

**14. PLANNING AND TECHNICAL SERVICES****14.1 Local Planning Scheme Review**

<b>File Reference:</b>	<b>ADM 205</b>
<b>Location:</b>	<b>Whole of Municipality</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Geoffrey Lush - Town Planning Consultant</b>
<b>Authorising Officer</b>	<b>Vin Fordham Lamont – Chief Executive Officer</b>
<b>Date:</b>	<b>8 November 2022</b>
<b>Disclosure of Interest:</b>	<b>None</b>
<b>Attachments:</b>	<b>1. Scheme Review Report</b>

**Summary:**

Council is requested to consider the statutory review of Local Planning Scheme No 2 and the Local Planning Strategy.

**Background:**

The Planning and Development (Local Planning Schemes) Regulations 2015 commenced operation from 19 October 2015. The Regulations require that a planning scheme is to be reviewed within six months of the anniversary of its gazettal in 2017. As Local Planning Scheme No 2 was gazetted on the 2nd of May 2007, the review was due by the 2<sup>nd</sup> of December 2017. The Department of Planning Lands and Heritage has not been rigid in relation to this given that most Council schemes are affected.

The Regulations introduced the 'Deemed Provisions' which are a set of mandatory provisions that apply to all planning schemes in the State. Any conflicting provision in the Scheme is then effectively made redundant.

The Regulations also contain the 'Model Scheme Text' which is a set of standardised scheme provisions that Councils are required to have regard to whenever they amend the Local Planning Scheme.

**Comment:**Scheme Review

The Planning Scheme review report is contained as Attachment 1. This is required to consider whether the local planning scheme is up-to-date, and it is to include:

- the date the local planning scheme was gazetted;
- a list of amendments to the scheme including dates they were gazetted;
- when the scheme was last consolidated under Part 5 of the Act;
- an overview of subdivision and development activity, lot take up and population change in the scheme area since the scheme gazettal / last review; and
- details of any amendment to the scheme that have been undertaken to bring it into line with other legislation, region scheme or State planning policy (r. 64(2)).

The report must make recommendations as to —

- (a) whether the scheme —
  - (i) is satisfactory in its existing form; or
  - (ii) should be amended; or
  - (iii) should be repealed and a new scheme prepared in its place; and
- (b) whether the local planning strategy for the scheme —
  - (i) is satisfactory in its existing form; or
  - (ii) should be reviewed; or
  - (iii) should be repealed and a new strategy prepared in its place.

There have only been two Amendments to the Scheme being:

- Amendment 1 rezoning Growden Place to Industry; and
- Amendment 2 which reviewed the zoning table and land use definitions.

While there have not been any major development issues in the administration of the Local Planning Scheme, this is a very low number of amendments for a Scheme of this age.

### Local Planning Strategy

The Local Planning Strategy sets out the long-term planning directions for the Scheme area and it provides the justification for the zones and provisions within the Planning Scheme.

Local planning strategies reference the Council's strategic and community plan. It will set out the general aims, intentions and desired outcomes for long-term growth and change, having regard to social, economic and environmental factors. Local planning strategies provide direction as to the circumstances in which particular land uses and development should be planned. Of particular importance is the need to ensure there is sufficient infrastructure in a locality to accommodate managed growth. An assessment of the capacity of infrastructure such as water, sewerage, electricity and roads are usually considered in a local planning strategy. Local government may also identify residential densities and commercial centres in its local planning strategy.

The development of a new Local Planning Strategy must be done in consultation with the community and relevant government agencies. Typically, the agencies will seek to promote their own initiatives which then have to be addressed even if they are not relevant to the Shire. These may include sustainability objectives, water wise measures, environmental health improvements, conservation measures, landcare, etc.

In relation to the scheme review it is noted that:

- a) The existing Local Planning Strategy for the Shire is outdated and no longer complies with the Commission's requirements;
- b) A Local Planning Strategy is critical when any review of the Scheme proposes new development areas; and
- c) The Regulations stipulate that any new Planning Scheme must be accompanied by a Local Planning Strategy.

