



REPORT OF REVIEW

LOCAL PLANNING SCHEME No. 9

SHIRE OF WYNDHAM EAST KIMBERLEY

July 2023

1 INTRODUCTION

1.1 Introduction

The Shire of Wyndham East Kimberley Local Planning Strategy was endorsed by the Western Australian Planning Commission in August 2019 and Local Planning Scheme was gazetted February 2019. Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* require all local governments to review their planning scheme within six months of the five-year anniversary from the date the Scheme was approved. Since gazettal of the Shire of Wyndham East Kimberley Local Planning Scheme No. 9 (LPS 9) in February 2019, one amendment has been undertaken to correct minor text errors and omissions. Although it hasn't been a full five years since gazettal, the Shire is undertaking a formal review of the Scheme and Local Planning Strategy as the informing documents and information were prepared in excess of five years ago and there are opportunities to refine provisions.

This report has been prepared in accordance with part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* which require that a local government:

- Prepare a report of review; and
- Approve the report by resolution; and
- Provide the approved report to the Western Australian Planning Commission (WAPC).

The report of review is required to be prepared consistent with the WAPC format and must make recommendations as to whether the Local Planning Strategy and LPS 9 are:

- Satisfactory in their existing form;
- Should be amended, or
- Should be repealed and a new scheme/strategy prepared in its place.

This report has been prepared and approved by Council in accordance with the requirements of the Regulations, and is submitted to the WAPC for consideration and approval. Based on the findings of this report, it is recommended that review of the Local Planning Strategy should be undertaken, and a review of LPS 9 should be undertaken and amendment prepared to address issues raised as part of the Strategy review.

2 BACKGROUND

2.1 Shire of Wyndham East Kimberley

The Shire of Wyndham East Kimberley (the Shire) is located in the remote north-west of Western Australia and is one of the four local governments that make up the Kimberley region. The Shire covers an area of 121,000 square kilometres, with the main townships being Kununurra and Wyndham, however there are a number of seasonal and permanent remote communities located in the north and south-west of the Shire. The Shire has a current population of 7,477 people, however this fluctuates depending on the season.

Based on Census information, the Shire has a younger demographic than the state average, with the median age being 33, and has a large proportion of Aboriginal and Torres Strait Island people, being 33.6% of the total population.

The Shire has a semi-arid climate with two distinct seasons: 'wet season' from December to March, characterised by high heat, humidity and rain, whilst the 'dry season' for the remainder of the year features generally cooler and clear weather.

The main industries influencing the Shire's economy include agriculture, mining and tourism. A variety of crops are grown in the Shire, particularly in the area surrounding Kununurra and in more recent years, the Shire and the wider Kimberley region has developed a significant mining industry, producing commodities such as iron ore, petroleum, diamonds, nickel, gold, copper and silver. Tourism is also a significant industry for the Shire, with Kununurra serving as the eastern gateway to the Kimberley region, which influences visitor and population numbers.

2.2 Local Planning Scheme No. 9 (LPS 9)

The Council initially resolved in 2009 to prepare Local Planning Scheme No. 8 (LPS 8), with advertising commencing in 2012. Following this the Shire was advised by the Western Australian Planning Commission (WAPC) that the new Local Planning Scheme would need to be prepared concurrently with a new Local Planning Strategy and that both documents should be advertised together.

Council then resolved in March 2014 to not proceed with draft Local Planning Scheme No. 8 and to prepare Local Planning Scheme No. 9 (LPS 9) concurrently with a new Local Planning Strategy. Both documents were advertised in March 2016 with documentation submitted for approval in 2018.

Local Planning Scheme No. 9 was gazetted on 19 February 2019 and includes the following zones and reserves:

Zones	Residential, Urban Development, Industrial Development, Rural Townsite, Commercial, Mixed Use, General Industry, Light Industry, Rural Enterprise, Service Commercial, Tourism, Agriculture-State or Regional Significance, Local Horticulture, Rural, Rural Residential, Rural Smallholdings, Settlement, Special Use
Local Reserves	Education, Cemetery, Heritage, Medical Services, Infrastructure Services, Public Open Space, Public Purposes, Civic and Community, Environmental Conservation, Drainage/Waterway, Primary Distributor Road, Local Distributor Road and Local Road.

