

LOCAL PLANNING SCHEME REVIEW

SCHEME ISSUES AND OPTIONS



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ROLE OF THE SCHEME:

Guide land use and development and provide standards to achieve built form and desired amenity



SCHEME NO. 3 SHOULD:

Deliver the new local planning strategy

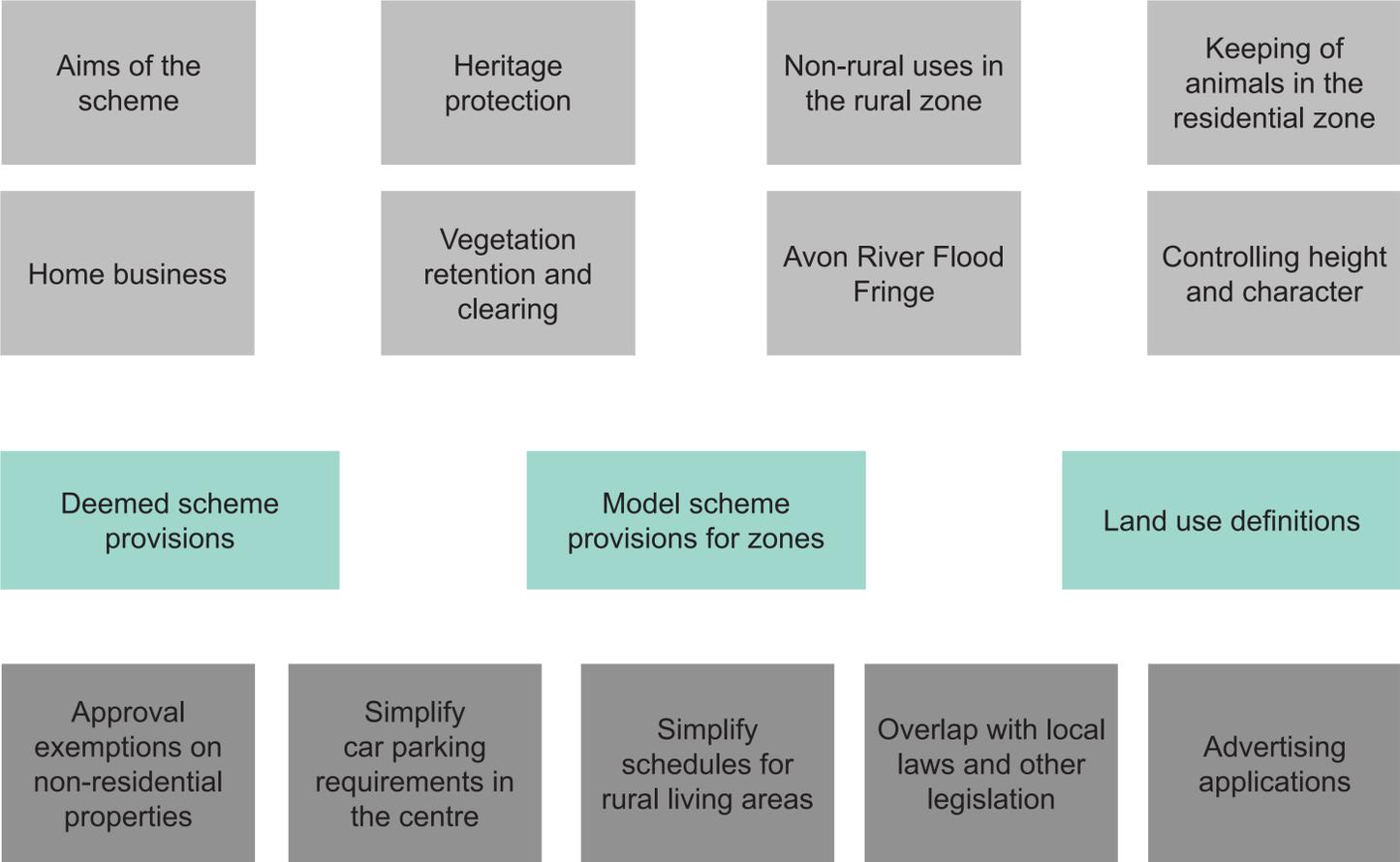
Update the scheme to reflect the needs and lifestyle of the York community