### Model Scheme Text

The Model Scheme Text is a set of standardised scheme provisions which Councils have been required to have regard to whenever they amend the Local Planning Scheme. These provisions have been updated with the introduction of the Regulations. Modifications from the model scheme provisions are to be by exception and require to be justified.

When the Scheme is reviewed or updated, the Council will be expected to include the new Model Scheme Text to achieve greater consistency in all schemes across the State. The Scheme presently does not comply with the Model Scheme Text provisions, and this will have a major impact on the Scheme including even the zone names.

### Deemed Provisions

The Schedule 2 Part 1 of the Regulations contain the uniform provisions which apply to all Planning Schemes in the State. These are referred to as the "Deemed Provisions" and they address:

- Terms used in the scheme;
- Local planning framework and planning policies;
- Heritage protection;
- Structure plans;
- Activity centre plans;
- Local development plans;
- Requirements for development approval;
- Applications for development approval;

- Procedure for dealing with applications;
- Bushfire risk management; and
- Enforcement and administration.

The Deemed Provisions are separate and different to the Model Scheme Text. Any amendment to the Scheme must have regard to the Model Scheme Text while the Deemed Provisions apply automatically.

#### Development activity and issues

There is a low level of development within the Shire which has been satisfactorily managed under the current scheme provisions. Current and future development issues may include:

- a) The level of governance in relation to town planning provisions and potential compliance issues. This may include avoiding duplication of provisions with other regulatory bodies.
- b) Housing requirements for the expected population structure, affordability, diversity, and infill development.
- c) Lack of industrial land;
- d) Flexibility of zoning provisions in the Commercial zone along Burrowes Street to for more mixed semi residential uses.
- e) The revised Government Sewerage Policy which makes it more difficult to use land within town sites without any reticulate sewerage system. This is an issue for any promotion of residential units within the townsite.
- f) There is more likely to be more pressure for the development of tree plantations and off set planting especially with the cessation of timber harvesting in native forests.
- g) Demand for extractive industry may increase to access basic raw materials such as sand, gravel or rock. With the expanding nature of larger settlements particularly those west of the Shire there could be increased pressure to access basic raw materials and it would be beneficial to have guidelines and policy in place for consideration of such proposals.
- h) Management of environmental issues such as vegetation protection, water quality, fire risk, water quality. This includes management of the paleochannels and associated high value agricultural land.
- i) An increased interest in relocated dwellings /buildings as being perceived as being more affordable housing.
- j) The continued use of sea containers and ensuring that such structures are not unsightly.
- k) Intensive rural land uses such as piggeries and feedlots. Proposals for unusual uses such as industrial or stock feed supplies or uses requiring large buffer areas.
- l) The future of the Darkan Tannery Site, which is an additional use zone in the Scheme, but no longer in operation and is an “orphaned” site with significant contamination.
- m) Tourist accommodation in both urban and rural areas with the potential revised definitions in the Planning Commission’s 2021 draft Position Statement for Tourist Developments; and Planning Guidelines for Tourist Developments.
- n) Retaining Scheme provisions requiring approval for development of lots with no constructed or gazetted road access.
- o) Sheds on vacant residential or local rural land and storage of unsightly material, and vehicles.

#### **Consultation:**

- Department of Planning Lands and Heritage
- Department of Water and Environmental Regulation

#### **Statutory Environment:**

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015

Within 90 days of receiving the Planning Scheme review report, the Commission must:

- (a) decide whether the Commission agrees or disagrees with the recommendations in the report; and
- (b) notify the local government which prepared the report of the Commission's decision.

After receiving notification of the Commission's decision on a report of a review of a local planning scheme the local government must —

- (a) publish the report and notice of the Commission's decision on the website of the local government or in any other manner approved by the Commission; and
- (b) make the report and notice of the Commission's decision available for inspection at the office of the local government.

### **Policy Implications:**

A revised Local Planning Strategy will be a major policy document for the Shire.

