees;
  - (e) incidental purposes;
- **“repurposed dwelling”** – a building or structure not previously used as a single house, which has been repurposed for use as a dwelling;
- **“road house”** means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —
  - (a) a full range of automotive repair services;
  - (b) wrecking, panel beating and spray painting services;
  - (c) transport depot facilities;
  - (d) short-term accommodation for guests;
  - (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;
- **“rural home business”** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —
  - (a) does not involve employing more than 2 people who are not members of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 200 m<sup>2</sup>; and
  - (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
  - (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;
- **“second-hand dwelling”** a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular or transportable dwelling;
- **“shop”** means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;
- **“single house”** has the same meaning as in the Residential Design Codes;
- **“telecommunications infrastructure”** means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;
- **“transport depot”** means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —
  - (a) any ancillary maintenance or refuelling of those vehicles; and
  - (b) any ancillary storage of goods brought to the premises by those vehicles; and
  - (c) the transfer of goods or persons from one vehicle to another;

- **“tree farm”** means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;
  - **“workforce accommodation”** means premises, which may include modular or relocatable buildings, used —
    - (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
    - (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.
6. Deleting reference to the terms ‘planning approval’ and ‘single dwelling’ throughout the Scheme and replacing them with the corresponding terms ‘development approval’ and ‘single house’ throughout the Scheme.
  7. Deleting the preamble.
  8. Inserting the following provisions into Schedule A – Supplemental Provisions:

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

Clause 61 (1) (k) - the erection or extension of a single house on a lot if a single house is a permitted (‘P’) use in the zone where the R-Codes do not apply except where the proposal:

- (i) requires the exercise of a discretion by the local government under the scheme to vary the setback provisions of a specific zone;
- (ii) is outside an approved building envelope or within a building exclusion area;
- (iii) is located on land which is zoned Rural Residential and where a building envelope has not been formally identified for the lot;
- (iv) is located in a local policy area declared by Council; or
- (v) is on a lot or location which does not have access to a dedicated and/or constructed road.

Clause 61 (1) (l) - the erection or extension of an outbuilding, in a zone where the R-Codes do not apply except where the proposal:

- (x) requires the exercise of a discretion by the local government under the scheme to vary the setback provisions of a specific zone;
- (xi) is outside an approved building envelope or within a building exclusion area;
- (xii) is located on land which is zoned Rural Residential and where a building envelope has not been formally identified for the lot;
- (xiii) is located in a local policy area declared by Council;
- (xiv) is on a lot or location which does not have a single house;
- (xv) is on a lot or location which does not have access to a dedicated and/or constructed road; or
- (xvi) is inconsistent with an adopted Outbuildings Local Planning Policy.

Clause 61 (1) (m) - the construction, replacement, maintenance or repair by a Government agency or statutory undertaking, of any equipment necessary to provide and maintain a public service.

Clause 61 (1) (n) - the development on land within any zone by the local government or Government agency for the purposes of roads, stormwater drainage, recreation areas, landscaping, gardening, bushfire hazard reduction, parking, amenities building, river bank stabilisation or beach rehabilitation. This includes the carrying out of development for the purpose of roads includes a reference to the winning of extractive material by the local government for the purpose of public road construction.

Clause 61 (1) (o) - the carrying out of any development by the local government in connection with the construction, reconstruction, improvement, maintenance, repair or widening (where the local government has acquired the land) of any road except the realignment or relocation of the road.

Clause 61 (1) (p) - incidental structures which include:

- (i) a dog house, domestic animal enclosure, bird enclosure or a cubby house which does not exceed 3.0 metres in height above natural ground level and does not have any part of its structure located within 1.0 metre of the boundary with an adjacent lot;
- (ii) a tree house which as a structure that does not exceed 3.0 metres in height, does not have a floor area greater than 4.0m<sup>2</sup> and is constructed in a tree on a lot used for residential purposes;
- (iii) a flag pole which does not exceed 6.0 metres in height above natural ground level;
- (iv) any pole, tower or device used solely for the purpose of providing outdoor lighting which is constructed on a lot used for residential purposes and no more than 6.0 metres in height above natural ground level;
- (v) swimming pools;
- (vi) landscaping;
- (xvii) letter boxes;
- (xviii) clothes lines;
- (ix) unless the building is within a Heritage Area or included within the Heritage List of the Scheme, the installation of solar panels where such structures do not protrude above the surface of the roof by more than 500mm or above the ridge of the roof of any building.

