

Shire of Plantagenet Local Planning Scheme No. 5

Scheme Amendment No.1



Harley Dykstra[®]

PLANNING & SURVEY SOLUTIONS

CONTROL VERSION	DATE	STATUS	DISTRIBUTION	COMMENT
A	18/10/2023	Draft	HD	Internal
B	19/10/2023	Draft	Client	For comment
C	19/10/2023	Final	Local Government	Lodgement
D	29/01/2024	Modified	LG & DPLH	Correction to text as required by WAPC

Prepared for: The Gowrie (WA) Inc.
 Prepared by: AR
 Reviewed by: LB

Date: 18 October 2023
 Job No: 23915
 Ref: B

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BUNBURY

21 Spencer Street, Bunbury
 PO Box 778, Bunbury WA 6231

T: 08 9792 6000
 E: bunbury@harleydykstra.com.au

ABN 77 503 764 248

Albany Bunbury Busselton Forrestdale Perth

www.harleydykstra.com.au



FS 536019

Planning and Development Act 2005

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME


Shire of Plantagenet Local Planning Scheme No. 5

Amendment No. 1

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

1. Modifying the permissibility of 'Child Care Premises' in the Residential zone from an 'X' use in to an 'A' use within the Zoning Table.
2. Determines that, pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, Amendment No. 1 is a 'basic amendment' for the following reasons:
 - a. It is consistent with the model provisions in Schedule 1 of the Deemed provisions.
 - b. It is consistent with the objectives of the Local Planning Scheme and Local Planning Strategy for Residential zoned land.
 - c. It is consistent with WAPC Planning Bulletin 72 and the Draft Position Statement: Child Care Premises.
 - d. It is consistent with the Shire's Draft LPP 4 – Child Care Premises.

Dated this Twenty Eighth day of November, 2023



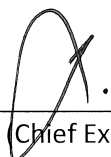
(Chief Executive Officer)

COUNCIL ADOPTION

This **basic** Amendment was adopted by resolution of the Council of the Shire of Plantagenet at the Ordinary Meeting of the Council held on the 28th day of November, 2023.



(President)



(Chief Executive Officer)



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1 INTRODUCTION

This Scheme Amendment request has been prepared by Harley Dykstra on behalf of The Gowrie (WA) Inc. (Gowrie WA) who are a not-for-profit organisation, established in 1940, making them the oldest childcare provider in Western Australia. Gowrie WA are an early learning, family and community provider that are invested in providing much needed child care services in regional areas, following ongoing success of their established three operations within the Perth metro area.

Gowrie WA have been in discussions with officers at the Shire of Plantagenet regarding their interest in establishing services within the Shire as it has been recognised that there is a need for further support with regards to child care and early learning facilities.

This amendment requests that the Shire of Plantagenet amend Local Planning Scheme No. 5 (LPS 5) land use permissibility to allow “Child Care Premises” to be considered within the ‘Residential’ zone as an ‘A’ land use of LPS 5.

The amendment will provide the opportunity for child care premises to be considered within the Residential zone where it can be demonstrated that compliance with the planning criteria can be met. The opportunity to expand the permitted zones in which a Child Care Premises may be considered will assist in the shortage of these facilities experienced within the Shire of Plantagenet and State wide.

Preliminary discussions with officers at the Shire of Plantagenet have indicated their support for the proposed Amendment to LPS 5, with the officers in agreeance that “Child Care Premises” should be a land use that could be considered within a ‘Residential’ zone, which is reflected in a large number of Local Planning Schemes within Western Australia.

A modification of the land use permissibility is considered consistent with the objectives and requirements of the Residential zone and existing planning framework. The amendment is considered to fall under the Basic Amendment requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* and is therefore requested to be considered and assessed under clause 34 as a Basic Amendment.

It is respectfully requested that the Shire of Plantagenet favourably consider and support this application to amend Table 3 – Zoning Table of Local Planning Scheme No.5 to identify “Child Care Premises” as an ‘A’ use to enable the consideration of child care premises to be developed within landholdings zoned Residential as a Basic Amendment in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

2 BACKGROUND

The land use “Child Care Premises” is currently not permitted within the Residential zone of LPS 5, which is considered inconsistent with the objections and intent of the Residential zone of LPS 5 and the Local Planning Strategy, which is further justified within this report.

This amendment resulted from an initial investigation of a potential development of a child care premise within the Mount Barker townsite, however has expanded to be relevant across all localities within the Shire of Plantagenet as shortages of child care facilities are felt wide spread.

The amendment will provide the opportunity to develop key sites within established and proposed residential areas where child care facilities are needed.



2.1 Prior Consultation

Our client Gowrie WA engaged with the Shire extensively prior to engaging Harley Dykstra to prepare this Scheme Amendment request. Preliminary feedback received from both the Local Government and the Department of Planning, Lands and Heritage in early 2023 indicated that there was preliminary support for the preparation of a Basic Scheme Amendment request to amend *Table 3 – Zoning Table* to identify “Child Care Premises” as an ‘A’ use within the Scheme.