Since gazettal, no formal review of LPS 9 has been conducted.

2.3 Local Planning Strategy

The Western Australian Planning Commission endorsed the Shire of Wyndham East Kimberley Local Planning Strategy on 21 August 2019.

No amendments have been endorsed to the Local Planning Strategy.

3 STRATEGIC FRAMEWORK

3.1 Local Planning Scheme Amendments

Amendment No.	Amendment summary	Gazettal date
1	Corrections of minor text errors and omissions	06/05/2022

3.2 Local Planning Strategy Amendments

No Amendments have been undertaken to the Local Planning Strategy since adoption in August 2019.

3.3 Subdivision and Development Activity

Since the gazettal of Local Planning Scheme No. 9 (LPS 9) there have been:

- No structure plans approved;
- Subdivision:
 - Conditional approvals granted for 27 lots
 - Final approvals granted for 21 lots;
- 48 Building Approvals issued for new dwellings; and
- 126 Building Approvals issued for commercial development, including minor and large developments.

Since the gazettal of LPS 9, there has been no new release of residential land within either Kununurra or Wyndham and all new residential development has occurred on existing vacant lots or as secondary accommodation (ancillary or caretaker dwelling's) on developed properties.

A recent release of undeveloped lots within the rural residential Valentines Falls estate has attributed to a number of new residential dwelling approvals since the gazettal of LPS 9.

3.4 Population Change

Typically the Shire has a transient population, which is reflective of the seasons and also the nature of business/industry. In 2016 the Shire's resident population was 7,148 which rose slightly in 2021 to 7,477.

	2006	2011	2016	2021
People	6596	7799	7148	7477
Families	1343	1675	1576	1591
All private dwellings	3264	4134	4084	4315

<https://abs.gov.au/census/find-census-data/quickstats/>

The WA Tomorrow Population Report No. 11 forecasts a potential population range from the high 6,000's to low 9,000's for the Shire of Wyndham East Kimberley in 2031, with the lowest end of the forecast being a decrease in the population. However, if investment in infrastructure as has been occurring, growth should be anticipated and prepared for.

If the higher growth scenario occurs, then there could be a requirement for between 600 and 1000 new residential dwellings by 2031, and this does not account for the existing housing shortage or overcrowding. In 2021, Kununurra, in particular, experienced a number of accommodation pressures, due to an increase in domestic travelers/tourists, a decrease in the availability of short-term accommodation and a decrease in the availability of housing for rent or sale. Businesses, including the local government, were having difficulty in finding or retaining qualified staff to allow them to operate at an adequate capacity. The pressure for affordable housing has continued into 2022-2023.

Reviewing the Shire's local planning framework may provide an opportunity to identify sufficient residential land to accommodate aspirational population targets.

3.5 Shire of Wyndham East Kimberley Strategic Community Plan 2023-2033

The Shire has recently adopted the Shire of Wyndham East Kimberley Strategic Community Plan 2023-2033, which outlines the aspirations the local community have over the ten-year timeline from the plan's adoption. The plan has been developed following extensive community engagement and provides the following vision for the Shire:

Connecting our cultures, striving for prosperity, celebrating the spirit of country and community.

The Strategic Community Plan has three main focus areas:

- Liveability – improving social, recreational and economic opportunities and addressing quality of life factors;
- Connectivity – improving physical and social connection to and within the Shire; and
- Sustainability – growing the region without compromising the natural environment and lifestyle it has to offer.

3.6 Local Planning Policies

The Shire has ten (10) Local Planning Policies covering various land uses, specific development requirements, local areas and planning procedures. Policies are reviewed as required or as part of a rolling program. Six (6) Local Planning Policies have been recently reviewed, four policies have been rescinded and one new policy has been introduced to the Shire's local planning framework (Local Planning Policy 16 - 'Heritage Places').

Further review and renumbering of policies will continue.