Update the scheme in response to state regulations

Remove unnecessary red tape and bureaucracy

ISSUES CONSIDERED IN THE REVIEW: OPTIONS REGARDING EACH ARE SHOWN ON FOLLOWING PAGES

Ideas for the planning strategy are shown on other posters - take a look. These include recommendations for the new local planning scheme.



LOCAL PLANNING SCHEME REVIEW

SCHEME ISSUES AND OPTIONS - YORK LIFESTYLE



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AIMS OF THE SCHEME

The Shire of York Council workshopped aims of the next planning scheme to reflect the function of the scheme and the character and opportunities of York.

The aims of the local planning scheme articulate what the scheme intends to achieve through the application of various planning mechanisms, including zoning, reservations, special control areas and development provisions. The aims also provide a high level frame for discretionary decision making under the scheme in future (alongside matters to be considered set out in deemed provisions).

In line with the proposed objectives of the local planning strategy, the overall aim of the scheme is to encourage liveability by facilitating innovative, creative, and diverse business and employment whilst maintaining the history, character and cultural heritage that makes York special.

Specific scheme aims to achieve this are:

- Protect and enhance the natural and cultural values of the Shire, particularly viable agricultural land, significant environmental assets, and cultural heritage values from inappropriate use and development
- Facilitate innovative, creative and diverse business and employment opportunities
- Protect and enhance the amenity and health of the York community
- Retain the special historic significance of the townsite of York
- Make provision for necessary community and service infrastructure
- Facilitate a diversity of lifestyle and housing opportunities that reflect the rural and historic character of the Shire

HERITAGE PROTECTION

Option - ensure protection of local heritage values through the planning scheme

The deemed provisions that apply to all local planning schemes in Western Australia include strong controls for heritage listed sites and precincts. These are suitable to afford appropriate protection for heritage assets in York.

The Shire is separately undertaking a project to develop a specific heritage list for the purpose of the planning scheme, as distinct from the municipal inventory. This will streamline heritage regulation as some items on the municipal inventory may not require the full protection of the scheme. This project will ensure that heritage properties requiring a higher level of local protection are given the protection of the scheme.

Option - reduce unnecessary regulation for minor development that does not impact upon heritage values

All development within a listed heritage property or precinct requires development approval. Some minor and low impact development (for example anti bird pest control spikes) may be appropriately exempted from development approval.

This can be achieved by revising the Shire's heritage policy that can list the types of development on heritage listed properties to be exempt from local development approval. The policy review should be undertaken by a heritage architect with the skills and experience to identify appropriate development controls and approval exemptions to respect heritage values.

NON-RURAL USES IN THE RURAL ZONE

Option - with the exception of desirable tourism uses, identify non-rural/agricultural land uses as not permitted in the rural zone

Recent applications for regional waste facilities and non-rural transport depots illustrate that the current rural zone may not effectively manage pressure for non-rural land uses - although a lack of industrial land has been a strong contributing factor.

There is likely to be more pressure for regional facilities in the Avon region as Perth expands. Prisons and cemeteries are additional uses that may present an issue in future.

With the exception of non-rural uses that support the growth opportunities identified in the strategy (tourism, agriculture, arts and culture), non-rural uses can be defined by the scheme and prohibited (identified as an 'X' use in the zoning table) in the rural zone. This would preclude such land uses on rural zoned land, unless a scheme amendment process was undertaken. A scheme amendment requires Council to initiate the scheme amendment, community advertising, and approval of the Minister for Planning.

Commercial vehicle parking and other uses associated with rural businesses should be considered as part of the approved rural use of the property, not considered as a separate or individual use class, therefore would be capable of development in the rural zone. The preclusion of non-rural land uses would only apply to activities with no incidental relationship to rural activities on the property.