3 PLANNING FRAMEWORK

3.1 Planning and Development (Local Planning Schemes) Regulations 2015

The amendment is considered to be consistent with the requirements of the *Basic* definition of the *Planning and Development (Local Planning Schemes) Regulations 2015* which reads:

Basic amendment means any of the following amendments to a local planning scheme –

- a) An amendment to correct an administrative error;
- b) An amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- c) An amendment to the scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2;
- d) An amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;
- e) An amendment to the scheme so that it is consistent with a State planning policy;
- f) An amendment to the scheme map to include a boundary to show the land covered by an improvement scheme or a planning control area;
- g) An amendment to the scheme map that is consistent with a structure plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan;
- h) An amendment that results from a consolidation of the scheme in accordance with section 92(1) of the Act;
- i) An amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area if the amendment will have minimal effect on the scheme or landowners in the scheme area.

The amendment request is considered to comply with the definition of a *Basic amendment* as it is consistent with the objectives identified within Schedule 1 of the Deemed provisions and LPS 5 for the Residential zone and the objectives of the Shire’s Local Planning Strategy. The proposed amendment is also consistent with Western Australian Planning Commission (WAPC) Planning Bulletin 72 and the recently released draft Position State: Child Care Premises with the intent to locate child care premises where they are compatible with and complementary to residential land uses and the road network.

Preliminary discussions with Officers at the Shire acknowledged that whilst they are not the determining authority, they are supportive of the Amendment request being processed as a Basic amendment.



The proposed 'A' use classification within the LPS 5, still requires a development application to be prepared in conjunction with the relevant planning criteria and lodged for consideration by the local government, including public advertising which will ensure any potential development sites can be considered in detail prior to a determination occurring.

3.2 Draft WAPC – Position Statement: Child Care Premises

The WAPC released draft Position Statement – Child Care Premises for public comment in November 2022 for public comment, which closed in February 2023. The position statement is intended to update *Planning Bulletin 72 Child Care Centres (August 2009)* and aims to provide decision-makers, proponents and the community with a consistent policy approach to planning for child care premises in Western Australia.

Part 5.2 of the Position Statement indicates that the land use “Child Care Premises” should be classified in the zoning table of a local planning scheme(s) as a class ‘A’ land use in the residential zone and a class ‘D’ land use within other designated zones.

The proposed amendment request to LPS 5 is considered consistent with the requirements of the position statement as the amendment seeks to modify *Table 3 – Zoning Table* to identify “Child Care Premises” to an ‘A’ land use permissibility, which will require the lodgement of a development application for consideration by the local government prior to the establishment of any child care premise within a ‘Residential’ zone.

3.3 Shire of Plantagenet Local Planning Strategy

The Shire of Plantagenet Local Planning Strategy (the Strategy) was adopted by the Department of Planning in 2013. The Strategy has been prepared to guide future land use planning and decision making, and to provide the rationale for land use and development controls to be included in the Shire’s local planning scheme.

The vision for the Strategy is “*creating a community that will provide everything that is needed: economic, security, safety and social networks within an environment that is clean and safe*”.

The amendment request is considered consistent with the Shire of Plantagenet Local Planning Strategy. It is considered that the amendment achieves the relevant aspects of the strategic plan including:

- consolidate existing residential areas to enable better facilities and services to be provided close to where people live;
- optimise the utilisation of existing infrastructure investment;
- provide opportunities for employment;
- support the principle of new uses for old buildings and the revitalisation of the town centre.

3.4 Shire of Plantagenet Local Planning Scheme No. 5

This amendment relates to ‘Residential’ zoned land within the Shire of Plantagenet Local Planning Scheme No.5 (LPS 5). The objectives of the Residential zone are:

1. Provide for a range of housing and a choice of residential densities to meet the needs of the community.
2. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.



3. To provide for a range of non-residential uses, which are compatible with and complementary to residential development.

Under the Residential zone “Child Care Premises” is currently listed as an ‘X’ land use of *Table 3 – Zoning Table* meaning ‘that the use is not permitted by this Scheme’.

This Amendment request is proposed to change “Child Care Premises” from an ‘X’ land use to an ‘A’ land use within *Table 3 – Zoning Table* which means ‘that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions’.

The introduction of the WAPC draft Position Statement - Child Care Premises has provided additional guidance for local governments to further entertain the appropriateness for this use to be located within Residential zoned areas in addition to other designated zones.

Furthermore, the Shire of Plantagenet has developed a draft Local Planning Policy No.4 – Child Care Premises for consideration (as discussed in section 3.5 below).

The proposed change to an ‘A’ land use is considered appropriate within the Residential zone of the Scheme and will provide the local government the opportunity to advertise any future development proposals addressing the relevant planning criteria for the development of child care premises for consideration prior to a determination through a development application process.