3.7 Other Local Strategic Documents

The Shire has a number of additional supplementary strategic documents which are relevant, including:

- Economic Development Strategy 2021
- East Kimberley Regional Airport Master Plan 2017
- East Kimberley at 25,000 (EK@25K) 2013
- East Kimberley Tourism Plan
- Kununurra Strategic Directions

The Shire also has a number of place-based plans that are being developed and/or reviewed including:

- The Shire of Wyndham East Kimberley Urban Visioning Plan
- Foreshore Plan
- Concept plans for redevelopment of Celebrity Tree Park and Ski Beach areas
- Place plans for Kununurra and Wyndham, along with priority project areas

4 STATE PLANNING FRAMEWORK

Since the gazettal of the Scheme, there have been various state strategies, policies and plans produced and/or reviewed including:

- State Planning Policy 2.4 'Planning for basic raw materials'
- State Planning Policy 3.6 'Infrastructure contributions'
- State Planning Policy 4.1 'Industrial interface'
- State Planning Policy 5.4 'Road and rail noise'
- State Planning Policy 7.0 'Design of the built environment'
- State Planning Policy 7.2 'Precinct Design'
- State Planning Policy 7.3 'Residential Design Codes Volume 1' (R-Codes). The R-Codes have been in continual review since 2008.
- State Planning Policy 7.3 'Residential Design Codes Volume 2 – Apartments'
- Government Sewerage Policy
- 10-year Industrial Land Strategy

5 CONSULTATION

Since gazettal of LPS 9, the Shire has undertaken consultation in regards to community aspirations and planning requirements and most recently has undertaken further preliminary consultation in conjunction with the preparation of the Shire's Corporate Business Plan and Strategic Community Plan, through surveys, workshops and open house sessions throughout Kununurra and Wyndham.

Further consultation will be undertaken as part of the review of the Local Planning Strategy and any subsequent amendment to LPS 9.

The Shire's Strategic Community Plan centered around three key focus areas:

- Liveability
- Connectivity
- Sustainability

From a planning perspective preliminary feedback has confirmed the following key issues:

- Access to housing (including land supply and housing options);
- Limited options for 'value adding' to existing properties (ie. Tourism, hospitality);
- Opportunities for employment and promotion of small and medium scale business;
- Limited opportunities for people to invest and set up business
- Limited retail and food options
- Perceived 'red tape' around planning requirements for development

6 OFFICERS COMMENTS / DISCUSSION

The Shire's population has not increased significantly in recent years, which is reflected in the level of development activity and new business opportunities. Despite this, there is still a demand for housing and alternate housing solutions, particularly for key workers and service industry workers. Investment in business and land will contribute to population growth, but will also require flexibility in location and development requirements. An increased population, will enable additional and new services, business and employment opportunities for both new and existing residents and improve options for development, including housing.

6.1 Economic Development

Economic development is a major focus for the Shire due to the potential community benefits, however starting and maintaining businesses (especially small and medium businesses) is challenging due to freight, travel and internet/phone reliability, and costs which are often higher than in areas with large populations. It is important to provide an environment where small and medium businesses can start and sustain themselves, which will support a vibrant community to grow and flourish.

Feedback from the community identified that there needs to be improved opportunities for people to invest and set up small and medium scale business. The towns have limited retail and food options and limited options for 'value adding' to existing properties (ie. tourism, hospitality).

The option of 'value adding' to an existing property, by offering an alternative business stream, is already successful where properties were identified as having additional uses as part of LPS 9. There are many existing operations which may benefit from being able to offer an additional business option, such as agricultural properties incorporating a small-medium scale café/restaurant to offer for foods/meals/produce sourced directly from the farm, or catering to the ecotourism industry by providing ethically and locally sourced products.

Allowing small and medium low impact businesses to co-locate with a residential dwelling, in existing light industrial areas would lower establishment and operating costs of business owners, promoting investment in the Shire.

Expansion of existing industrial and rural businesses is curtailed by a lack of appropriately zoned land. In Kununurra, there is no general industrial zoned land, which has forced businesses to locate within the light industrial areas or expand into rural/agricultural zoned land. Land and zoning to facilitate industrial expansion is required to service existing and new businesses. New industrial areas also need to be accessible by heavy vehicles, including road trains.