Existing approvals and operations can continue to operate through non-conforming use rights. This may influence potential expansion of operations in future.

AVON RIVER FLOOD FRINGE

Option - introduce a special control area for the Avon River Flood Fringe

The current Shire of York Local Planning Scheme No. 2 provides additional planning requirements for land within the extent of the 100 year flood fringe of the Avon River. The spatial extent of the area is not mapped, however current clause 5.4 refers to a flood study adopted by the Water & Rivers Commission (now the Department of Water and Environmental Regulation).

A special control area is a planning tool that provides additional requirements across zones, based on a particular issue. This would provide greater clarity for the Avon River Flood Fringe. A special control area will spatially identify the flood fringe - rather than referring to a separate study outside the scheme - within which additional development controls apply.

VEGETATION RETENTION AND CLEARING

Due to wide scale clearing in the Western Australian wheatbelt, native vegetation in the Shire has very high environmental value, and contributes to the visual landscape.

Native vegetation clearing is regulated by the state government through native vegetation clearing controls, and permits required for clearing outside specified exemptions. The current Local Planning Scheme No. 2 includes restrictions on clearing in the general agriculture zone and some rural residential areas. There are various options for how the local scheme can regulate - or not regulate - vegetation clearing.

Option - enable vegetation clearing to be managed by state government clearing regulations only

Removing all vegetation retention and clearing provisions from the scheme would remove any overlap between the local scheme and state government regulations. However, this would not enable visual impact considerations to influence decisions regarding clearing, as state regulations only consider environmental aspects.

Option - retain and review vegetation provisions

Maintaining rural character is an important objective of the scheme; native vegetation contributes to that character. A review of the current provisions to identify appropriate vegetation protection requirements (based on area of vegetation and/or size of individual mature trees) for each relevant zone, tailored to the characteristics and planning intent of each zone. This would provide greater consistency than current provisions provide, and expand protection of vegetation for character purposes beyond the General Agriculture and Rural Residential zones.

A local planning policy supporting these provisions can provide additional decision guidance for development in areas of native vegetation.

HOME BUSINESS

Option - remove unnecessary annual licensing for home businesses

The current Shire of York Local Planning Scheme No. 2 includes a requirement for annual licensing of home businesses. This may present an unnecessary cost and process for local businesses, and should be removed.

Option - facilitate larger format home businesses on large lifestyle properties

It can be expensive to maintain both a home and a business premise when running a small, local business. Model scheme provisions - that will be incorporated into the new scheme - supports larger format home businesses on rural residential lots, enabling 200m² for business purposes, with no more than 2 people not members of the household being employed.

This does not apply to large lifestyle lots that are zoned residential in York. Including the land use classification "rural home business" as a discretionary use subject to advertising in the residential zone would provide more discretion to consider larger format home businesses on appropriate sized lots. This should be supported by local planning policy to frame the discretion.

CONTROLLING HEIGHT AND CHARACTER

The purpose of the scheme is to guide the form of development in the Shire of York. Currently, outside areas managed by the *Residential Design Codes*, there are no height controls in the scheme.

Options - include height and setback requirements within the scheme OR within local planning policy

Development provisions/guidance set out in the planning scheme and local planning policy are discretionary, and can be varied. All planning proposals are considered on merit against principles of orderly and proper planning.

Scheme development controls, whilst can be varied, are viewed stronger than development standards set out in local planning policy. However, amendments to scheme provisions requires a scheme amendment which is a timely and costly process requiring ultimate approval of the Minister for Planning.

Development standards in local planning policy can be updated faster and easier than controls in the scheme, enabling Council to review and update with lesser resources and in response to changes in the community and development practices.

Option - delete superfluous decision making factors

The current Shire of York Local Planning Scheme No. 2 includes, within each zone, a series of elements related to building character that Council will have regard to in considering applications. These duplicate the "matters to be considered" that are included in the deemed provisions, and therefore should be removed from the scheme.