3.5 Draft Local Planning Policy No.4 – Child Care Premises

The Shire of Plantagenet presented draft Local Planning Policy No.4 – Child Care Premises (draft LPP 4) for endorsement to advertise at their 23 September 2023 Ordinary Council meeting. The document is currently available for public comment until 1 November 2023. This Policy was developed for the consideration to cater for the future development of Child Care Premises within the Shire.

Draft LPP 4 aims to provide a framework and guidelines for the development of new Child Care Premises in an attempt to assist with the shortage of child care premises within the Shire by increasing the options available to potential operators. The Policy will also provide a clear pathway for proponents, the Policy outlines planning criteria and development standards, including consideration of potential impacts on adjoining dwellings and businesses.

The amendment request is considered consistent with the draft LPP 4, in that it is proposing to amend *Table 3 – Zoning Table* to identify “Child Care Premises” as an ‘A’ use of LPS 5, therefore increasing the opportunities within the Shire for the development of child care premises to be established. The Policy also references planning criteria relevant to residential areas, which is consistent with the intentions of the proposed amendment. The introduction of “Child Care Premises” as an ‘A’ use requires the lodgement of a development application which will address the planning criteria detailed within the draft policy and other relevant documents for consideration by the Shire.

4 PROPOSED SCHEME AMENDMENT

4.1 Proposal

This application seeks to modify *Table 3 – Zoning Table* of LSP 5 for “Child Care Premises” from an ‘X’ land use permissibility to an ‘A’ land use permissibility to provide the opportunity for child care premises to be considered within the Residential zone.



The proposed Amendment request is in line with the Western Australian Planning Commission’s (WAPC) draft Position Statement on Child Care Premises that was released in November 2022. With respect to local planning schemes, provision 5.2 of the position statement states that:

“The land use ‘Child Care Premises’ should be classified in the zoning table of a local planning scheme as a class ‘A’ use (a use that is not permitted unless the decision-maker has granted approval after advertising) in the residential zone”.

Throughout Western Australia, many local planning schemes reflect this position, and the Shire is respectfully encouraged to rectify this as a matter of urgency to assist in the current need for childcare in Mount Barker and similar smaller towns within the Shire. The recent release for advertising of the draft LPP 4 Policy by the Shire provides further support for the proposed Amendment which acknowledges the shortage of facilities within the Shire.

4.2 Scheme Amendment Request

This Scheme Amendment request seeks to modify Table 3 – Zoning Table as follows:

Use and Development Class	ZONES											
	Residential	Commercial	Service Commercial	General Industry	Strategic Industry	Rural	Mixed Use	Tourism	Rural Residential	Rural Small Holdings	Rural Village	Special Use
Child Care Premises	A	A	A	X	X	X	D	D	Refer to Schedule 2	Refer to Schedule 3	Refer to Schedule 4	Refer to Table 5

The effect would be to change the current land use designation of “Child Care Premises” from an ‘X’ use class to an ‘A’ land use class.

The amendment request would align the land use permissibility for “Child Care Premises” within LPS 5 with the recently advertised draft WAPC Position Statement: Child Care Premises, the draft LPP 4 – Child Care Premises and the intentions and objectives of LPS 5.

5 CONCLUSION

In summary, this report seeks to modify Table 3 – Zoning Table of the Shire of Plantagenet Local Planning Scheme No.5 to identify “Child Care Premises” as an ‘A’ land use permissibility as a Basic Scheme Amendment in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The proposed amendment has the potential to support the development of child care premises within different areas of the Shire, which has been identified as an in demand and necessary support service locally as well as State wide.



The proposed amendment is considered consistent with the intentions of the relevant planning framework, the nature and intent of the Residential zone and is further supported by the recently endorsed for advertising draft Local Planning Policy No.4 – Child Care Premises. The proposed amendment will work towards providing a solution to the shortage in child care facilities within the town of Mount Barker and the broader local government area.

It is therefore respectfully requested on the basis of the above justified rationale that the Shire of Plantagenet approve the amendment request for a Basic Scheme Amendment to Local Planning Scheme No. 5.

Planning and Development Act 2005

RESOLUTION TO AMEND LOCAL PLANNING SCHEME

**Shire of Plantagenet
Local Planning Scheme No. 5**

Amendment No. 1

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

1. Modifying the permissibility of 'Child Care Premises' in the Residential zone from an 'X' use in to an 'A' use within the Zoning Table.

COUNCIL RECOMMENDATION

This Amendment is recommended for **support** by resolution of the Shire of Plantagenet at the Ordinary Meeting of the Council held on the ____ day of ____, 2024 and the Common Seal of the Shire of Plantagenet was hereunto affixed by the authority of a resolution of the Council in the presence of:



(President)

(Chief Executive Officer)

WAPC ENDORSEMENT (r.63)

DELEGATED UNDER S.16
OF THE P&D ACT 2005

DATE

APPROVAL GRANTED

MINISTER FOR PLANNING

DATE