### **Financial Implications:**

There are potentially significant costs depending upon the decision of the Planning Commission to:

- Agree to a major amendment to update the Scheme;
- Require that a new planning scheme be prepared; or
- Require that a new Local Planning Strategy be prepared; or
- Allow progressive updating of the Scheme and Strategy.

While the magnitude of the costs might be mitigated by not having any new development areas, all schemes go through the same consultation and advertising process. The majority of the costs relate to the time required to undertake this. Each Government Department will seek to have the Strategy incorporate its principal objectives and these may conflict with Council and community objectives.

If new development areas are proposed then these must be justified both strategically and also in terms of their physical capability and suitability. This would normally require detailed specialist investigations even at a broad strategic level; including flora, fauna, land capability, district or urban water management strategy; bushfire hazard assessments; and servicing.

The simplest conversion of the current Planning Scheme and preparation of a new Local Planning Scheme would be expected to cost a minimum of \$50,000 and potentially over \$100,000 with a significant variation between quotations.

The preparation of a new Local Planning Strategy and/or Local Planning Scheme takes considerable time and there are instances of where this period has exceeded more than five years.

### **Strategic Implications:**

A revised Local Planning Strategy will be the principal strategic planning document for the Shire.

### **Risk Implications:**

**Risk management is the removal of uncertainty from business decisions. Risk is expressed in terms of likelihood it may occur and the consequences that may flow from it.** The consequences may be positive or negative or simply a deviation from the expected. The risk or consequence may be related to health and safety; financial; business or service interruption; compliance; reputation; or the environment. **Reference to the risk matrix below will generate a risk rating by assessing the likelihood and consequence and multiplying these scores by each other.** The greater the risk rating, the greater the risk and the higher the need for specific plans to be developed. All items with a risk rating greater than 10 should be added to the Risk Register and specific controls developed.

**Risk Themes:**

A risk theme is the categorising of risk. For example, the collection of risks that represent compliance failure. The risk themes in the shire Risk Register include:

- Business Disruption
- Community Disruption
- IT or Communications Failure
- External Threat or Fraud
- Misconduct
- Inadequate safety or security practices
- Inadequate project or change management
- Errors Omissions or Delays
- Inadequate Document Management Processes
- Inadequate supplier / contract management
- Providing inaccurate advice / information
- Ineffective Employment practices
- Compliance failure
- Inadequate asset management
- Inadequate engagement practices
- Ineffective facility or event management
- Inadequate environmental management

**Risk Matrix:**

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

Description of Key Risk	Loss of reputation, hindering development
Risk Rating (Prior to Treatment or Control): Likelihood x Consequence	Medium (6)
Risk Likelihood (based on history and with existing controls)	Unlikely (2)
Risk Consequence	Moderate (3)
Principal Risk Theme	Compliance Failure
Risk Action Plan (Controls or Treatment Proposed)	Ensure compliance with directions given by the Planning Commission.

**Voting Requirements:**

Simple Majority

**Officer Recommendation:**

A) That Council, pursuant to Regulation 66(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 recommend to the Western Australian Planning Commission that:

1. That the current Local Planning Scheme is considered to be operating satisfactorily given the low level of development within the municipality.
2. It is recognised that the Scheme needs to be updated by incorporating both the Deemed Provisions and the Model Scheme Text. It is the Council's preference that this be done by a major amendment to the Scheme, rather than preparing a new Local Planning Scheme as no zoning changes are required and the cost of a preparing a new Scheme is significant.
3. That a new Local Planning Strategy for the municipality should be prepared to reflect changes in the planning policy and regulatory framework, altered conditions and current community expectations within the Shire.

B) That following receipt of the Planning Commission's decision, a report be presented to Council on the process, issues, timing and cost for the preparation of the Local Planning Strategy and or Local Planning Scheme.

Moved: Cr LubckeSeconded: Cr Peirce***CARRIED 7/0*****ATTACHMENT****1. Scheme Review Report**