KEEPING OF ANIMALS IN THE RESIDENTIAL ZONE

The current Shire of York Local Planning Scheme No. 3 considers the keeping of domestic animals (horses, etc) as a rural pursuit which is not permitted in the residential zone. This is at odds with the rural lifestyle of York; large residential lots in York (whilst zoned residential) are rural lifestyle lots and there is demand for the ability to keep a single animal.

Managing the impacts of animals in the York townsite would be better managed by a local law, that considers and manages locally specific impacts and concerns rather than a blanket planning approach.

Option - exempt keeping of animals in the residential zone from development approval

This could be achieved by one of two ways:

- A local planning policy regarding keeping of animals that identifies "keeping of animals in accordance with a local law" as a use and development that is exempt from development approval; or
- Inclusion of a new schedule in the scheme - "Development and use that does not require development approval of the local government" which lists the exemption "keeping of animals in accordance with a local law".

Using a local planning policy to exempt development facilitates an easier review and updating process in case there are issues with implementation. Using a schedule in the scheme is immediate and statutorily binding, however requires a scheme amendment to review.

LOCAL PLANNING SCHEME REVIEW

SCHEME ISSUES AND OPTIONS - STATE REGULATIONS



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Deemed scheme provisions

Model scheme provisions for zones and reserves

Land use definitions

SCHEME ELEMENTS TO BE DELETED OR MODIFIED

The Planning and Development (Local Planning Schemes) Regulations include deemed provisions that apply to all local planning schemes in Western Australia. These supercede several sections of the current Shire of York Local Planning Scheme No. 2, which will require deleting.

This includes administrative and procedural matters. The scheme review process has not identified any gaps between the deemed provisions and the now-redundant provisions of the current scheme.

Term of planning approval

The operation of the deemed provisions - which apply now - allow an applicant to amend the term of a development approval, even after that approval has expired. This was not facilitated by the Shire's scheme, however applies now as a result of state regulations.

Developing structure plans

The situations in which a structure plan can be prepared is now defined by deemed provisions which supercede local scheme provisions regarding structure plans (previously referred to as 'Outline Development Plans' in the local scheme).

The current Shire of York Local Planning Scheme No. 2 provisions identify that in some zone types (not identified in the deemed provisions, for example the rural residential zone) that Council may request an outline development plan (now a structure plan). These requirements should be carried over into the new scheme within the relevant zone provisions - thereby being identified in the scheme as an area requiring a structure plan, and being consistent with the deemed provisions.

UPDATE ZONES

The Planning and Development (Local Planning Schemes) Regulations include model scheme provisions that are to be used in the preparation of all local planning schemes in Western Australia. Model scheme provisions include a suite of zones with standard objectives that can be applied in the local scheme.

For the majority of zones in the current Shire of York Local Planning Scheme No. 2 this will involve a simple updating of the zone objectives, and in some cases a new name for the existing zone. This includes:

The current Residential, Rural Residential, Rural Townsite, Rural Smallholdings zones will remain with updated objectives in line with the model scheme provisions.

The current Mixed Business and General Agriculture zones will be updated to the model Service Commercial and Rural zones respectively.

UPDATE RESERVES

Model scheme provisions include a suite of local reserves with standard objectives that can be applied in the local scheme. Reserves to be applied to public land and for public purposes in the new scheme include:

- Public open space
- Environmental conservation
- State Forest
- Civic and Community
- Public Purposes
- Cemetery
- Railways
- Primary Distributor Road
- District Distributor Road
- Local Distributor Road
- Local Road

NEW ZONES

The model zones available for use in the new scheme will result in the identification of new zones for the Shire of York.

An appropriate zone for the York Town Centre

The current Town Centre zone does not easily fit into the objectives of the zones available in the model provisions.