Clause 61 (1) (q) - the erection of a boundary fence except where otherwise required by the Scheme and where the fence is consistent with Local Planning Policies.

Clause 61 (1) (r) - the carrying out of works urgently required for public safety or for the safety or security of plant or equipment used in the provision of essential services.

Clause 61 (1) (s) - 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.

Clause 61 (1) (t) - except for development to which the Residential Design Codes apply, the minor filling, excavation or re-contouring of land provided

there is no more than 0.9 metres change to the natural ground level, it is not within flood risk land or except where otherwise required by the Scheme.

Clause 61 (1) (u) - except for development to which the Residential Design Codes apply, retaining walls less than 0.9 metres in height unless the site is located in or referred to in a Local Planning Policy which specifically addresses requirements for retaining walls.

Clause 61 (1) (v) - rainwater tanks.

Clause 61 (1) (w) - aquaculture proposals involving the use of existing dams where no structural works are proposed.

Clause 61 (1) (x) - effluent disposal systems where they comply with Scheme requirements and relevant legislation, air conditioning systems and LPG gas tanks for domestic purposes where they comply with relevant legislation.

Clause 61 (1) (y) - satellite dishes and other domestic telecommunication installation unless it does not comply with any relevant adopted standards outlined in a Local Planning Policy or is located within a Heritage Area.

Clause 61 (1) (z) - telecommunication infrastructure which is listed as low impact in the *Telecommunications Low Impact Facilities Determination 1997* and subsequent amendments to that Determination.

Clause 61 (1) (za) - "agriculture – extensive" and " agriculture – intensive" in the General Agriculture zone.

Clause 61 (1) (zb) - "rural pursuit" in the Rural Residential and General Agriculture zones.

Clause 61 (1) (zc) - the construction of a dam.

Clause 61 (1) (zd) - the erection or placement of a temporary sea container where the structure is consistent with the provisions of a Local Planning Policy.'

9. Amending the following clauses by removing the cross reference to the clause deleted by the amendment and replacing them with cross reference to deemed provisions set out in Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* in Clauses 3.4.1(b), 3.4.2(a), 4.3.2, 4.3.3(d) Note 3, 4.4.2(b), 4.8(c), 4.9.2, 5.4.2, 5.6.2, 5.6.3 and 5.12.7 of the Scheme text.
10. Replacing 'planning application' with 'development application' in Clause 1.5(e).
11. Deleting 'First Schedule to the Town' in Clause 1.5(g).
12. Deleting the 'Note' in Clauses 4.8 and 4.11.
13. Changing references of 'Town' Planning Scheme to 'Local' Planning Scheme throughout the Scheme Text.

14. Removing the following Use Classes and associated permissibility levels from the Zoning Table in Clause 4.3:

- Agroforestry;
- Amusement parlour;
- Aquaculture;
- Betting agency;
- Cinema/theatre;
- Corrective institution;
- Dwelling;
- Funeral parlour;
- Hospital;
- Marine filling station;
- Motor vehicle wash;
- Nightclub; and
- Plantation.

15. Adding the following uses to the Zoning Table:

- Ancillary dwelling;
- Grouped dwelling;
- Holiday accommodation;
- Holiday house;
- Motor vehicle repair;
- Repurposed dwelling;
- Roadhouse;
- Second-hand dwelling;
- Single house;
- Transport depot;
- Tree farm; and
- Workforce accommodation.