An increase in population may lead to greater investment and variety of business to service the 'gap' in what is currently available from a retail and food option perspective within the Shire's towns. The potential for major development proposals within the Shire in the immediate to mid future has also been identified, which will hinge on land availability, employment, population, services, housing and transport links.

Reviewing the Shire's local planning framework may provide an opportunity to address and identify:

- Areas and zoning where small and medium low-impact business can establish in conjunction with a residential component, allowing for reduced operating costs
- New industrial areas or areas for expansion, particularly within Kununurra where currently there is no general industry zoning
- New industrial areas need adequate access for heavy vehicles, including road trains
- A review of rural enterprise areas, to ensure currency of these areas and whether the zoning is adequate
- A review of the Agriculture-State or Regional Significance, Local Horticulture and Rural zones and allowable land uses, to identify options to 'value add' or to provide limited hospitality or tourism opportunities.

6.2 Housing

High housing costs in the Shire requires a special approach to housing and land supply, noting that housing affordability and supply of houses is a significant issue for Kununurra and to a lesser extent Wyndham.

Limited availability and choice is pushing up demand for housing, resulting in high rents and high housing prices, which is further influenced by the annual influx of tourists and seasonal workers that place increased pressure on availability and affordability of accommodation within the town. This in turn impacts the ability of businesses to retain and attract workers, as there are limited options for key workers and service industry workers to find suitable and reasonably priced accommodation.

Additionally, the high cost of residential and commercial/industrial land creates demand for dwellings within mixed use and light industrial areas, and often leads to the running of businesses from rural residential properties.

Without access to affordable and suitable existing housing or cost effective opportunities to build, existing business will continue to struggle to attract and retain staff and investment in new business will flounder.

Reviewing the Shire's local planning framework may provide an opportunity to address and identify:

- Areas for 'low density residential' development, consisting of lots ranging from 1000 to 5000 square metres
- Areas for future residential and rural residential expansion
- Areas and zoning where small and medium low-impact business can establish in conjunction with a residential component, allowing for reduced operating costs
- Allocation of land and zoning facilitate key worker housing developments

6.3 Tourism

The natural scenic and landscape value together with the remoteness of the Shire, is both an opportunity as well as being one of the most significant challenges facing our community. Tourism is already a significant industry in the Shire, which is evident in the large number of people who visit the Shire annually. But there is there is also demand for additional tourism opportunities, particularly in the space of ecotourism, dark sky tourism, cultural tourism, 'value adding' and boutique style development/business operations.

Opportunities for further tourism businesses, is limited by the availability of and access to land, bushfire risk, heritage impacts, infrastructure/development costs, seasonal access and remoteness.

The current Strategy and LPS 9 do not adequately address, facilitate or promote alternative tourism development or business opportunities. Reviewing the Shire's local planning framework may provide an opportunity to address and identify:

- Tourism areas / nodes to facilitate sustainable tourism development
- Areas or zoning to facilitate alternative and eco-tourism ventures, particularly where the landscape presents significant tourism opportunities (i.e. river or lake frontage)
- Easier pathways to access unallocated Crown Land in identified tourism areas
- Alternatives to bushfire controls for small scale eco-tourism ventures
- Options to allow 'bush retreat' style development in tourism nodes.

6.4 Local Planning Strategy

The Local Planning Strategy was endorsed in 2019, however much of the data which informed the Strategy was prepared around 2016 when the priorities of the local government were differently aligned.

The current Strategy should be reviewed with a view to preparing a new local planning strategy to ensure consistency with the current long-term planning directions of the Shire and be reflective of community aspirations.

6.5 Local Planning Scheme No. 9 (LPS 9)

Following review of the Strategy, it is recommended that LPS 9 be reviewed and any required amendments be undertaken to address:

1. Updates to legislation
2. Consequential changes attributed to the review of the Local Planning Strategy
3. Emerging issues.