The model zone options are:

- Centre - this is presented as a development zone by the model provisions, therefore the zone objectives are not relevant for the York townsite which will not be subject to a future centre structure plan.
- Mixed Use - objectives are relevant to the nature of uses that would be expected in York, but do not reflect the heritage values of York's town centre.
- Commercial - objectives preclude residential land uses

Option 1 is to use the centre zone from the model provisions for the entire town centre, and modify the standard objectives to suit the local values and characteristics of the York town centre.

Option 2 is to apply the mixed use, commercial and residential zones across the York town centre. This provides a targeted approach to land use, but is more restrictive on individual parcels.

Appropriate zoning for industrial land

The current industrial zone will be replaced by separate General Industry and Light Industry zones.

A key option is to rezone the current industrial area to light industry to commence the transition away from higher intensity industrial uses, and better reflect current industrial uses in the area.

Once a future industrial area is confirmed, it would be zoned for general industry.

Development zones

The new scheme should include the urban development and industrial development zones. The urban development zone would be applied to the Daliak urban expansion area.

Whilst potential industrial areas will be identified in the local planning strategy, the final location of a new industrial area will be subject to liaison with landowners and therefore the industrial development zone will not be spatially shown in the scheme immediately. A scheme amendment to the industrial development zone will be required.

EXPAND ZONING TABLE

Option - expand the zoning table to specifically encourage uses that support growth in York, and provide better regulation of undesirable land uses

Land use definitions are provided in the model scheme provisions. Listing all possibly relevant land uses in the zoning table in the scheme can provide both greater flexibility and greater control, depending on the nature of a use. This is because uses that are not defined and included in the zoning table can be approved in any zone based on a discretionary application and advertising process.

Uses that support the desired growth areas of tourism, arts and culture in York should be facilitated by identifying these uses as permitted or discretionary. This demonstrates the planning intent that such uses are encouraged, and in some instances may assist in reducing approval requirements. Uses that could be identified as permitted (however may be subject to development standards including car parking) include:

- art gallery
- bed and breakfast
- exhibition centre
- holiday accommodation
- tourist development

Uses that might be discretionary, with approval necessary to manage impacts include:

- brewery
- caravan park
- market
- reception centre
- winery

Non-rural uses that do not support the identified growth industries can be directed to higher level, strategic planning processes (for example scheme amendments) by listing these uses as "not permitted". This includes:

- abattoir
- corrective institution
- resource recovery centre (outside the general industry zone)
- transport depot (outside industrial zones)
- waste disposal facility
- waste storage facility (outside the general industry zone)

Include locally specific land use definitions

General aviation is not defined in the model provisions, however is a land use in the agricultural areas of York. This should be included in the Shire of York scheme, as a discretionary use subject to advertising in the rural zone.

Cottage industry is no longer defined in the model provisions. This land use class describes arts and crafts studios as distinct from light industry. Inclusion of this land use class as a permitted use in the Shire of York scheme will be necessary to support strategies for arts expansion in York.



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SCHEME ISSUES AND OPTIONS - RED TAPE



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CAR PARKING REQUIREMENTS

Option - streamline car parking requirements in York Town Centre with a single parking provision amount for all relevant town centre uses

Car parking requirements in current Shire of York Local Planning Scheme No. 2 are based on the use of a property, with different provision required for different uses. Therefore changes of use in the town centre (for example between shop and restaurant) can often require changes to onsite parking.

The nature of the York town centre is that visitors are likely to visit more than one business, and will visit businesses of various types.

A single car parking standard for use in the York town centre would enable greater flexibility in changing uses, and reduce unnecessary challenges to new businesses starting in the town.

Specific use types that would generate specialist or individual parking demand should be individually listed. This includes:

- hotels
- tourist accommodation
- taverns

Option - provide for ongoing review of onsite parking management through local planning policy

Setting car parking standards in a local planning policy rather than the scheme will enable efficient review and updating in response to local business feedback and changes in public parking and streetscape treatments. Parking is a key issue for local businesses. A policy approach that can more quickly respond to local needs and facilitate appropriate discretion in decision making will make it easier for local businesses to support growing vitality in the town centre.