16. Deleting the Zoning Table and replacing it with the Zoning Table as set out below including modified permissibility levels and adding permissibility levels to new uses:

<b>LAND USE</b>	<b>Rural Townsite</b>	<b>Rural Residential</b>	<b>General Agriculture</b>
Abattoir	X	X	A
Agriculture – extensive	X	X	P
Agriculture – intensive	X	A	P
Ancillary dwelling	D	D	D
Animal establishment	X	A	D
Animal husbandry – intensive	X	X	A
Bed and breakfast	P	P	P
Caravan park	A	A	A
Caretaker's dwelling	D	X	D
Carpark	A	A	X
Childcare premises	D	A	X
Civic use	P	P	P
Club premises	D	D	D
Community purpose	D	D	D
Consulting rooms	D	A	A
Convenience store	D	X	X

Educational establishment	A	A	A
Exhibition centre	D	D	D
Family day care	D	D	A
Fast food outlet	A	X	X
Fuel depot	D	X	D
Grouped dwelling	D	D	X
Holiday accommodation	A	A	A
Holiday house	A	A	A
Home business	D	D	P
Home occupation	P	P	P
Home office	P	P	P
Home store	D	X	X
Hotel	A	X	X
Industry – cottage	D	D	D
Industry – extractive	X	X	A
Industry – general	A	X	A
Industry – light	D	X	A
Industry – mining	X	X	A
Industry – rural	X	X	D
Industry – service	D	X	A
Lunch bar	D	X	X
Market	A	X	A
Medical centre	D	X	X
Motel	D	X	X
Motor vehicle, boat or caravan sales	D	X	X
Motor vehicle repair	A	A	D
Office	D	X	X
Park home park	A	X	A
Place of worship	D	A	A
Public Utility	A	A	A
Reception centre	D	A	A
Recreation – private	D	D	D
Repurposed dwelling	D	D	D
Residential building	P	P	P
Restaurant	D	A	A
Restricted premises	A	X	X
Roadhouse	D	A	A
Rural Home Business	X	D	D
Rural pursuit	D	P	P
Second-hand dwelling	D	D	D
Service station	D	A	X
Shop	P	X	X
Showroom	D	X	A
Single house	P	P	P
Storage	D	X	D
Tavern	D	X	X
Telecommunications infrastructure	D	D	D
Trade display	D	X	X
Transport depot	X	A	A
Tree farm	X	X	A
Veterinary centre	D	A	A
Warehouse	D	X	A
Winery	A	A	A
Workforce accommodation	A	X	A

17. Modifying Development Table - General as follows:

- in the Rural Townsite zone, for the commercial, shop, office and place of public worship uses, change the side setback from '2m' to '3m';
- in the Rural Townsite zone, for the commercial and office uses, change the minimum car parking spaces from '20' to '30'm<sup>2</sup> of gross leasable floor area;
- in the Rural Townsite zone, for the shop use, change the minimum car parking spaces from '10' to '20'm<sup>2</sup> of gross leasable floor area;
- in the Rural Townsite zone, delete the 'Eating House' row;
- in the Rural Townsite zone, for the service station use, delete '1500 (Roadhouse 2000' and replace '25' with '40' for the minimum effective frontage;
- in the Rural Townsite zone, add the following row:

Roadhouse	4000	75	20	7.5	5	30	As determined by Council	Boundary setbacks apply to Pumps, Canopy, Buildings
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- in the Rural Townsite zone, for the light/service industry use, change the minimum front setback from '11' metres to '10' metres;
- delete the 'Rural Residential' row and replace with the following:

All other Permitted Uses	1ha	50	15	10	10	As determined by Council	As determined by Council	As determined by Council
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18. Modifying the heading in sub-clause 5.10.1 through deleting 'Relocated Second hand buildings' and replacing with 'Repurposed dwelling and second-hand dwelling'.
19. Deleting 'transported' in sub-clause 5.10.1 and replacing with 'repurposed dwelling or second-hand'.
20. Replacing 'an Outline Development' to 'a Structure' in sub-clause 5.12.3, replacing 'An Outline Development' to 'A Structure' in sub-clause 5.12.4 and replacing 'Outline Development' to 'Structure' in sub-clause 5.12.5.
21. Renumbering the remaining scheme provisions and schedules sequentially and update any cross referencing to the new clause numbers as required.
22. Updating the Table of Contents and the List of Schedules.



**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 .....

.....

SHIRE PRESIDENT

.....

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.....