7 RECOMMENDATION

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 the Shire of Wyndham East Kimberley:

1. Pursuant to Regulation 66(3)(a)(i) of the *Planning and Development (Local Planning Schemes) Regulations 2015 (WA)* make a recommendation to the Western Australian Planning Commission that the Shire of Wyndham East Kimberley Local Planning Scheme No. 9 should be amended; and
2. Pursuant to Regulation 66(3)(b)(iii) of the *Planning and Development (Local Planning Schemes) Regulations 2015 (WA)* make a recommendation to the Western Australian Planning Commission that the Shire of Wyndham East Kimberley Local Planning Strategy should be repealed and a new strategy prepared in its place.

Attachment 1 – Variations between the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Shire of Wyndham East Kimberley Local Planning Scheme No. 9.

Text Variations

Section of Scheme	Variation	Regulations consistency
Part 3 Zones and Use of Land Table 3 Zone objectives	Rural Enterprise	Not a zone in the <i>Planning and Development (Local Planning Scheme Regulations 2015)</i> (Regulations). Delete, rename, or justify as an exception for consistency with the Regulations.
Part 3 Zones and Use of Land Table 3 Zone objectives	Agriculture – State or Regional Significance	Not a zone in the Regulations. Delete, rename, or justify as an exception for consistency with the Regulations.
Part 3 Zones and Use of Land Table 3 Zone objectives	Local Horticulture	Not a zone in the Regulations. Delete, rename, or justify as an exception for consistency with the Regulations.
Part 6 Terms Referred to in Scheme, Division 1 – General definitions used in Scheme	Commencement day	Listed as ‘Scheme commencement day’ under the current Regulations.
Part 6 Terms Referred to in Scheme, Division 1 – General definitions used in Scheme	Frontage	Amend to the definition in the current Regulations. Should read “means the line where a road reserve...” not “means a line where a road reserve...”
Part 6 Terms Referred to in Scheme, Division 1 – General definitions used in Scheme	Non-conforming use	Very minor difference in wording of definition between Scheme and Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Airfield	Not defined in the Regulations. This term is used in the Scheme.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Ancillary dwelling	Very minor difference in wording of definition between Scheme and Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Animal husbandry – Intensive	Minor difference in wording of definition between the Scheme and the Regulations. Amend or justify as a variation to the definition in the Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Bulky goods showroom	Amend to the definition in the current Regulations. (b)(ii) Should read “vehicular access is required to the premises for...” instead of “vehicular access to the premises is required for...”
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Hospital	Minor difference in wording of definition between the Scheme and the Regulations. Amend or

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		justify as a variation to the definition in the Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Industry – cottage	Not defined in the Regulations. This term is used in the Scheme.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Industry – primary production	Very minor typographical error in this definition in the Scheme. <i>Income Tax Assessment Act 1997</i> should all be italicised. The word Income is not italicised at present.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Industry – rural	Not defined in the Regulations. This term is used in the Scheme. It does not appear in the zoning table.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Industry - service	Not defined in the Regulations. This term is not used in the Scheme. It does not appear in the zoning table.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Lunch bar	Minor difference in wording of definition between the Scheme and the Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Park home park	Minor difference in wording of definition between the Scheme and the Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Renewable energy facility	Not defined in the Regulations. This term is not used in the Scheme.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Repurposed dwelling	Not defined in the Regulations. This term is not used in the Scheme.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Residential aged care facility	Not defined in the Regulations. This term is not used in the Scheme.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Residential building	Not defined in the Regulations. This term is used in the Scheme.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Road house	Minor difference in wording of definition between the Scheme and the Regulations. Amend or justify as a variation to the definition in the Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Rural pursuit / hobby farm	Minor difference in wording of definition between the Scheme and the Regulations. Amend or justify as a variation to the definition in the Regulations.
Part 6 Terms Referred to in Scheme, Division 2 – Land use terms used in Scheme	Second hand dwelling	Not defined in the Regulations. This term is not used in the Scheme.

Mapping Variations

'SCA2' – Special Control Area – Public Drinking Water Source Area. Colour used not in Regulations. Re-colour to fit with a model special control area as shown in the Regulations.