A parking local planning policy will enable review of cash-in-lieu of parking provisions, in particular valuation techniques based on best practice from other localities. The Shire's current practice is to calculate the fee each time, which is inefficient and costly.



SIMPLIFY SCHEDULES FOR RURAL LIVING AREAS

Option - review and streamline schedules for rural residential and rural smallholdings estates

Subdivision and development of rural residential and rural smallholdings areas are managed by schedules in the current Shire of York Local Planning Scheme No. 2 for each specific estate. Many of these schedules are out of date, overlap, and are confusing. Some schedules are contrary to other planning policy (for example in a Mt Brown estate, buildings are encouraged near to groups of existing trees that are likely to be bushfire prone, and such placement is inconsistent with state planning policy regarding planning in bushfire prone areas). Several schedules refer to lots that no longer exist.

Revision of the schedules can be achieved within either revised scheme schedules or in a rural living local planning policy. Both scheme and policy standards are discretionary, however scheme requirements tend to be given more weight than policy. Scheme amendments are required for review and updating of scheme provisions, whereas revisions to planning policy is a shorter process that does not require involvement at the state level.

In reviewing the schedules, common requirements can be brought into the overall provisions for the rural residential or rural smallholdings zones.

Specific schedules for individual estates can identify lot sizes to provide a framework for subdivision, and include only those provisions necessary to manage site specific environmental and character issues and that are relevant to subdivision determinations by the Western Australian Planning Commission.

Provisions that duplicate matters elsewhere in the scheme (including the deemed provisions) should be deleted.

Many of the requirements for rural residential and rural smallholdings estates relate to landscaping and revegetation. An overall approach to vegetation retention in all zones would be appropriate, as discussed elsewhere.

APPROVAL EXEMPTIONS ON NON-RESIDENTIAL PROPERTIES

Deemed provisions list development that does not require the approval of the local government, however only exempt internal development and residential development on lots to which the *Residential Design Codes* apply (generally Residential zoned land). As a result, unless otherwise specified by a local planning policy, all development on lots other than the residential zone in the Shire requires development approval.

Option - exempt appropriate domestic and rural development types from development approval

This could be achieved by one of two ways:

1. A local planning policy for exempted development; or
2. Inclusion of a new schedule in the scheme - "Development and use that does not require development approval of the local government" which lists the desired exemptions

Using a local planning policy to exempt development facilitates an easier review and updating process in case there are issues with implementation. Using a schedule in the scheme is immediate and statutorily binding, however requires timely and expensive scheme amendment to review.

Development that might be appropriately exempt from development approval in the Shire of York includes:

- Single houses, including any extension, ancillary outbuildings and swimming pools in all zones where a single house is a permitted use.
- Outbuildings in the rural zone where they comply with the height, setback, and size requirements of local planning policy
- Dams in the rural zone



ADVERTISING APPLICATIONS

Option - enable flexibility in advertising applications that may be of public interest

The deemed provisions specify that certain applications must be advertised, this includes:

- land uses identified as requiring advertising in the zoning table
- extension of non-conforming uses
- land uses that are not listed in the zoning table
- proposals that do not comply with scheme development standards
- developments that require a heritage assessment

There may be additional application types (not based on land use type) that would benefit from advertising, particularly where it may be in the public interest, and to understand the impact of the proposal on the community as a whole.

This could be achieved by one of two ways:

1. Develop an advertising local planning policy that identifies circumstances in which the Shire will advertise applications, and how the Shire will identify owners and occupiers of properties who are likely to be affected to provide greater transparency in advertising processes; or
2. Inclusion of a new schedule in the scheme identifying additional circumstances in which the Shire will advertise applications.



OVERLAP WITH LOCAL LAWS

Option - remove scheme requirements that are effectively managed by local laws and health legislation

A number of items in the scheme are also regulated by local laws. This includes:

- signage (local law)
- bee keeping (local law)

Where these matters are separately regulated, there is little benefit retaining requirements in the scheme.

Matters regarding specific effluent management are to be retained in the scheme.

